

Workers Compensation (General) Regulation 1995

[1995-540]



New South Wales

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New South Wales

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Workers Compensation (General) Regulation 1995



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation may be cited as the *Workers Compensation (General) Regulation 1995*.

2 Commencement

(1) This Regulation commences on 1 September 1995, except as provided by subclause (2).

(2) Clause 75 commences on 1 July 1996.

3 Definitions

In this Regulation:

approved means approved by the Authority.

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

the 1998 Act means the *Workplace Injury Management and Workers Compensation Act 1998*.

3A Notes

Notes included in this Regulation are explanatory notes and do not form part of this Regulation.

4 Forms

A reference to a form in this Regulation is a reference to a form in Schedule 1.

Part 2 Work related diseases

5 Diseases deemed work related

Employments of the kinds set out in Column 2 of Schedule 2 are prescribed as

employments to which section 19 (1) of the Act applies. A disease set out in Column 1 of Schedule 2 is prescribed as a disease that is related to the employment or, as the case may require, each of the employments, set out in Column 2 of that Schedule opposite the description of that disease.

6 Brucellosis, Q fever and leptospirosis—medical tests and results to determine whether work related

For the purposes of section 19 (2) of the Act, any one of the results set out in Column 3 of Schedule 3, if obtained by means of the medical test the requirements of which are set out opposite that result in Column 2 of that Schedule, is a result prescribed in respect of the disease, the name of which appears opposite that result in Column 1 of that Schedule.

Part 3 Funeral expenses

7 Sec 27 (b): maximum amount for funeral expenses

- (1) For the purposes of section 27 (b) of the Act, the maximum amount for which an employer is liable in respect of reasonable funeral expenses, if death results from an injury and the worker leaves no dependants, is:
 - (a) in the case of a funeral held before 1 February 1992—\$2,700, or
 - (b) in the case of a funeral held on or after 1 February 1992 but before 1 July 2000—\$4,000, or
 - (c) in any other case—\$4,400.
- (2) This clause applies regardless of when the injury which caused the death of the worker concerned was received.

Part 4 Current weekly wage rate

8 Definitions

- (1) In this Part:

Federal Act means the *Industrial Relations Act 1988* of the Commonwealth.

State Act means the *Industrial Relations Act 1991*.

- (2) A reference:

- (a) in clause 10 (2) to an amount of money specified in an award,
- (b) in clause 11 (1) to an amount of a rate per 5 days or week or a minimum weekly rate fixed by an award or a Part or Division of an award,

is a reference to the amount or minimum weekly rate which is for the time being specified in, or fixed by, the award, Part, Division or industrial agreement, as the case

may be, as in force from time to time.

9 Sec 42 (1) (c), (5) (b): prescribed classes of workers by Ministerial order

- (1) The Authority may by order published in the Gazette:
 - (a) declare a specified class or classes of workers to be a class of workers to which this clause applies, and
 - (b) specify the manner in which the current weekly wage rate of a worker of each such class is to be calculated for the purposes of section 42 (1) (c) of the Act.
- (2) Each class of workers to which this clause applies by virtue of an order of the Authority under this clause is prescribed for the purposes of section 42 (1) (c) and (5) (b) of the Act.
- (3) The manner specified in the order as the manner of calculating the current weekly wage rate of a class of workers is prescribed for the purposes of section 42 (1) (c) of the Act in respect of that class of workers.
- (4) While an order of the Authority in force under this clause applies to a class of workers, clauses 10 and 11 do not apply to that class of workers.

10 Sec 42 (1) (c), (5) (b): prescribed classes of workers etc—shearers

- (1) For the purposes of section 42 (1) (c) and (5) (b) of the Act, the following classes of workers are prescribed:
 - (a) shearers bound by the Pastoral Employees (State) Award under the State Act,
 - (b) shearers bound by the Pastoral Industry Award 1965 under the Federal Act.
- (2) For the purposes of section 42 (1) (c) of the Act, the formula prescribed in respect of each class of workers prescribed by subclause (1) is $A \times 5$ per week, where “A” is the amount of money specified in clause 14 (a) (i) of the award referred to in subclause (1) (b).

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

- (1) For the purposes of section 42 (1) (c) and (5) (b) of the Act, the following classes of workers are prescribed:
 - (a) each class of workers who are:
 - (i) regular daily employees (working under any tally or piece-work system) bound by Part III of the Federal Meat Industry Award 1981 under the Federal Act, made on 23 July 1982, and
 - (ii) normally employed at a common place of employment under a particular classification for which that Part of that award fixes a minimum tally rate per 5

days,

- (b) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Meat Processing Interim Award 1973 under the Federal Act, and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days,
- (c) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Field Group and the Australasian Meat Industry Employees' Union Industrial-Agreement Award 1973 under the Federal Act, and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days for piece-work,
- (d) each class of workers who are:
 - (i) employees, being members of a piece-work team, to whom Division 24 of the Meat Industry—J.C. Hutton Pty Ltd Industrial Agreement-Award 1974 under the Federal Act applies, and
 - (ii) normally employed at a common place of employment under a particular classification for which that Division of that award fixes an ordinary weekly rate,
- (e) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Queensland Meatworks Industrial Agreement Award 1979 under the Federal Act, and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days,
- (f) each class of workers who are:
 - (i) employees engaged as slaughtermen or following labour entitled to "overs", either as weekly hands or regular casuals, bound by the Butchers' Wholesale (Cumberland) Award under the State Act, and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes a minimum weekly rate of pay,
- (g) each class of workers who are:
 - (i) employees engaged as slaughtermen, boners, slicers or following labour

entitled to “overs”, either as daily hands (being regular casuals within the meaning of clause 32 (iii) of the Butchers, Wholesale (Newcastle and Northern) Award under the State Act) or as weekly hands, in each case being employees bound by that award, and

- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that award fixes a minimum weekly rate of pay,
- (h) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as daily hands (being regular casuals within the meaning of clause 31 (iii) of the Butchers’ Wholesale (Country) Award under the State Act) or as weekly hands, in each case being employees bound by that award, and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 17 of that award fixes a minimum weekly rate of pay,
- (i) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or daily hands, bound by industrial agreement No 5856 in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and F. J. Walker Limited—Aberdeen Division, and filed with the Registrar on 20 October 1977, and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 19 of that agreement fixes a minimum weekly rate of pay,
- (j) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and Gosford Meats Pty Limited and Central Coast Cold Stores, and filed with the Registrar on 8 December 1980, and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay,

(k) each class of workers who are:

- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and Northern Co-operative Meat Company Limited—Casino, and filed with the Registrar on 4 May 1981, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay,

(l) each class of workers who are:

- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by industrial agreement No 6090 in force under the State Act between Anderson Meat Packing Company Pty Limited, Wallangarra, and the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and filed with the Registrar on 27 July 1979, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay,

(m) each class of workers who are:

- (i) employees (not being employees described in paragraph (g) (i)) engaged either as daily hands (being regular casuals within the meaning of clause 32 (iii) of the Butchers, Wholesale (Newcastle and Northern) Award under the State Act) or as weekly hands, in each case being employees bound by that award and to whom clause 17 or clause 41 (x) of that award applies, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that award fixes a minimum weekly rate of pay,

(n) each class of workers who are:

- (i) employees (not being employees described in paragraph (h) (i)) engaged either as daily hands (being regular casuals within the meaning of clause 31 (iii) of the Butchers’ Wholesale (Country) Award under the State Act) or as weekly hands, in each case being employees bound by that award and to whom clause 16 or clause 40 (x) of that award applies, and
- (ii) normally employed at a common place of employment under a particular

classification for which clause 17 of that award fixes a minimum weekly rate of pay,

(o) each class of workers who are:

- (i) employees (not being employees described in paragraph (i) (i)) engaged as weekly hands or daily hands, bound by industrial agreement No 5856 in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and F. J. Walker Limited—Aberdeen Division, and filed with the Registrar on 20 October 1977, in each case being employees to whom clause 12 or clause 39 (x) of that agreement applies, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 19 of that agreement fixes a minimum weekly rate of pay,

(p) each class of workers who are:

- (i) employees (not being employees described in paragraph (j) (i)) engaged as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and Gosford Meats Pty Limited and Central Coast Cold Stores, and filed with the Registrar on 8 December 1980, in each case being employees to whom clause 17 of that agreement applies, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay,

(q) each class of workers who are:

- (i) employees (not being employees described in paragraph (k) (i)) engaged as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and Northern Co-operative Meat Company Limited—Casino, and filed with the Registrar on 4 May 1981, in each case being employees to whom clause 17 or 41 (xi) of that agreement applies, and
- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay,

(r) each class of workers who are:

- (i) employees (not being employees described in paragraph (l) (i)) engaged either as weekly hands or regular casuals, bound by industrial agreement No 6090 in force under the State Act between Anderson Meat Packing Company Pty

Limited, Wallangarra, and the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and filed with the Registrar on 27 July 1979, in each case being employees to whom clause 17 or 41 (xi) of that agreement applies, and

(ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay.

(2) For the purposes of section 42 (1) (c) of the Act, the formula prescribed for each worker of a class prescribed by subclause (1) is whichever of the following formulae is appropriate:

(a) except as provided by paragraphs (b) and (c), the formula is:

$$\frac{A1 + A2 + A3 + A4 + A5}{B} \times 5 \text{ per week}$$

(b) where the formula prescribed by paragraph (a) provides a greater rate for a particular week for the worker (being a worker of any one of the classes prescribed by subclause (1) (a)–(l)) than the rate of $C \times 21/16$ per week, the formula is $C \times 21/16$ per week for that week for that worker, or

(c) where the formula prescribed by paragraph (a) provides a smaller rate for a particular week for the worker than the rate of $C \times 1$ per week, the formula is $C \times 1$ per week for that week for that worker.

(3) In the application of the formulae prescribed by subclause (2) for the purpose of determining compensation payable in respect of a period of incapacity (consisting of a week or any part thereof) of a worker of any one of the classes prescribed by subclause (1):

A1 equals:

(a) where that period consists of, or includes, Monday of that week and any other worker of that class worked on that Monday—the prescribed amount payable to that other worker for that Monday, or

(b) in any other case—0.

A2 equals:

(a) where that period consists of, or includes, Tuesday of that week and any other worker of that class worked on that Tuesday—the prescribed amount payable to that other worker for that Tuesday, or

(b) in any other case—0.

A3 equals:

- (a) where that period consists of, or includes, Wednesday of that week and any other worker of that class worked on that Wednesday—the prescribed amount payable to that other worker for that Wednesday, or
- (b) in any other case—0.

A4 equals:

- (a) where that period consists of, or includes, Thursday of that week and any other worker of that class worked on that Thursday—the prescribed amount payable to that other worker for that Thursday, or
- (b) in any other case—0.

A5 equals:

- (a) where that period consists of, or includes, Friday of that week and any other worker of that class worked on that Friday—the prescribed amount payable to that other worker for that Friday, or
- (b) in any other case—0.

B equals:

- (a) the total number of days of that period on which other workers of that class worked, or
- (b) where there are no such days—0.

C equals the amount of the rate per 5 days or week, or the minimum weekly rate, as the case may be, referred to in whichever paragraph of subclause (1) is applicable to each worker of that class.

- (4) A reference in subclause (3) to the prescribed amount payable to a worker for a day on which the worker worked is a reference to the amount of money which that worker is entitled, under the award or industrial agreement, as appropriate, by which the worker is bound, to be paid for that day's work:
 - (a) in any case, exclusive of any amount which the worker is so entitled to be paid in respect of shift work or overtime or otherwise at penalty rates, and
 - (b) subject to subclause (5), in the case of a worker of any one of the classes prescribed by subclause (1) (m), (n), (o), (p), (q) or (r), inclusive of any amount which the worker is so entitled to be paid in respect of production loading.
- (5) For the purposes only of subclause (4) (b), an amount a worker is entitled to be paid in respect of production loading for a day's work is taken not to include:

- (a) in the case of a worker of any one of the classes prescribed by subclause (1) (m), (n), (o) or (r), any amount in excess of one fifth of the production loading which would be payable to the worker in respect of the week in which that day occurs if the workers, in relation to whose “overs” that production loading is calculated, completed during that week a number of “overs” which provided each of those workers with pay for that week which is equivalent to the amount of money calculated in accordance with the formula $C \times 21/16$, or
- (b) in the case of a worker of any one of the classes prescribed by subclause (1) (p) or (q), any amount in excess of the production loading which would be payable to the worker in respect of that day if the workers, in relation to whose “overs” that production loading is calculated, completed during that day a number of “overs” which provided each of those workers with pay for that day which is equivalent to the amount of money calculated in accordance with the formula $C/5 \times 21/16$,
- in each case with “C” having the value ascribed to it, in relation to workers of the class to which each of those workers belongs, by subclause (3).

12 Sec 42 (1) (d): prescribed rate

- (1) For the purposes of section 42 (1) (d) of the Act, and clause 7 (2) (b) of Part 4 of Schedule 6 to the Act, the prescribed rate in respect of a period specified in Column 1 of the Table to this clause is the rate specified in Column 2 of that Table opposite that period.
- (2) This clause applies only to workers who, before 1 February 1992, became entitled to receive weekly payments in respect of incapacity for work.

Table

Column 1	Column 2
Period	Amount per week
1 On and after 1 October 1987 and before 1 April 1988	\$284.70
2 On and after 1 April 1988 and before 1 October 1988	\$288.60
3 On and after 1 October 1988 and before 1 April 1989	\$294.80
4 On and after 1 April 1989 and before 1 October 1989	\$302.20
5 On and after 1 October 1989 and before 1 April 1990	\$313.20
6 On and after 1 April 1990 and before 1 October 1990	\$319.80
7 On and after 1 October 1990 and before 1 April 1991	\$334.60
8 On and after 1 April 1991 and before 1 October 1991	\$339.00
9 On and after 1 October 1991 and before 1 April 1992	\$341.30

10	On and after 1 April 1992 and before 1 October 1992	\$351.50
11	On and after 1 October 1992 and before 1 April 1993	\$355.90
12	On and after 1 April 1993 and before 1 October 1993	\$357.20
13	On and after 1 October 1993 and before 1 April 1994	\$359.00
14	On and after 1 April 1994	\$360.60

Part 5 Indexation of amounts of benefits

13 Sec 79: definition of “latest index number”

For the purposes of paragraph (b) of the definition of **latest index number** in section 79 of the Act, the latest index number in respect of an adjustment date specified in Column 1 of the Table to this clause is the number specified in Column 2 of that Table opposite that date.

Table

Column 1	Column 2
Adjustment date	Latest index number
1 April 1988	229.3
1 October 1988	234.2
1 April 1989	240.1
1 October 1989	248.8
1 April 1990	254.1
1 April 1998	146.4
1 October 1998	149.0
1 April 1999	151.6
1 October 1999	154.1
1 April 2000	156.6
1 October 2000	158.3
1 April 2001	161.9
1 October 2001	164.7

Part 6 Weekly compensation

14 Notice of requirement to obtain suitable employment from other person

- (1) A notice under section 38A (3) of the Act:
 - (a) may be based on the model form (if any) set out in the claims procedures referred to in section 38A (3) (d) of the Act, and
 - (b) may include additional information and explanatory matter to assist in the understanding of the notice, and
 - (c) may be varied or replaced by a further notice given to the worker in accordance with section 38A (3) of the Act.
- (2) Reminder copies of a notice under section 38A (3) of the Act may be given to the worker concerned from time to time.
- (3) A notice given to a worker in accordance with section 38A (3) of the Act is sufficient notice for any further period of unemployment in respect of the same injury.
- (4) In the case of any worker:
 - (a) who, before the commencement of Schedule 1 to the *Workers Compensation Legislation (Amendment) Act 1994*, was at the same time both partially incapacitated for work as the result of an injury and unemployed, and
 - (b) who is, as at or at any time after that commencement, both partially incapacitated for work as the result of that injury and unemployed,

the requirement under section 38A (2) (d) of the Act applies regardless of whether the worker has been notified in accordance with section 38A (3) of the Act.

15 Notice of intention to discontinue or reduce weekly payments

- (1) The notice referred to in section 54 of the Act must:
 - (a) include a statement of the reason for the dispute concerned together with a statement of the particulars that support that reason, and
 - (b) be accompanied by a form of request for referral for conciliation together with a duplicate copy of the notice, and
 - (c) include a statement to the effect that if the worker wishes to refer the matter for conciliation, he or she may do so by sending to the appropriate officer a completed form of request for referral for conciliation together with any other documents required by the form of request to accompany the request, and
 - (d) nominate (in the statement under paragraph (c)) which of the Senior Conciliation

Officer or the Principal Conciliator is the appropriate officer to whom the request and other documents should be sent (nominated on the basis of a determination by the person who gives the notice as to whether the claim concerned is a new claim or an existing claim), and

- (e) include the address and fax number for the Senior Conciliation Officer or the Principal Conciliator (whichever officer is nominated in the statement under paragraph (c)).

(2), (3) (Repealed)

(4) If:

- (a) the notice referred to in section 54 of the Act relates to a reduction in the amount of weekly payments of compensation as a result of the application of section 40 of the Act, and
- (b) the worker is not in receipt of earnings (or the compensation is otherwise calculated on the basis of the worker's ability to earn after the injury, rather than on the worker's actual earnings after the injury),

the notice must also include a statement of how the compensation (to be so reduced) has been calculated.

Part 7 Treatment in a hospital other than a public hospital

16 Definitions

(1) In this Part:

advanced surgical patient means a worker classified as an advanced surgical patient for basic health insurance benefits in the Patient Classification Schedule attached to Private Hospitals Circular No 66 dated July 1987 issued by the Commonwealth Department of Community Services and Health.

day patient means a worker whose hospital treatment as an in-patient is restricted to the day of use of the hospital theatre.

day procedure centre means a day procedure centre licensed under the [Private Hospitals and Day Procedure Centres Act 1988](#).

hospital category A means a hospital (other than a public hospital) notified as a category A hospital by the Director-General of the Department of Health by order published in the Gazette, being a hospital which has an intensive care unit approved by that Director-General, 24 hour resident medical cover and one or more of the following:

- (a) a surgical class licence issued under the [Private Hospitals and Day Procedure](#)

Centres Act 1988,

- (b) an obstetric class licence issued under the *Private Hospitals and Day Procedure Centres Act 1988,*
- (c) a medical program approved in writing by the Director-General of the Department of Health,
- (d) a rehabilitation program approved in writing by that Director-General,
- (e) a psychiatric program approved in writing by that Director-General.

hospital category B means a hospital (other than a public hospital) notified as a category B hospital by the Director-General of the Department of Health by order published in the Gazette and which has one or more of the following:

- (a) a surgical class licence issued under the *Private Hospitals and Day Procedure Centres Act 1988,*
- (b) an obstetric class licence issued under the *Private Hospitals and Day Procedure Centres Act 1988,*
- (c) a medical program approved in writing by the Director-General of the Department of Health,
- (d) a rehabilitation program approved in writing by that Director-General,
- (e) a psychiatric program approved in writing by that Director-General.

hospital category C means a hospital in New South Wales (other than a public hospital) which is not a hospital category A, hospital category B or hospital category D.

hospital category D means:

- (a) a hospital outside New South Wales, or
- (b) a hospital in New South Wales that is conducted by the Commonwealth.

intensive care unit—level 1 patient means a worker receiving intensive care treatment at an intensive care unit in a hospital (other than a public hospital), being an intensive care unit approved by the Director-General of the Department of Health as being of a standard described as level 4 in the Guide to the Delineation of the Roles of Area Health Services and Hospitals (dated June 1986 and issued by the Department of Health).

intensive care unit—level 2 patient means a worker receiving intensive care treatment at an intensive care unit in a hospital (other than a public hospital), being an intensive care unit approved by the Director-General of the Department of Health

as being of a standard described as level 3 in the Guide to the Delineation of the Roles of Area Health Services and Hospitals (dated June 1986 and issued by the Department of Health).

other patient (medical) means any worker who is not an advanced surgical patient, a surgical patient, a psychiatric patient, a rehabilitation patient, a day patient, an intensive care unit—level 1 patient or an intensive care unit—level 2 patient.

procedure benefit band means a category of treatment requiring the use of an operating theatre and listed in the Medibank Private Procedure Benefit Bandings, published by Medibank Private and as in force on 10 May 1991.

psychiatric patient means a worker receiving psychiatric treatment of a kind that is normally afforded at psychiatric units conducted by public hospitals.

rehabilitation patient means a worker receiving treatment by way of rehabilitation.

same day benefit band means a category of treatment for day patients as referred to in the Day Only Procedures Manual (dated November 1992) issued by the Commonwealth Department of Health, Housing and Community Services.

surgical patient means a worker classified as a surgical patient for basic health insurance benefits in the Patient Classification Schedule attached to Private Hospitals Circular No 66 dated July 1987 issued by the Commonwealth Department of Community Services and Health.

- (2) For the avoidance of doubt, a day procedure centre is, for the purposes of this Part, a hospital (other than a public hospital).
- (3) In calculating the number of days of treatment at a hospital (other than a public hospital) for the purposes of this Part, the date of admission to such a hospital and the date of discharge from such a hospital are, if those days occur on different days, to be counted as one day and not as separate days.

17 Sec 62 (1)—prescribed rates

For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a hospital (other than a public hospital) is to be calculated as follows:

- (a) in respect of each day or part of a day that the worker is an in-patient of the hospital, being an in-patient:
 - (i) of a classification specified in Column 1 of the following Table, and
 - (ii) during a period of hospitalisation specified in Column 2 of the Table,
- the amount specified in respect of the category of hospital (if any) in Column 3 of the

Table opposite that classification and period:

Table

Column 1	Column 2	Column 3			
Patient classification	Period of hospitalisation	Amount per day			
		Hospital category A	Hospital category B	Hospital category C	Hospital category D
		\$	\$	\$	\$
Advanced surgical patient	1 to 14 days	440	415	—	415
	Over 14 days	300	300	—	300
Surgical patient	1 to 14 days	415	395	—	395
	Over 14 days	300	300	—	300
Psychiatric patient	1 to 42 days	395	365	310	365
	43 to 65 days	305	275	255	275
Rehabilitation patient	Over 65 days	280	240	235	240
	1 to 49 days	430	365	310	365
Other patient (medical)	Over 49 days	315	270	250	270
	1 to 14 days	370	355	310	355
	Over 14 days	300	260	250	260

(b) in respect of each day or part of a day that the worker is an in-patient of the hospital, being an in-patient:

(i) of a classification specified in Column 1 of the following Table, and

(ii) during a period of hospitalisation specified in Column 2 of the Table,

the amount specified in Column 3 of the Table opposite that classification and period:

Table

Column 1	Column 2	Column 3
Patient classification	Period of hospitalisation	Amount per day
		\$
Intensive care unit—level 1 patient	up to 5 days	1715
Intensive care unit—level 2 patient	up to 5 days	1190

- (c) in respect of each day or part of a day that the worker is a day patient of the hospital, the amount specified in Column 2 of the following Table (under the relevant category of hospital opposite the same day benefit band (specified in Column 1 of the Table) applicable to the worker:

Table

Column 1	Column 2				
	Hospital category A	Hospital category B	Hospital category C	Hospital category D	Day procedure centre
	\$	\$	\$	\$	\$
Band 1	190	190	190	120	175
Band 2	220	220	220	120	205
Band 3	250	250	250	120	235
Band 4	280	280	280	120	265

- (d) in respect of each treatment at a hospital category A, hospital category B, hospital category C or day procedure centre as an in-patient which necessitates the use of the hospital theatre—the amount specified in Column 2 of the following Table opposite the procedure benefit band applicable to that treatment specified in Column 1 of the Table:

Table

Column 1	Column 2
	\$
Band 1A	104
Band 1	187
Band 2	327
Band 3	395
Band 4	540
Band 5	795
Band 6	905
Band 7	1210
Band 8	1685
Band 9A	1750
Band 9	2230
Band 10	2640

Band 11	3125
Band 12	3380
Band 13	4095

- (e) in respect of each treatment at a hospital category D as an in-patient which necessitates the use of the hospital theatre—the amount specified in Column 2 of the following Table opposite the period of that use specified in Column 1 of the Table:

Table

Column 1	Column 2
	\$
1-15 minutes	110
16-30 minutes	327
31-45 minutes	515
46-60 minutes	825
61-90 minutes	1535
91-120 minutes	2030
Over 120 minutes	2840

- (f) in respect of each X-ray photograph of the worker taken at the hospital as an in-patient—the amount specified as the schedule fee in the current Commonwealth Medicare Benefits Schedule Book in respect of radiological services and computerised tomography.

Part 8 Treatment in a public hospital

18 Definitions

- (1) In this Part:

critical care, in relation to a patient, has the same meaning as in Circular No 92/56 headed “Glossary of Terms for DOHRS Activity Reporting 1992/93”, dated 24 July 1992 and issued by the Department of Health.

metropolitan (non-referral) hospital means a public hospital notified as a metropolitan (non-referral) hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette.

metropolitan (referral) hospital means a public hospital notified as a metropolitan (referral) hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette.

non-metropolitan hospital means a public hospital notified as a non-metropolitan hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette.

occasion of service means a non-inpatient occasion of service within the meaning of Circular No 92/56 headed “Glossary of Terms for DOHRS Activity Reporting 1992/93”, dated 24 July 1992 and issued by the Department of Health.

other public hospital means a public hospital other than a metropolitan (non-referral) hospital, a metropolitan (referral) hospital, a non-metropolitan hospital or a psychiatric hospital.

psychiatric hospital means a public hospital notified as a psychiatric hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette.

- (2) An order under this clause may provide that a hospital is not a public hospital of a particular kind in respect of treatment provided to a specified class of patients.

19 Sec 62 (1)—prescribed rates

- (1) For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a public hospital is, subject to subclause (2), the amount specified in the Table to this clause for the relevant classifications of public hospital and patient:
- (a) in the case of an in-patient—for each day (or part of a day) that the worker is such a patient at the hospital, and
- (b) in the case of an out-patient—for each occasion of service provided to the worker.

Table

Column 1 Patient classification	Column 2 Hospital classification				
	Metropolitan (referral)	Metropolitan (non- referral)	Non- metropolitan	Psychiatric	Other
	\$	\$	\$	\$	\$
Critical care patient	1605	930	740	—	—
In-patient (other than critical care patient)	645	485	450	270	145

Out-patient 70 55 45 45 45

- (2) For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a brain and spine special treatment centre at a public hospital is \$550 for each day (or part of a day) that the worker is such a patient at the hospital.

Part 9 Motor vehicle travel associated with treatment or service

20 Sec 64 (b): prescribed rate applicable for travel associated with treatment or service

- (1) For the purposes of section 64 (b) of the Act, the prescribed rate for which an employer is liable under section 60 (2) (a) or (b) of the Act in respect of travel by private motor vehicle associated with treatment or service is:
- (a) in the case of travel before 1 July 2000—38 cents per kilometre, or
 - (b) in any other case—42 cents per kilometre.
- (2) This clause applies to travel undertaken after the commencement of this clause whether the injury was received by the worker concerned before or after the commencement of this clause.

Part 10 Occupational rehabilitation services

21 Definition

In this Part, **approved guidelines** means guidelines that are approved by the Authority and issued to insurers.

22 Occupational rehabilitation service—additional services

For the purposes of the definition of **occupational rehabilitation service** in section 59 of the Act, the following additional services are prescribed:

- (a) functional education,
- (b) monitoring a return to work program,
- (c) work conditioning.

23 Occupational rehabilitation services—maximum amount for which employer liable

- (1) For the purposes of section 63A (3) (b) of the Act, the prescribed amount is \$1,500, adjusted in accordance with Division 6 of Part 3 of the Act as if it were an adjustable amount for the purposes of that Division.
- (2) The prescribed amount applies in relation to occupational rehabilitation services in respect of injuries received before the commencement of this clause (or before any

adjustment of that amount as referred to in subsection (1)) in the same way as it applies in relation to services in respect of injuries received after that commencement.

24 Directions to employers under sec 63A (4)—insurers authorised

For the purposes of section 63A (4) of the Act, an insurer who is liable to indemnify an employer for any occupational rehabilitation service provided to or for the benefit of a worker is prescribed (in addition to the Authority) as a person who may direct that the employer is liable for a further amount to that prescribed by section 63A (3) of the Act.

25 Applications under sec 63A—generally

- (1) An application under section 63A (4) of the Act:
 - (a) is to be in the form of a rehabilitation plan or in such other form (if any) as the Authority may approve, and
 - (b) is to contain such particulars as the Authority may determine.
- (2) An accredited provider is required to make an application under section 63A (4) as soon as practicable after the accredited provider becomes aware that the total cost of occupational rehabilitation services provided to or for the benefit of a worker in respect of an injury will, or is likely to, exceed the maximum amount prescribed by section 63A (3).

26 Applications under sec 63A (4)—services provided by more than one provider etc

- (1) An accredited provider may, for the purpose of determining whether an application under section 63A (4) of the Act is necessary, request the relevant insurer (in writing) to supply details of any costs that have been claimed from the insurer in respect of occupational rehabilitation services previously provided by another provider in respect of the same injury.
- (2) If the insurer does not, within 14 days or such longer period as the Authority may determine, supply the accredited provider with those details, the provider need only make an application under section 63A (4) of the Act if the total cost of services provided by that provider to or for the benefit of the worker concerned will, or is likely to, exceed the maximum amount prescribed by section 63A (3) of the Act.

27 Directions by insurers—special provisions

- (1) If an application under section 63A (4) of the Act is made to an insurer:
 - (a) the insurer may request further information from the applicant, and
 - (b) the insurer is, as far as practicable, to deal with the application within 7 days after receiving it or the further information (whichever is the later).
- (2) A direction by an insurer under section 63A (4) of the Act must be in accordance with

the approved guidelines (if any) relating to such directions.

- (3) Any such direction may, subject to those approved guidelines:
- (a) specify that an employer's liability for a further amount to that prescribed by section 63A (3) of the Act is limited by reference to a maximum further amount for which the employer is liable for the proposed services (including, if appropriate, particular services) or to the nature, number or duration of those services, or both, or
 - (b) specify that the employer is liable for such amount as is reasonably appropriate, having regard to the reasonable necessity for the provision of the services concerned.

28 Conditions etc—directions under sec 63A (4)

- (1) If a direction is given under section 63A (4) of the Act and the accredited provider concerned becomes aware that, because of a change of circumstances or otherwise, it is no longer necessary for the occupational rehabilitation service covered by the direction to be provided to or for the benefit of the worker, the provider is to cease providing the service and notify the Authority or the relevant insurer.
- (2) The Authority or an insurer may, subject to any approved guidelines, give a direction under section 63A (4) of the Act:
 - (a) that is subject to such conditions as may be specified in the direction, and
 - (b) by notice in writing given to the provider concerned, amend or revoke the conditions specified in any such direction or add to those conditions,and any such amendment, revocation or addition takes effect on and from the time the notice is served on the provider concerned or from a later time specified in the notice.
- (3) The Authority or the insurer is to ensure that the employer concerned also receives a copy of the notice as soon as practicable after it takes effect.

29 Review by the Authority

- (1) If an insurer, after an application under section 63A (4) of the Act has been made to it:
 - (a) refuses to give a direction under section 63A (4) of the Act, or
 - (b) gives only part of any such direction applied for by or on behalf of the worker or the accredited provider concerned,the insurer must refer the matter as soon as practicable to the Authority in such form and in such manner as the Authority may determine.

- (2) If an insurer gives a direction under section 63A (4) of the Act, the worker or accredited provider concerned may apply to the Authority for a review of the direction:
 - (a) if the worker or provider objects to a condition (or an amendment or revocation of a condition) that the insurer has attached or added to the direction, or
 - (b) if the insurer declines further liability on behalf of the relevant employer for any occupational rehabilitation service covered by a direction previously given by the insurer.
- (3) An application for review is required to be:
 - (a) made in such form, and
 - (b) accompanied by such information, and
 - (c) made in such manner,as the Authority may determine.
- (4) The Authority may, in relation to a matter that has been referred to it or in relation to an application for a review under this clause:
 - (a) confirm the decision of the insurer, or
 - (b) confirm the decision with such modification as the Authority considers to be appropriate, or
 - (c) give a direction under section 63A (4) of the Act that the Authority considers to be appropriate.
- (5) The Authority is to notify in writing the relevant insurer, employer, accredited provider and worker of the outcome of its review.

30 Revocation by Authority of direction under sec 63A (4)

- (1) The Authority may, after giving a direction under section 63A (4) of the Act, revoke (in whole or in part) the direction if it considers it appropriate to do so in the circumstances.
- (2) The Authority may suspend any such direction pending its decision on whether to revoke the direction.
- (3) The Authority is to give notice in writing to all parties of any such suspension or revocation (but may, in the case of suspension, give oral notice and confirm the notice later in writing).
- (4) If the Authority suspends or revokes a direction under section 63A (4) of the Act, the employer concerned ceases to be liable (subject to any order of the Compensation

Court) for any occupational rehabilitation services or class of service specified in the notice of suspension or revocation and to which the direction relates.

- (5) The suspension or revocation has effect in respect of services provided after the accredited provider concerned receives notice of the suspension or revocation or after such later time as may be specified in the notice.

31 Submissions to Authority

The Authority must, before making a decision on:

- (a) an application for a direction under section 63A (4) of the Act or a review of an insurer's decision in respect of such an application, or
- (b) whether to amend, revoke or add to the conditions to which any such direction is subject, or
- (c) whether to suspend or revoke any such direction,

give any person who may be adversely affected by the decision a reasonable opportunity to make submissions to the Authority on the matter.

32 Payment under direction by Authority not admission of liability

The payment of any amount in accordance with a direction by the Authority under section 63A (4) of the Act is not to be taken as an admission of liability.

33 Claims under Uninsured Liability and Indemnity Scheme

In the case of a claim under the Uninsured Liability and Indemnity Scheme involving the provision of occupational rehabilitation services to or for the benefit of the worker concerned:

- (a) any application for a direction under section 63A (4) of the Act may only be made to the Authority, and
- (b) for the purpose of the definition of **occupational rehabilitation service** in section 59 of the Act, services may be provided to or for the benefit of the worker by any person determined by the Authority to be suitable (as well as by a provider accredited under section 152 of the Act) and, in that case, references in this Part to an accredited provider are to be read as references to such a person.

34 Application of Part to self-insurers

If, in respect of an application under section 63A (4) of the Act, a self-insurer decides or refuses to pay a further amount to that prescribed by section 63A (3) of the Act:

- (a) the decision is, for the purposes of this Part, taken to be a direction that the employer concerned is liable for that further amount, or

(b) the refusal is, for the purposes of this Part, taken to be a refusal to give a direction under section 63A (4) of the Act,

and for any such purposes, a reference in this Part to an insurer includes a reference to a self-insurer.

35 Application of Part to proceedings pending in Compensation Court

If proceedings are pending in the Compensation Court, the Authority may, in relation to an application or a reference for review received by it under this Part which is connected with the proceedings:

- (a) give a direction under section 63A (4) of the Act (unless the Court otherwise orders),
or
- (b) decline to deal with the matter.

36 Disputes—conciliation procedures etc

For the purposes of section 100C of the Act, disputes involving matters under this Part are excluded from Division 2 of Part 4 of the Act (relating to the conciliation of disputes by conciliation officers), except as the Authority may otherwise determine from time to time.

37 Authority not prevented from giving opinion on rehabilitation liability

Nothing in this Part (for example clause 30 (Review by the Authority)) prevents the Authority from giving its opinion on matters relating to the liability of an employer under the Act for particular occupational rehabilitation services.

Part 11 Notices and claims procedure

38 Notice of injury involving loss of hearing

- (1) If an injury is a loss, or further loss, of hearing which is of such a nature as to be caused by a gradual process (including boilermaker's deafness and any deafness of a similar origin):
 - (a) notice of injury is to be given by the worker under section 89 of the Act:
 - (i) if the worker is employed by an employer in an employment to the nature of which the injury is due to that employer, or
 - (ii) if the worker is not so employed to the last employer by whom the employer was employed in an employment to the nature of which the injury is due, and
 - (b) the notice must be in writing and be:
 - (i) in the form set out in Form 1, or
 - (ii) in any other form that contains at least the particulars required by Form 1

(though not necessarily in the same format as that Form).

- (2) Any forms issued by insurers and self-insurers for the giving of notice by workers of an injury referred to in subclause (1) must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.

39 Claims for compensation under sec 66—Table of Disabilities

- (1) For the purposes of section 92 (1) (b) of the Act, a claim for compensation under section 66 of the Act is to include particulars of the worker, the employer and the injury concerned and of the loss for which the compensation is claimed, including the following:
 - (a) a description of the loss capable of being related to the relevant item in the Table to Division 4 of Part 3 of the Act,
 - (b) the extent of that loss expressed as a percentage.
- (2) Any forms issued by insurers and self-insurers for the making of claims by workers under section 66 of the Act must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.
- (3) In the case of a claim for compensation under section 66 of the Act for loss of hearing, the giving of a notice of injury in accordance with clause 38, suffices as a claim.
- (4) A claim for compensation under section 66 of the Act is to be accompanied:
 - (a) by a medical certificate (or report) of the kind referred to in section 73 of the Act, and
 - (b) in the case of a claim for loss of hearing—by a copy of the audiogram used by the medical practitioner in preparing that medical certificate (or report).

40 Claims for compensation under section 67—pain and suffering

- (1) A claim for compensation under section 67 of the Act is to include particulars of the worker, the employer and the injury concerned and of the pain and suffering for which the compensation is claimed, including the following:
 - (a) the loss and (if applicable) treatment from which the pain and suffering resulted,
 - (b) the degree and duration of the pain and suffering and to what extent it is attributable to the past, present or future,
 - (c) to what extent the pain and suffering consists of actual pain and to what extent it consists of distress or anxiety,
 - (d) the proportion (expressed either as a percentage or an amount of money) of the maximum amount of compensation under section 67 claimed for the pain and

suffering.

- (1A) For the purposes of subclause (1) (d), the amount claimed is not to be stated to be the maximum amount of compensation under section 67 of the Act except in a most extreme case (as referred to in subsection (3) of that section).

Note—

Subclause (1A) is to remove any doubt that subclause (1) (d) requires that the claim specifies the actual amount claimed.

- (2) Any forms issued by insurers and self-insurers for the making of claims by workers under section 67 of the Act must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.
- (3) A claim for compensation under section 67 of the Act is to be accompanied by a supporting medical report. The medical certificate (or report) required to accompany the claim for compensation under section 66 of the Act for the loss from which the pain and suffering resulted is sufficient for that purpose if it includes information covering the pain and suffering concerned.

40A Notice of dispute about liability

- (1) The notice given to a claimant under section 74 of the 1998 Act must:
- (a) include a statement of the particulars that support the reason for the dispute, and
 - (b) be accompanied by a form of request for referral for conciliation together with a duplicate copy of the notice, and
 - (c) include a statement to the effect that if the worker wishes to refer the matter for conciliation, he or she may do so by sending to the Principal Conciliator a completed form of request for referral for conciliation together with any other documents required by the form of request to accompany the request, and
 - (d) (Repealed)
 - (e) include the address and fax number of the Principal Conciliator.

Note—

Section 74 of the 1998 Act also requires the notice to include a statement of the reason the insurer disputes liability.

- (2) A person who fails to comply with section 74 of the 1998 Act in respect of a claim for compensation is guilty of an offence.

Maximum penalty: 20 penalty units.

- (3) It is a defence to a prosecution for an offence of failing to comply with section 74 (2B) of the 1998 Act if it is established that the notice complied with guidelines issued by

the Authority as to how the notice concerned was to be expressed.

41 Form of notice to be posted up at workplace

- (1) For the purposes of section 231 (1) of the 1998 Act:
 - (a) the summary of the requirements of that Act with regard to the giving of notice of injuries and the making of claims is to be in the form of an approved form, and
 - (b) the other information required to be posted up in accordance with that section is the other information contained in the approved form.
- (2) Form 2 and any form approved for the time being by the Authority are **approved forms** for the purposes of this clause.
- (3) (Repealed)
- (4) A form approved by the Authority must provide substantially the same summary and information as Form 2 (whether or not it provides additional information). However, a form approved in respect of a particular class of employers need only provide so much of that summary and information as is relevant and appropriate to those employers.
- (5) An approved form that ceases to be an approved form (as a result of the amendment or substitution of Form 2 or a form approved by the Authority) continues to be an approved form for the purposes of a notice posted up under section 231 of the 1998 Act that was in that form immediately before it ceased to be an approved form, but only until the earlier of:
 - (a) the renewal or replacement of the notice, or
 - (b) 12 months after the form ceases to be an approved form.
- (6) Subclause (5) extends to the substitution of Form 2 by the *Workers Compensation (General) Amendment (Form of Summary) Regulation 2000* and for that purpose a reference in this clause to Form 2 includes a reference to that form as in force before the commencement of that Regulation.

42 Form of register of injuries to be kept at mine etc

- (1) The register of injuries required to be kept under section 90 of the Act is to be a book with entries in the form set out in Form 3.
- (2) The particulars to be entered in the register of injuries are the particulars required to complete Form 3.

Part 12 Medical examinations and disputes

43 Medical examination of worker at direction of employer

- (1) A worker must not, under section 129 of the Act, be required to submit himself or herself for examination by a medical practitioner otherwise than at reasonable hours.
- (2) After a period of 1 month has elapsed from the date on which the first payment of compensation was made to a worker who is receiving weekly payments of compensation or, if the first payment was made pursuant to an award, from the date of the award, the worker must not, under section 129 of the Act, be required to submit himself or herself for examination by a medical practitioner except at the following intervals:
 - (a) once a week during the second month, and
 - (b) once a month during the third, fourth, fifth and sixth months, and
 - (c) thereafter once in every 2 months.
- (3) Where, after the second month, an application has been made for review of the weekly payment of compensation, the worker may be required, pending and for the purposes of the determination of the application, to submit himself or herself for 1 additional examination.
- (4) Subclauses (2) and (3) do not apply to any examination by a medical practitioner made for the purposes of the determination of a claim for compensation under section 66 or 67 of the Act for 12 weeks after the claim is duly made or during an adjournment of court proceedings in respect of the claim under section 106E (3) or 106FC (5) of the Act or section 102 (6) of the 1998 Act.

44 Application to refer matter to medical referee or panel etc

In the application of section 131 of the Act for the purposes of section 131 (7) of the Act, section 131 (2) of the Act is to be construed as requiring any applications to be made jointly by the worker and the employer.

Part 13 Conciliation of disputes

44AA Modification of definition of “existing claim”: section 87D

- (1) Pursuant to section 87D (2) and (3) of the Act, the definition of **existing claim** in section 87D (1) of the Act is modified so that on and from 1 March 1998 no claims are existing claims.
- (2) The Act and this Regulation continue to apply in respect of a dispute referred for conciliation before 1 March 1998 (being a dispute in respect of a claim that was an existing claim immediately before that date), as if the claim to which the dispute

relates were an existing claim.

Note—

Because there can be more than one dispute on a claim, subclause (2) might not apply to all disputes on a claim. A dispute referred for conciliation before 1 March 1998 will be dealt with as if the claim were an existing claim, while another dispute on the same claim (but one not referred for conciliation before 1 March 1998) will be dealt with as if the claim were a new claim.

- (3) If court proceedings have been commenced in respect of a claim for compensation in accordance with Division 3A (Restrictions on commencement of court proceedings) of Part 4 of the Act before 1 March 1998 (being a claim that was an existing claim immediately before that date), the claim continues to be an existing claim for the purposes of the Act and this Regulation but only in respect of the compensation to which the proceedings relate and compensation of the same kind as the compensation to which the proceedings relate.

Note—

Subclause (3) applies only to the compensation to which the court proceedings relate and compensation of the same kind as that compensation. If the claim includes a claim for other compensation, the claim will be a new claim to the extent that it relates to that other compensation. The result is that section 106E (3) of the Act will not apply to the amendment of proceedings to include a claim for the other compensation and section 106F of the Act will not apply to the commencement of court proceedings for the other compensation on or after 1 March 1998.

44AB New claims subject to s 106FD

Pursuant to section 106FD (5) of the Act, all new claims for compensation under Division 3 or 5 of Part 3 of the Act are subject to section 106FD of the Act except claims that are the subject of court proceedings commenced before 1 March 1998 in respect of compensation of the kind to which section 106FD of the Act applies.

44A Forms for new claims to be approved by Principal Conciliator

In the application of this Part in respect of a new claim, a reference to a form approved by the Authority is to be read as a reference to a form approved by the Principal Conciliator.

45 (Repealed)

46 Disputes relating to commencement of payments for weekly compensation

A statement referred to in section 102 (4) (b) of the Act as to the matters in a dispute under that section must be in such form (if any) as the Authority may from time to time approve.

47 Referring of disputes generally

- (1) A dispute is to be referred for conciliation under Division 2 of Part 4 of the Act by means of a written request for referral for conciliation, which is:

(a) to be in such form (if any) as the Authority (in the case of disputes in respect of

existing claims) or the Principal Conciliator (in the case of disputes in respect of new claims) may from time to time approve, and

- (b) to be accompanied by such information and documents as may be specified in that form.

Note—

For disputes involving new claims, the Principal Conciliator has all the functions of the Senior Conciliation Officer in place of the latter. Accordingly, references in clauses 47-51 to the Senior Conciliation Officer should be read, in the case of disputes involving new claims, as references to the Principal Conciliator.

- (2) A dispute is not considered to have been referred for conciliation in accordance with subclause (1) unless and until all the information and documents required to accompany the written request for referral have been provided.
- (3) However, a dispute may, with the consent of the Senior Conciliation Officer, be referred by any party to the dispute by the making of an oral request for conciliation.
- (4) A party to a dispute may, orally or in writing as directed by the relevant conciliation officer, refer any further matter relating to the dispute for conciliation.

48 Proceedings before conciliation officers

- (1) Without limiting the functions that may be exercised by conciliation officers under Divisions 2 and 3 of Part 4 of the Act, and subject to any general directions by the Senior Conciliation Officer, a conciliation officer may exercise the following functions in connection with a dispute:
 - (a) (Repealed)
 - (b) conduct a conciliation conference in person or by telephone,
 - (c) refer any relevant question for report by a rehabilitation counsellor (within the meaning of section 154 of the Act),
 - (d) make a recommendation about the basis upon which it would be reasonable for the parties to reach agreement and resolve the dispute,
 - (e) (Repealed)
 - (f) make a recommendation that the employer or insurer concerned should pay all or part of the costs reasonably incurred by the worker in connection with the claim or with the conciliation proceedings,
 - (g) give general advice (which may be either comprehensive or limited in scope) to a party about any relevant entitlements, obligations and procedures under the Act or any other law,

(h) inform a worker who is a party about other possible sources of advice or assistance (such as from unions and lawyers).

(2) (Repealed)

(3) A conciliation officer must return any document supplied by a party if requested to do so by the party. The conciliation officer should also, if it is appropriate in the interests of confidentiality and if requested to do so by the party concerned, refrain from copying any such document or from making any written notes concerning the existence of any such document.

49 Form of recommendations, directions and notifications by conciliation officers

(1) A recommendation, direction or notification made or given by a conciliation officer under Divisions 2 and 3 of Part 4 of the Act may be made or given orally or in writing.

(2) Any such recommendation, direction or notification that is made or given orally is, as soon as practicable, to be confirmed in writing.

(3) A notification under section 104 (3) of the Act may include advice and information of the kind referred to in clause 48 (1) (g) and (h).

(4) If any direction given by a conciliation officer is given subject to a condition (as specified in the direction) that involves some action by the worker, the conciliation officer is to ensure that the worker is informed accordingly.

(5) A direction under section 98A (Power of conciliation officer to require information) of the Act, a summons under section 98B (Summons to appear at conciliation conference) of the Act, a certificate under section 98D (Certificates as to conciliation of disputes) of the Act and a standard form of agreement under section 98F (Agreements arising from conciliation) of the Act are to be in such form (if any) as the Authority (in the case of disputes in respect of existing claims) or the Principal Conciliator (in the case of disputes in respect of new claims) may from time to time approve.

50 Applications for revocation of directions etc

(1) An application under section 106 (1) of the Act for revocation of a direction given by a conciliation officer must:

(a) be in writing, and

(b) state the reason revocation is sought, and

(c) be in such form (if any) as the authority may from time to time approve, and

(d) be accompanied by any relevant supporting information and documents.

(2) Such an application may be made by referring it to either the Senior Conciliation

Officer or the conciliation officer who gave the direction concerned and the applicant must give a copy of the application to the worker concerned.

- (3) In a case where there is a current direction under Division 3 of Part 4 of the Act, any party to the matter may apply, orally or in writing, for cancellation or alteration of any condition to which the direction is subject.

51 Arrangements and reports by Senior Conciliation Officer

- (1) Without affecting the operation of section 97 (2) of the Act, the Senior Conciliation Officer may re-assign a dispute to another conciliation officer. The Senior Conciliation Officer may do so, for example, because the conciliation officer to whom the dispute has been assigned is unavailable.
- (2) Without limiting the reasons for which revocation of a direction given under Division 3 of Part 4 of the Act may be sought, the Senior Conciliation Officer is to ensure that an application under section 106 (1) of the Act for revocation of such a direction is dealt with:
- (a) in the case of an application made on the basis of new information or a change in circumstances—by the conciliation officer who gave the direction, and
 - (b) in the case of an application made on the basis that the conciliation officer who gave the direction should not have been satisfied that there was no genuine dispute as referred to in section 104 (2) of the Act—by the Senior Conciliation Officer or by another conciliation officer (other than the officer who gave the direction).
- (3) The Senior Conciliation Officer may refer to the Authority:
- (a) a report, based on information obtained from the conciliation of disputes, relating to claims administration by insurers and self-insurers, and
 - (b) a report on any suspected fraud or contravention of the Act or the regulations by a party to a dispute, and
 - (c) a report on any suspected neglect in the provision of rehabilitation to an injured worker, and
 - (d) such other matter relating to a dispute as the Senior Conciliation Officer considers appropriate.

51A Production etc of documents

- (1) If a party to a dispute so requests, the conciliation officer must (subject to section 98A (2) of the Act) give a direction to another party to the dispute to produce or furnish to the conciliation officer documents or information specified by the party making the request (being documents or information considered by the conciliation officer to be

relevant to the dispute).

- (2) A conciliation officer may produce or furnish to a party to a dispute any documents or information that the conciliation officer has received (under section 98A of the Act or otherwise) from any party to the dispute if the party to whom they are to be produced or furnished has requested the conciliation officer to do so or the conciliation officer thinks it appropriate to do so (whether or not a request to do so has been made).
- (3) A conciliation officer can request any party to a dispute to exchange information and documents with any other party to the dispute, being information or documents that the party the subject of the request considers may be helpful to its case, whether or not the information or documents have been or are to be furnished or produced to the conciliation officer under section 98A of the Act.
- (4) This clause does not limit the power of a conciliation officer to require the production or furnishing of documents or information not requested by a party to a dispute.

51AA Provision of documents before conciliation—exemption for unrepresented worker

When under section 81A (4) of the 1998 Act a document is not admissible on behalf of a worker in proceedings before a conciliator or the Compensation Court (because the document was not provided by the worker as required by that section), the conciliator or the Compensation Court may permit the admission of the document on behalf of the worker in the proceedings if satisfied that the worker was not represented by a legal practitioner or agent (as defined in section 131 of the 1998 Act) at the time of the failure to provide the document concerned.

51B Maximum costs for legal practitioners and agents at conciliation conferences

- (1) Pursuant to section 117 (1) (a) of the Act, the maximum amount payable to a legal practitioner or agent as costs for the following legal services or agent services is as follows:
 - (a) assistance with any pre-conciliation telephone discussion and preparation and lodgment of a request for conciliation (including any appropriate attachments)—\$220,
 - (b) preparation for, attendance at and participation at a conciliation conference, for each hour or part of any hour—\$220,
 - (c) assistance in the preparation and execution of terms of agreement in a case where resolution of the dispute is achieved—\$82.50 (with no amount being payable in respect of assistance in the preparation and execution of terms of agreement in a case where resolution of the dispute is not achieved).
- (2) Pursuant to section 117 (1) (b) of the Act, the maximum amount payable to a legal practitioner as costs for a matter that is not a legal service, or to an agent as costs for

a matter that is not an agent service, but that is related to any of the matters referred to in subclause (1) is (for both legal practitioners and agents) as fixed in respect of the matter under section 196 of the *Legal Profession Act 1987*.

- (3) The limits imposed by subclause (1) on the costs payable to a legal practitioner or agent do not apply to any amount payable as disbursements (but this subclause does not limit the operation in respect of legal practitioners of section 196 of the *Legal Profession Act 1987* with respect to disbursements).
- (4) Costs are payable in respect of the appearance of one representative only for a party appearing at a conciliation conference (whether the representative is a legal practitioner or agent) and no costs are payable for any additional representative (whether a legal practitioner or agent) who appears for the party at the conciliation conference on the same occasion.

51C Agents

For the purposes of section 100A (2A) of the Act, the classes of agent who may represent parties to disputes in respect of new claims are:

- (a) officers of industrial organisations of employers or industrial organisations of employees registered under the *Industrial Relations Act 1996*,
- (b) officers of associations of employers or employees registered under the *Workplace Relations Act 1996* of the Commonwealth,
- (c) officers of the Labor Council of New South Wales,
- (d) persons who are employed by licensed insurers (or former licensed insurers) or self-insurers, or by firms of solicitors or by any of the bodies referred to in paragraphs (a)-(c).

51D Employer to pay conciliation costs

- (1) The employer is to pay the conciliation costs incurred by a worker in conciliating a dispute under Division 3 of Part 2 of Chapter 4 of the 1998 Act unless the Principal Conciliator otherwise directs under this clause.
- (2) In a particular case, the Principal Conciliator may, on the recommendation of the conciliator in the case, direct that the whole or some specified amount or proportion of the conciliation costs that would otherwise be payable by the employer under subclause (1) are not so payable. Any such direction does not affect the power of the Compensation Court under section 112 (Costs) of the 1998 Act.
- (3) Amounts payable under this clause are subject to the following limits:
 - (a) in respect of costs to which clause 51B applies, the limits imposed on those costs by that clause,

(b) in respect of disbursements for which a regulation under the *Legal Profession Act 1987* fixes a maximum amount, any maximum so fixed.

(4) Pursuant to clause 1 (6) of Part 20 of Schedule 6 to the 1987 Act, section 88 of the 1998 Act is deemed to be amended by the inclusion of the following subsection:

(3) A reference in this section to costs for legal services, or costs of services, includes a reference to disbursements in relation to those services.

(5) Subclause (4) ceases to have effect on 31 December 1999.

Part 13A Restrictions on obtaining medical reports

51E Definitions

In this Part:

claim means a claim for compensation payable or claimed to be payable under the 1987 Act.

proceedings means proceedings before a conciliator or the Compensation Court.

51F Restrictions on number of medical reports that can be admitted

(1) In any proceedings on a claim:

(a) only one medical report in any particular specialty may be admitted on behalf of a party to the proceedings, and

(b) a medical report in a specialty may not be admitted on behalf of a party to the proceedings if another medical report in that specialty has already been admitted on behalf of the party in any other proceedings on the claim or in proceedings on a related claim.

(2) Despite subclause (1) (b), a medical report in a specialty may be admitted in proceedings even if another medical report in that specialty has already been admitted in other proceedings on the claim or a related claim if:

(a) the medical report to be admitted is a permissible update (under clause 51G) of the medical report already admitted in the other proceedings, or

(b) the proceedings are lump sum compensation proceedings and the other proceedings were not lump sum compensation proceedings, but only so as to allow the admission of a medical report provided by the same medical practitioner who provided the medical report already admitted in the other proceedings.

(3) The medical report allowed to be admitted under subclause (2) (b) can however be provided by another medical practitioner if the medical practitioner who provided the

medical report already admitted in the other proceedings has ceased (permanently or temporarily) to practise in the specialty concerned.

- (4) Subclause (2) operates only as an exception to subclause (1) (b) and does not affect the requirement under subclause (1) (a) that only one medical report in a particular specialty may be admitted in proceedings on behalf of a party.
- (5) For the purposes of this clause, a medical report in more than one specialty is to be regarded as a medical report in each of those specialties.
- (6) In this clause:

lump sum compensation proceedings means proceedings on a claim for compensation under Division 4 of Part 3 of the 1987 Act (whether or not the proceedings are also proceedings on a claim for any other compensation).

related claims are claims or further claims for compensation in respect of the same injury, whether or not the claims are in respect of the same kind of compensation.

51G Permissible updates of medical reports

- (1) A medical report (***the update report***) is a permissible update of another medical report (***the original report***) if the update report is provided for the purpose of updating the original report and is provided:
 - (a) more than 6 months after the original report was provided, or
 - (b) because there has been a further material change in the worker's condition.
- (2) The update report must have been provided by the medical practitioner who provided the original report except when that medical practitioner has ceased (permanently or temporarily) to practise in the specialty concerned, in which case the update report can be provided by another medical practitioner.
- (3) The update report can be provided as an addendum to the original report and in such a case the original report together with that addendum constitute the permissible update.

51H Restrictions on recovery of cost of medical reports

- (1) A party to proceedings on a claim is not entitled to be paid for or recover the cost of obtaining a medical report in connection with the claim unless the report:
 - (a) has been admitted in those proceedings on behalf of the party, or
 - (b) is a claims management phase report (as provided by subclause (2)).
- (2) The following medical reports are ***claims management phase reports***:
 - (a) a medical certificate that accompanies a claim for weekly payments of

compensation,

- (b) any medical report provided by a medical practitioner as part of and in the course of treatment of the injured worker by the medical practitioner,
- (c) any medical report provided by a medical practitioner in respect of an examination of the injured worker pursuant to a requirement of the employer in accordance with section 119 of the 1998 Act.

51I Medical treatment not affected

This Part does not affect any entitlement of an injured worker to be paid for or recover the cost of obtaining medical treatment.

51J Reports of medical panels and referees not affected

This Part does not apply in respect of:

- (a) a medical report provided in respect of the examination of an injured worker by a medical panel or medical referee, or
- (b) a medical report provided for the purposes of section 121 of the 1998 Act by an approved medical specialist under that section.

51K Transitional

- (1) This Part applies only in respect of proceedings commenced after the commencement of this Part. In its application in respect of those proceedings, this Part extends to medical reports obtained before the commencement of this Part (subject to subclause (2)).
- (2) Clause 51H (Restrictions on recovery of cost of medical reports) does not apply in respect of a medical report that was obtained before the commencement of this Part, or that was obtained after that commencement as a result of an appointment made before that commencement.

Part 14 Insurance policies

52 Provisions of policies of insurance

- (1) For the purposes of section 159 of the Act, a policy of insurance (except one to which subclause (2) applies):
 - (a) must contain the provisions specified in Form 4, and
 - (b) may contain any other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.
- (2) A policy of insurance issued or renewed before 31 December 1995 must contain the

provisions that were specified in Form 7 in the *Workers Compensation (General) Regulation 1987* immediately before its repeal, except that:

- (a) the words “independently of this Act (being a liability under a law of New South Wales)” in the third paragraph of the Form are to be deleted and the words “independently of this Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country)” are to be inserted instead, and
- (b) such a policy may contain other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.

53 Trainees under Australian Traineeship System

- (1) A policy of insurance deemed to be held by an employer under section 158 of the Act must contain the provisions specified in Form 4 in respect of domestic or similar workers, subject to the omission of any reference to the payment of premiums for the policy and the making of a proposal in relation to the policy.
- (2) Pursuant to section 158 (7) of the Act, the definition of **wages** in section 174 (9) of the Act is modified by excluding from that definition wages paid or payable to a trainee within the meaning of section 158 of the Act in respect of a period of employment as a trainee.

54 Prescriptions for purposes of \$500 excess recoverable from employer

- (1) For the purposes of section 160 of the Act, a small business employer, in relation to a policy of insurance, is an employer who is liable under the policy to pay premiums not exceeding \$3,000.
- (2) The amount of premiums payable is to be determined by reference to the amount of the basic tariff premium (within the meaning of the relevant insurance premiums order) at the time the insurer first demands a premium for the policy, assuming the period of insurance to which the premium relates to be 12 months (whether or not that period of insurance is in fact 12 months).
- (3) A weekly compensation claim made in respect of a worker who receives an injury in the circumstances referred to in section 11 (Recess claims) of the Act is prescribed for the purposes of section 160 (8) of the Act.

54A Amnesty for insurance contraventions

- (1) There is an amnesty for a contravention of section 155 of the Act by a person who satisfies the condition of the amnesty during the amnesty period, such that the person is not liable to be prosecuted for an offence under that section in respect of a contravention that occurred before the person satisfied that condition and is not liable

to recovery under section 156 of the Act in respect of a contravention that occurred before the person satisfied that condition. The amnesty period is the period of 3 months that begins on the commencement of this clause.

- (2) The condition of the amnesty is that the person obtains any policy of insurance that the person is at the time required to obtain under section 155 of the Act.
- (3) The amnesty applies only to a person who is contravening section 155 of the Act at the commencement of this clause.
- (4) The amnesty does not prevent a person being prosecuted for an offence under section 155 of the Act if:
 - (a) proceedings for the offence were commenced before the person satisfied the condition of the amnesty, or
 - (b) proceedings for recovery under section 156 of the Act in respect of the contravention with which the offence is concerned were commenced before the person satisfied the condition of the amnesty, or
 - (c) an uninsured liability claim was made against the person (as provided by subclause (6)) before the person satisfied the condition of the amnesty, even if that uninsured liability claim does not relate to the prosecution concerned.
- (5) The amnesty does not prevent recovery from a person under section 156 of the Act if:
 - (a) proceedings for recovery were commenced before the person satisfied the condition of the amnesty, or
 - (b) proceedings for an offence under section 155 of the Act in respect of the contravention with which recovery is concerned were commenced before the person satisfied the condition of the amnesty, or
 - (c) an uninsured liability claim was made against the person (as provided by subclause (6)) before the person satisfied the condition of the amnesty, even if that uninsured liability claim does not relate to the recovery proceedings concerned.
- (6) An uninsured liability claim is considered to have been made against a person if a claim has been made under section 140 of the Act, or proceedings have been commenced in the Compensation Court, against the person in respect of a claim for compensation under the Act in respect of an injury to a worker, and the person:
 - (a) in contravention of the Act had not obtained, or was not maintaining in force, a policy of insurance for the full amount of the person's liability under the Act as employer in respect of the injured worker at the relevant time, and
 - (b) was not a self-insurer at that relevant time.

- (7) When the amnesty applies in respect of a contravention by a corporation, the amnesty extends in respect of that contravention to a person who is a director of the corporation or concerned in the management of the corporation.

54B Information to be provided for certificate of currency

- (1) An employer who requests an insurer to provide a certificate of currency with respect to a policy of insurance must provide the insurer with a statement in a form approved by the Authority that contains a reasonable estimate of the wages that will be payable during the current period of insurance to workers employed by the employer.
- (2) An insurer may refuse to issue the requested certificate of currency until the employer complies with this clause.

Part 15 Insurers' contribution fund

55 Definition of "financial year"

- (1) In this Part:

financial year means a year commencing 1 July.

- (2) For the purposes of this Part, a financial year:

- (a) includes the period after 4 pm on the day preceding the first day of the financial year, and
- (b) does not include the period after 4 pm on the last day of the financial year.

56 Definition of "premium income"

For the purposes of the contribution payable by an insurer under section 220 of the Act for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premiums order in force in respect of that financial year), or
- (b) a dust diseases contribution (as so defined), or
- (c) a premiums adjustment contribution (as so defined).

57 Prescribed contribution payable by insurer

For the purposes of section 220 (2) of the Act, the prescribed percentage of the premium income of an insurer for a financial year specified in Column 1 of the Table to this clause is the percentage specified in Column 2 of that Table opposite that year.

Table

Column 1

Column 2

Financial Year		Percentage of premium income
1	Financial year commencing 1 July 1987	8.5 per cent
2	Financial year commencing 1 July 1988	10.5 per cent
3	Financial year commencing 1 July 1989	5 per cent
4	Financial year commencing 1 July 1990:	
	(a) in the case of a specialised insurer	5 per cent
	(b) in the case of an insurer other than a specialised insurer	NIL
5	Financial years commencing 1 July 1991 and 1 July 1992	7 per cent
6	Financial years commencing 1 July 1993 and 1 July 1994	4 per cent
7	Financial year commencing 1 July 1995 and any subsequent financial year	NIL

58 Time for payment of insurer's contribution

The prescribed contribution payable by an insurer under section 220 of the Act in relation to a financial year is to be paid:

- (a) except as provided by paragraph (b)—in respect of premium income received during any quarter of a financial year (whether during or after the financial year in relation to which the contribution is payable), within 15 days after the end of that quarter, or
- (b) at such other times as may be determined by the Authority and notified to insurers.

Part 16 WorkCover Authority Fund

59 Definitions

In this Part:

basic tariff premium, excess surcharge factor, experience adjustment factor and ***dust diseases contribution*** have the same meanings respectively as they have in the insurance premiums order in force in respect of the relevant financial year.

60 Definition of “premium income” for purposes of insurers’ contributions

For the purposes of the contribution payable by an insurer under section 261 of the Act for a financial year, premium income (as defined in section 3 (1) of the Act) does not include

any part of such a premium which is attributable to the application of an excess surcharge factor or a dust diseases contribution in the calculation of the premium.

61 Definition of “deemed premium income” for purposes of self-insurers’ contributions

- (1) The prescribed circumstances referred to in the definition of ***deemed premium income*** in section 258 of the Act are the circumstances in which the amount payable as premiums referred to in that definition is calculated in the manner fixed by the insurance premiums order in force in respect of the relevant financial year.
- (2) The amount defined as deemed premium income in section 258 of the Act in relation to the contribution payable by a self-insurer for any period during a financial year does not include:
 - (a) any amount attributable to the application of any factor other than the basic tariff premium that would have been payable as referred to in that definition in respect of that period, and
 - (b) any amount attributable to any GST that would have been payable in relation to the premiums on policies of insurance that the self-insurer would otherwise have been required to obtain under the Act had the self-insurer not been a self-insurer.
- (3) Subclause (2) does not apply to any financial year to which clause 62 applies.

62 Alternative contribution by self-insurers

- (1) This clause applies to any financial year determined by the Authority and notified in the Gazette before the commencement of that financial year as a financial year to which this clause applies.
- (2) When this clause applies to a financial year, the amount defined as deemed premium income in section 258 of the Act in relation to the contribution payable by a self-insurer for any period during that financial year:
 - (a) does not include any amount attributable to the application of an excess surcharge factor or a dust diseases contribution, and
 - (b) includes any amount attributable to the application of the experience adjustment factor, but only if the self-insurer has been a self-insurer (or insured with an insurer) for at least 2 years immediately before the commencement of that period.

Part 17 Deemed employment

63 Ministers of religion

For the purposes of clause 17 of Schedule 1 to the Act, it is declared that persons within a class specified in Column 2 of Schedule 4 to this Regulation are ministers of religion of the religious body or organisation specified opposite the class in Column 1 of Schedule 4 and

the employer of those persons is the person specified opposite the class in Column 3 of Schedule 4.

Part 18 Premiums Adjustment Fund

64 Definitions of “financial year” and “Fund”

(1) In this Part:

financial year means a year commencing 1 July and includes the period after 4 pm on the day preceding the first day of the financial year but does not include the period after 4 pm on the last day of the financial year.

Fund means the Premiums Adjustment Fund established under section 203 of the Act.

(2) Expressions used in this Part have the same meanings as in Division 4 of Part 7 of the Act.

65 Definition of “premium income”

For the purposes of the contributions payable by an insurer into the Fund for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premiums order in force in respect of that financial year), or
- (b) a dust diseases contribution (as so defined), or
- (c) a premiums adjustment contribution (as so defined).

66 Amount of contribution payable by insurer into Fund

(1) For the purposes of section 208 (2) of the Act, the percentage of the premium income of a licensed insurer for a financial year specified in Column 1 of the Table to this subclause (being the contribution payable into the Fund) is the percentage specified in Column 2 of that Table opposite that year.

Table

Column 1	Column 2
Financial year	Percentage of premium income
Financial year commencing 1 July 1989	NIL
Financial year commencing 1 July 1990 and any subsequent financial year	NIL

(2) If a percentage is prescribed by this clause during a financial year, the new

percentage does not apply to premium income received in respect of policies of insurance issued or renewed to take effect before the new percentage is so prescribed.

67 Time for payment of contribution by insurer into Fund

The contribution payable by an insurer into the Fund under section 208 of the Act must, in respect of premium income received in any calendar month, be paid within 15 working days after the end of that month.

Part 19 Insurers' Guarantee Fund

68 Definitions

Expressions used in this Part have the same meanings as in Division 7 of Part 7 of the Act.

69 Financial years for contributions to Insurers' Guarantee Fund

For the purposes of section 228 (1) of the Act, the financial year commencing 1 July 1989 and any subsequent financial year are prescribed.

70 Time etc for payment of insurer's contribution

The contribution payable by an insurer under section 228 of the Act in respect of any financial year is payable:

- (a) except as provided by paragraph (b), in quarterly instalments (each being equal to one-fourth of the contribution payable) due on the last day of each quarter of the financial year, or
- (b) in such other instalments and within such other time as may be determined by the Authority and specified in a notice to the insurer.

71 Further contributions payable by insurers

- (1) If the Authority has determined an amount under section 228 (1) of the Act in respect of a financial year, it may subsequently determine under that provision a further amount to be contributed to the Guarantee Fund in respect of that year, being an amount which it considers is necessary:
 - (a) to satisfy, during that financial year, claims, judgments and awards arising from or relating to policies of insurance issued by insolvent insurers, and
 - (b) to provide for the payment of any other amounts to be paid under Division 7 of Part 7 of the Act from the Guarantee Fund during that financial year.
- (2) Section 228 of the Act applies to and in respect of the payment of any such further contribution.

72 Rebates for insurers who contributed to an advance from the Premiums Adjustment Fund

- (1) The Authority is to determine the amount under section 228 (1) of the Act on the basis that money advanced to the Guarantee Fund from the Premiums Adjustment Fund under section 224D of the Act is to be repaid during the financial year in which the money was advanced to the Guarantee Fund.
- (2) However, if the Authority:
 - (a) under section 224 (4) of the Act dispenses with the repayment of money so advanced, or
 - (b) determines that it is not to be repaid during that financial year, it may reduce the contributions of eligible insurers to the Guarantee Fund by such proportion as it considers appropriate.
- (3) In this clause, **eligible insurer**, in relation to an advance made to the Guarantee Fund, means an insurer who contributed money to the Premiums Adjustment Fund which the Authority determines was used to make the advance.

73 Determination of contributions and further contributions

- (1) For the purpose of determining the amount of any contribution (or further contribution) to the Guarantee Fund, the Authority is entitled to rely on an estimate determined by it of the amount required to be contributed by insurers to the WorkCover Authority Fund.
- (2) If the Authority determines that any change in that estimate is appropriate, it is to re-determine the contributions (or further contributions) of insurers to the Guarantee Fund, and the relevant amounts become payable by, or repayable to, insurers.

Part 19A Penalty notice offences

73A Penalty notice offences

For the purposes of section 246 of the 1998 Act:

- (a) each of the following offences is declared to be a penalty notice offence:
 - (i) an offence created by a provision of the 1987 Act specified in Column 1 of Part 1 of Schedule 5,
 - (ii) an offence created by a provision of the 1998 Act specified in Column 1 of Part 2 of Schedule 5,
 - (iii) an offence created by a provision of the [Workers Compensation \(General\) Regulation 1995](#) specified in Column 1 of Part 3 of Schedule 5,

- (iv) an offence created by a provision of the *Workers Compensation (Insurance Premiums) Regulation 1995* specified in Column 1 of Part 4 of Schedule 5,
- (b) the prescribed penalty for such an offence is the amount specified opposite it in Column 3 of Schedule 5, and
- (c) the following persons are declared to be authorised officers:
 - (i) each officer of the Authority authorised by the Authority for the purposes of section 246 of the 1998 Act,
 - (ii) each inspector appointed under section 31 of the *Occupational Health and Safety Act 1983*,
 - (iii) each officer of the Authority authorised by the Authority for the purposes of section 238 of the 1998 Act.

73B Short descriptions

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 5 is:
 - (a) the expression specified opposite it in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 5, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

Part 19B Advertising of workers compensation services

Note—

Expressions used in this Part have the same meaning as in Division 8 of Part 2 of Chapter 4 of the 1998 Act. An **agent** is a person who acts, or holds himself or herself out as willing to act, as agent for a person for fee or reward in connection with a claim, but does not include a legal practitioner. **Lawyer** means a legal practitioner and, as provided below, includes solicitor corporations and incorporated legal practices.

Each of the following activities is considered to constitute acting as agent for a person in relation to a claim:

- (a) advising the person with respect to the making of a claim,
- (b) assisting the person to complete or prepare, or completing or preparing on behalf of the person, any form, correspondence or other document concerning a claim,
- (c) making arrangements for any test or medical examination to determine the person's entitlement to compensation,
- (d) arranging referral of the person to a lawyer for the performance of legal work in connection with a claim.

A reference to a claim includes a reference to a prospective claim (whether or not the claim is ever actually made).

73C Definitions

In this Part:

lawyer includes a solicitor corporation and an incorporated legal practice.

printed publication means a newspaper, magazine, journal, periodical, directory or other printed publication.

public place means a place or vehicle that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise).

73D Restriction on advertising workers compensation services

- (1) A lawyer or agent must not advertise workers compensation services except by means of a statement that:
 - (a) states only the name and contact details of the lawyer or agent, together with information as to any area of practice or specialty of the lawyer or agent, and
 - (b) is published by an allowable publication method, as provided by subclause (2).
- (2) Each of the following is an allowable publication method:
 - (a) publication of the statement in a printed publication,
 - (b) publication of the statement on an Internet website by means of the publication of an electronic version of a printed publication, but only if the statement merely reproduces a statement as published in that printed publication and the printed publication is published independently of the lawyer or agent,
 - (c) publication of the statement on an Internet website by the publication of the contents of a directory or database that includes the statement and that is published or maintained independently of the lawyer or agent,
 - (d) public exhibition of the statement in, on, over or under any building, vehicle or place or in the air in view of persons in or on any street or public place,

- (e) display of the statement on any printed document gratuitously sent or delivered to any person or thrown or left on premises occupied by any person or on any vehicle,
- (f) display of the statement on any printed document provided to a person as a receipt or record in respect of a transaction or bet.

Note—

Examples of these kinds of documents are shopping docketts and betting tickets.

- (3) This clause does not prevent a lawyer or agent from advertising workers compensation services:
 - (a) to any person who is already a client of the lawyer or agent, or
 - (b) to any person at a place of business of the lawyer or agent.
- (4) A printed publication, directory or database is considered to be published or maintained independently of a lawyer or agent only if:
 - (a) it is not published or maintained by the lawyer or agent or by a partner, employee or member of the practice of the lawyer or agent, and
 - (b) the person who publishes or maintains it does so in the ordinary course of the conduct of the person's business or affairs.

73E What constitutes advertising of workers compensation services

- (1) For the purposes of this Part, a person advertises workers compensation services when the person publishes or causes to be published a statement that may reasonably be thought to be intended or likely to encourage or induce a person:
 - (a) to make a claim for compensation or damages for a work-related injury, or
 - (b) to use the services of a lawyer or agent in connection with the making of such a claim.
- (2) It does not matter that the statement also relates to compensation or damages for injuries that are not work-related.
- (3) For the purposes of this clause, a statement is published if it is:
 - (a) published in a printed publication, or
 - (b) disseminated by means of the exhibition or broadcast of a photograph, slide, film, video recording, audio recording or other recording of images or sound, either as a public exhibition or broadcast or as an exhibition or broadcast to persons attending a place for the purpose of receiving professional advice, treatment or assistance, or

- (c) broadcast by radio or television, or
- (d) displayed on an Internet website or otherwise publicly disseminated by means of the Internet, or
- (e) publicly exhibited in, on, over or under any building, vehicle or place or in the air in view of persons in or on any street or public place, or
- (f) displayed on any document gratuitously sent or delivered to any person or thrown or left on premises occupied by any person or on any vehicle, or
- (g) displayed on any document provided to a person as a receipt or record in respect of a transaction or bet.

73F Offence

- (1) A lawyer or agent who contravenes this Part is guilty of an offence.

Maximum penalty: 200 penalty units.

- (2) For the purposes of a prosecution for an offence under this clause, conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority is taken to have been engaged in also by the body corporate.

73G Operation of other laws not affected

This Part does not limit the operation of any other law with respect to advertising.

Part 19C Savings and transitional provisions

73H Application of Chapter 4 of 1998 Act

Chapter 4 (Workers compensation) of the 1998 Act extends to an injury received before the commencement of that Part, subject to this Part.

73I Restrictions on commencing court proceedings

- (1) Division 5 (Restrictions on commencing court proceedings) of Part 2 of Chapter 4 of the 1998 Act does not apply to the commencement of court proceedings in respect of compensation if:
 - (a) a dispute about that compensation was referred for conciliation under Division 2 of Part 4 of the 1987 Act before the commencement of this clause, or
 - (b) court proceedings in respect of that compensation were validly commenced under the 1987 Act before the commencement of this clause.
- (2) The provisions of Divisions 3A and 3B of Part 4 of the 1987 Act continue to apply (as if they had not been repealed) to and in respect of the commencement of the court

proceedings referred to in those provisions except court proceedings in respect of which Division 5 of Part 2 of Chapter 4 of the 1998 Act applies. The application of Division 3A of Part 4 of the 1987 Act is subject to clause 44AA.

- (3) Pursuant to clause 1 (6) of Part 20 of Schedule 6 to the 1987 Act, section 101 (5) (c) of the 1998 Act is deemed to be amended by omitting the words “commencement of this Act” and by inserting instead the words “commencement of the 1987 Act”. This subclause ceases to have effect on 31 December 1999.

73J Submission of methodology for calculating risk premium

The reference in section 159 (Approval of methodology for calculating risk premium) of the 1998 Act to 31 March is, in the case of the year 1999, to be read as a reference to 30 June.

73K Time for making claim

Section 65 (13) of the 1998 Act applies in respect of an injury, or death resulting from an injury, received before the commencement of that subsection (but not before 4 pm on 30 June 1987), as if paragraphs (a) and (b) of that subsection read as follows:

- (a) the claim is made within whichever of the following periods ends later:
- (i) the period of 3 years commencing when the injury or accident happened or, in the case of death, on the date of death,
 - (ii) the period of 1 year that commences when this section commences,
- (b) the claim is not made within that period but the claim is in respect of an injury resulting in the death or serious and permanent disablement of a worker.

73L Continuation of OHS Council

- (1) The Occupational Health, Safety and Rehabilitation Council of New South Wales as constituted under the [WorkCover Administration Act 1989](#) immediately before the commencement of this clause continues and is taken to be the OHS Council under the 1998 Act until the appointment of the members of that Council under section 9 of the 1998 Act.
- (2) This clause ceases to operate on 1 April 1999 (so as to require the appointment of members of the OHS Council before that date).
- (3) This clause applies despite clause 6 (Abolition of former bodies) of Part 18A of Schedule 6 to the 1987 Act.

73M Contributions to WorkCover Authority Fund

Part 9 (WorkCover Authority Fund) of the 1987 Act continues to apply (despite its repeal) to and in respect of financial years up to and including the financial year commencing on

1 July 2001.

73N Reduction of maximum section 38 benefits period

- (1) The amendments made to section 38 of the 1987 Act by the *Workers Compensation Legislation Amendment Act 1998* do not apply to a worker in respect of any period of incapacity after the commencement of those amendments that results from an injury before that commencement if the worker was in receipt of compensation in accordance with that section before that commencement for any period of incapacity resulting from that injury.
- (2) Clause 5D (2) of Part 4 of Schedule 6 to the 1987 Act is subject to this clause.

73O Election of damages or compensation

- (1) Pursuant to clause 1 (6) of Part 20 of Schedule 6 to the 1987 Act:
 - (a) section 151A (3) (b) of the 1987 Act is deemed to be amended by omitting the words “or by the Compensation Court making an award in respect of that permanent loss compensation” and by inserting instead the words “or by the Compensation Court awarding that permanent loss compensation (whether by award, interim award or order)”, and
 - (b) clause 11 of Part 14 of Schedule 6 to the 1987 Act is deemed to be amended by inserting after the word “awards” wherever occurring the words “of compensation”.
- (2) This clause ceases to have effect on 31 December 1999.

73P Saving in connection with amendment to section 51 of the 1987 Act

- (1) In this clause, **the section 51 amendment** means the amendment made to section 51 (9) of the 1987 Act by the *Workers Compensation Legislation Amendment Act 1998*.
- (2) The section 51 amendment does not affect established procedure (in accordance with relevant decisions of courts of competent jurisdiction) with respect to the operation of section 51 of the 1987 Act, namely, that the commutation of a liability to pay weekly compensation by the payment of a lump sum determined by the Compensation Court is not a payment of compensation to which a worker is entitled but a payment that the employer may make with the consent of the worker in order to commute that liability.
- (3) This clause applies whether the liability that is to be commuted arose before or after the commencement of this clause.
- (4) Pursuant to Part 20 of Schedule 6 to the 1987 Act, section 51 of the 1987 Act is deemed to be amended to the extent (if any) as is necessary for the purposes of giving effect to this clause.

(5) This clause expires on 31 December 1999.

Part 20 Miscellaneous

74 Amendment relating to 18 month limit for common law claims—transitional provision

The amendment to section 151D (1) of the Act made by Schedule 5 (7) to the *Workers Compensation Legislation (Amendment) Act 1994* extends to proceedings in respect of injuries received before the commencement of the amendment (including proceedings pending at that commencement).

75 Additional records to be kept by employers

Pursuant to section 174 of the Act, an employer must keep records of the following additional matters:

- (a) to the extent that is relevant to the employer—the number of taxi plates of the employer, the number of rides for jockeys, the number of bouts for boxers and wrestlers and the number of games for football players,
- (b) in the case of workers paid under contracts of the kind referred to in paragraph (b) of the definition of **wages** in section 174 (9) of the Act—details of the contract concerned and related documentation, sufficient to enable an insurer to determine the amount of any costs to be deducted as referred to in that paragraph.

76 Interest on compensation for loss of hearing in some cases

For the purposes of section 72A (3) of the Act, the rate of interest is:

- (a) 6 per cent per annum on compensation under section 66 of the Act, and
- (b) 3 per cent per annum on other compensation.

77 Uninsured Liability and Indemnity Scheme—modification of provisions of the Act

For the purposes of section 148 (3) of the Act, the following modifications are made to the provisions of the Act in their application to claims made under the Scheme:

- (a) references in sections 40A, 54, 83, 84, 93C, 129, 131, 133 and 134 to an insurer, self-insurer or employer are to be read as references to the Authority,
- (b) references in sections 11A (8), 38A, 134, 92 (1D) and 154A to an insurer or self-insurer are to be read as references to the Authority,
- (c) in a case where the employer named as a respondent as referred to in section 144 (2) (a) of the Act is a corporation which has ceased to exist or a deceased person whose estate has been distributed—section 144 (2) is to be read as if it also provided that (in such a case) the application is not, subject to any rules of the Compensation Court, required to serve a copy of the application on that person,

- (d) section 174 (6A) of the Act is to be read as if:
 - (i) the words “, at the request of an insurer who has issued a policy of insurance to an employer,” were omitted, and
 - (ii) the reference to the insurer were a reference to the Authority or a person authorised by the Authority, and
 - (iii) section 174 (6B) were omitted,
- (e) in section 52A (2) the reference to the person liable to make the payments is to be read as reference to the Authority, and the reference to the person’s intention is to be read as reference to the Authority’s intention,
- (f) there is to be inserted at the end of section 52A (2) “This subsection applies whether or not the payments are made under an award or order of the Compensation Court.”,
- (g) the reference in section 52A (6) to the worker’s employer or the employer’s insurer is to be read as a reference to the Authority.

78 Repeal of 1987 Regulation

- (1) The *Workers Compensation (General) Regulation 1987* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the repealed Regulation, had effect under that Regulation is taken to have effect under this Regulation.

79 Application of sections 52A and 52B to cases of late claims and early disputes

- (1) If a claim for weekly payments of compensation is first made by a worker after the earliest time at which a payment discontinuation notice could have been given to the worker under section 52A of the Act:
 - (a) section 52A of the Act applies without any such notice being given, and
 - (b) the worker may apply to the Compensation Court under section 52B (1) of the Act for a determination of any dispute about the operation of section 52A of the Act (even though no such notice has been given).
- (2) If proceedings involving a claim for weekly payments of compensation in respect of any period of incapacity for work that includes any period beyond the first 104 weeks of incapacity referred to in section 52A (1) of the Act are before the Compensation Court and relate to a dispute that arose before the earliest time at which a payment discontinuation notice could have been given to the worker under section 52A of the Act:
 - (a) section 52A of the Act applies without any such notice being given, and

(b) the worker may apply to the Compensation Court under section 52B (1) of the Act for a determination of any dispute about the operation of section 52A of the Act (even though no such notice has been given).

(3) This clause does not prevent the person on whom the claim has been made from giving the worker a notice informing the worker about the existence and effect of section 52A of the Act and alerting the worker to the application, or possible application, of that section to the worker. The giving of such a notice does not constitute an admission of liability by an employer or insurer under this Act or independently of this Act.

81 Exemptions for coal miners—1996 amendments

A worker employed in or about a mine to which the *Coal Mines Regulation Act 1982* applies is exempt from the operation of the amendments made by the following provisions of the *WorkCover Legislation Amendment Act 1996*, with effect from the date of assent to that Act:

- (a) Schedule 1.2 (Employment required to be substantial contributing factor),
- (b) Schedule 1.4 (Reduction in maximum lump sum compensation amounts),
- (c) Schedule 1.6 (Deduction for previous injuries and pre-existing conditions and abnormalities).

Schedule 1 Forms

(Clause 4)

Form 1

(Clause 38)

Workers Compensation Act 1987

Industrial deafness—Notice of injury

- 1 Name and address of worker:
- 2 Age and occupation of worker:
- 3 Name and address of employer to whom notice of injury is given:
- 4 If not employed by the above employer at the date that this notice of injury is given, date of last day of employment with the employer:
- 5 Has the worker been paid any compensation for loss of hearing in Australia or elsewhere? YES/NO
If YES, give details:
- 6 Using the following list, give the worker's complete work history in any noisy work in Australia or elsewhere, including work as an employee, in any business carried on by the worker (either alone or with anyone else), in military service or otherwise. Include work in the list even if unsure about how noisy the work was.

Type of occupation	State whether employee/ own business/ other (specify)	Name & address of employer, business or other	Period of work
--------------------	---	---	----------------

.....(Signature of worker)

.....
(Date)

Form 2

(Clause 41)

Workers Compensation Act 1987 and Workplace Injury Management and Workers Compensation Act 1998

STOP THE INJURY BEFORE IT HAPPENS!

If you are having any physical problems at work tell your employer before any injury happens. Your employer may be able to make changes in the workplace, provide different tasks or arrange assistance to prevent an injury.

BUT IF YOU ARE INJURED THROUGH WORK ...

- **Report the injury**

If you receive a work injury you should report the injury as soon as possible. (Injury can include a disease or illness.)

Make the report to your employer or your supervisor or to the person designated by your employer.

You can make the report orally or in writing. A convenient way is to write it in the Register of Injuries that your employer should have available. If you write it another way it should then be delivered or posted.

When reporting the injury, the details you should give include your name and address, the cause of the injury and the date on which the injury happened.

If your injury is a loss or further loss of hearing, you must do your report on a special form. You can ask your employer for one of those forms.

If your injury seems to be a *significant injury* your employer must notify the workers compensation insurer within 48 hours after becoming aware of it. You may inform the insurer as well. A *significant injury* is one that is likely to stop you doing all or some of your work duties for more than 7 days in a row (whether or not they are work days).

For all other injuries, your employer must notify the insurer within 7 days after becoming aware of it.

- **Continuing with or returning to work after injury**

If you have to take time off work because of an injury, you must make all reasonable efforts to return to work as soon as possible.

Talk with your doctor about whether there are at least some work duties you can continue to do. Sometimes a gradual return to work is advisable. Ask your doctor to give you a medical certificate in the official WorkCover format (or a similar format) setting out details of what work duties you can do. Give that certificate to your employer.

Your employer should give you suitable duties if you cannot do all your normal duties.

Approved Injury Management Consultants can assist if there is a problem about suitability of work duties after your injury. You can ask the insurer to refer you.

If you have a *significant injury*, within 3 days after being notified of it your employer's insurer must start developing an *injury management plan* for you. The aim of that plan is to help you return safely and quickly to employment that, as far as possible, will be the same as or equivalent to your job before the injury.

The insurer must develop the *injury management plan* in consultation with you, your employer and, if appropriate, your treating doctor.

You and your employer must co-operate in developing the *injury management plan* and must then follow it.

If the insurer requests you must nominate a treating doctor who is willing to participate in developing your *injury management plan* and in arrangements under the plan. The insurer can agree to make payments to that doctor and for other treatment, even if you have not yet made a claim or if the claim is not yet decided.

The insurer must keep you and your employer informed about the plan and what is and will be done under it. That includes information about your obligations under the plan and possible penalties (suspension of weekly compensation) if you unreasonably fail to cooperate.

- **Making a claim for workers compensation**

If you want to make a claim, your employer should, on request, give you a claim form or get one for you from the insurer.

If your claim is for time off work or reduced earnings, you must also get a supporting medical certificate in the official WorkCover format (or a similar format).

Give or post the completed claim form and medical certificate to your employer. Keep a copy of all your documents.

Your employer must send your claim and medical certificate (and also any further medical certificates and accounts) to the insurer within 7 days after receiving them. The employer must do that even if he or she has doubts about your claim or about whether you are covered by the insurance policy.

The initial claim should be made within 6 months after the injury happens or after you first become aware of the injury, unless you have a reasonable cause for claiming later.

Claims can include weekly compensation, including make-up pay if your earnings are reduced because of the injury, and medical and related expenses. You may also be entitled to extra compensation benefits if your injury is permanent.

There are severe penalties (including fines and imprisonment) for claims and statements that are deliberately false or misleading.

- **Payment of claim**

If your claim is for time off work or reduced earnings, the insurer must start your compensation payments as soon as possible (and usually no later than 21 days) after you make the claim. If the insurer needs longer than 21 days, it must send you the reason in writing and must then start payments no later than 42 days after you made the claim, unless the claim is disputed.

When your employer receives compensation from the insurer, the employer must pay it to you as soon as possible.

- **Your right to information**

Your employer must, on request, give you the correct name and address of the employer and the employer's insurer.

Contact the insurer if there is a delay with your *injury management plan* or with getting suitable work after the injury or with payment of your claim.

If the insurer disputes your claim, it must send you the reasons in writing.

- **Resolving disputes**

If the insurer disputes your claim, you can refer the dispute to the Workers Compensation Resolution Service (in the NSW Department of Industrial Relations). That Service has Conciliators who try to resolve disputes quickly. A Conciliator can sometimes order the insurer to pay the claim.

Information sent to you by the insurer should include how you can refer the dispute to the Workers Compensation Resolution Service. If you need assistance, you can consult your trade union or a solicitor.

The return-to-work coordinator (if applicable) for this workplace is:

.....

.....
The workers compensation insurer is:.....
.....

(Name, address and phone number)

For further information about safety at work or about workers compensation and injury management contact the NSW WorkCover Information Centre—Phone No: 131050

Form 3

(Clause 42)

Workers Compensation Act 1987

Register of Injuries

Particulars:
Name of injured worker:
Address:
Age:Occupation:
Industry in which worker was engaged:
Operation in which worker was engaged at time of injury:
Date (or deemed date) of injury: .././.. Hour: .. am/pm
Nature of injury:
Cause of injury:
Remarks:

(Signed)
(Address)
(Date)

[Entries in this book should, if practicable, be made in ink.]

Note—

The employer’s full name and address, together with the name of the employer’s insurer and the insurer’s address, should be written up in ink on the inside of the cover of the book.

Form 4

(Clause 52)

Workers Compensation Act 1987

New South Wales

Employer’s Insurance Policy

Part 1 Preliminary

1 Definitions

In this Policy:

Employer means the person insured under this Policy, being the person named as the Employer in the Schedule of Employer Particulars.

Insurer means the insurer of the Employer under this Policy, being the person named as the Insurer in the Schedule of Employer Particulars.

period of insurance means the period specified in the Schedule of Employer Particulars as the period during which this Policy is in force, and any subsequent period in respect of which this Policy is duly renewed.

the Act means the *Workers Compensation Act 1987* and includes the *Workplace Injury Management and Workers Compensation Act 1998*.

the Proposal means the proposal for insurance in respect of which this Policy is issued (made by the Employer to the Insurer).

Schedule of Employer Particulars means the Schedule most recently issued by the Insurer to the Employer as the Schedule of Employer Particulars in respect of this Policy.

worker has the same meaning as in the Act (including the extended meaning it has because of Schedule 1 (Deemed employment of workers) to the Act).

2 Proposal and Schedule form part of Policy

The Proposal is the basis of this contract of insurance. Both the Proposal and the Schedule of Employer Particulars are considered to form part of this Policy.

Part 2 Cover provided by Policy

3 What the Insurer is liable for

The Insurer will indemnify the Employer against all of the following sums for which the Employer becomes liable during or in respect of the period of insurance:

- (a) compensation that the Employer becomes liable to pay under the Act to or in respect of any person who is a worker of the Employer (including any person to whom the Employer is liable under section 20 of the Act),
- (b) any other amount that the Employer becomes liable to pay independently of the Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country) for any injury to any such person (not including liability in respect of an injury, suffered by a person other than such a worker, arising out of any rescue or attempted rescue),
- (c) costs and expenses incurred with the written consent of the Insurer in connection with the defence of any legal proceeding in which any such liability is alleged.

The Insurer will not indemnify the Employer for the Employer's liability for GST payable on the settlement of a claim.

4 Businesses and industrial activities to which Policy applies

This Policy applies to a business or industrial activity described in the Schedule of Employer Particulars. The Employer can change the businesses or industrial activities to which this Policy applies by giving notice of the change in writing to the Insurer. The Schedule of Employer Particulars is taken to have been changed to give effect to any such notice given by the Employer. The premium payable for this Policy is to be adjusted in accordance with any change in the businesses or industrial activities to which this Policy applies.

5 Insurer is directly liable to workers

The Insurer (as well as the Employer) is directly liable to any worker and (if the worker dies) to the worker's dependants or other persons to pay the compensation under the Act or other amount independently of the Act for which the Employer is liable and indemnified under this Policy. This means that a claim can be made and action taken directly against the Insurer.

6 Insurer is bound by judgments etc against Employer

The Insurer is bound by and subject to any judgment, order, decision or award given or made against the Employer, in respect of any liability for which the Insurer is liable to indemnify the Employer under this Policy.

7 Premium

The premium for this Policy is calculated in accordance with the relevant Insurance Premiums Order (unless this Policy is exempt from Insurance Premium Orders).

Part 3 Conditions of Policy

8 Employer must give Insurer notice of injury to worker

The Employer must notify the Insurer within 48 hours after becoming aware that a worker has received an injury that seems to be a significant injury (an injury that is likely to result in the worker being totally or partially incapacitated for work for a continuous period of more than 7 days). If the injury does not seem to be a significant injury, the Employer must notify the Insurer within 7 days after becoming aware that the worker has received the injury. If the worker first becomes totally or partially incapacitated for work after the Employer notifies the Insurer of the injury, the Employer must notify the Insurer of the incapacity as soon as possible after becoming aware of it.

9 How notices are to be given

- (1) Notices to be given under this Policy to the Insurer are to be given by being delivered, posted or transmitted electronically to the address of the Insurer last notified to the person giving the notice.
- (2) Notices to be given under this Policy to the Employer are to be given by being delivered, posted or transmitted electronically to the address of the Employer last known to the Insurer.
- (3) The notification of injury required by clause 8 is to be given to the Insurer in the manner required by subclause (1) or in such other manner as the Insurer indicates to the Employer that the Insurer will accept.

10 Employer not to make admissions etc

The Employer must not, without the written authority of the Insurer, incur any expense of litigation, or make any payment, settlement or admission of liability in respect of any injury to or claim made by any worker.

11 Defence of proceedings

The Insurer can use the name of the Employer in respect of anything indemnified under this Policy, including the bringing, defending, enforcing or settling of legal proceedings for the benefit of the Insurer. The Employer must comply with all reasonable requests by the Insurer for information, assistance and documents to enable the Insurer to settle or resist a claim.

12 Subrogation

The Insurer can use the name of the Employer in any proceedings to enforce, for the benefit of the Insurer, any order made for costs or otherwise. The Insurer has the right of subrogation in respect of all rights which the Employer may have against any person or persons who may be responsible to the Employer or otherwise in respect of any claim for any injury covered by this Policy. The Employer must execute such documents as may be necessary for the purpose of vesting any of those rights in the Insurer, as and when

required to do so by the Insurer.

13 Precautions to prevent injury

The Employer must take all reasonable precautions to prevent injury.

14 Alterations and repairs following injury

So far as is reasonably practicable, the Employer must not alter or repair any work, machinery, plant, way or appliance after an injury to a worker occurs in connection with it, until the Insurer has had an opportunity to examine it or has consented to the alteration or repair being made.

15 Insurer's right of inspection

The Insurer is entitled to inspect at any reasonable time any work, machinery, plant, way or appliance used in the Employer's business or industrial activity.

16 Assignment

An assignment of interest under this Policy does not bind the Insurer unless the written consent of the Insurer to the assignment has been obtained.

17 Renewal of Policy

This Policy is renewed on the expiration of the current period of insurance to which it applies, except where:

- (a) the Employer has given written notice to the Insurer (before the expiration of the current period of insurance) that renewal is not required, or
- (b) the Insurer has given the Employer notice in writing not less than 14 days before the expiration of the current period of insurance that the Insurer refuses to renew the Policy, but the Insurer cannot refuse to renew this Policy unless the WorkCover Authority has given its prior consent in writing to the refusal.

The period of each renewal is 12 months, or such shorter period as the Insurer and the Employer agree to before renewal.

18 Cancellation of Policy

The Insurer may cancel this Policy at any time if the Insurer has first obtained the written consent of the WorkCover Authority (and cannot cancel this Policy in any circumstances without that consent). The Insurer cancels this Policy by giving notice of cancellation in writing to the Employer. The cancellation takes effect on the cancellation day notified in the notice of cancellation but that day must not be less than 7 days after the notice of cancellation is given to the Employer. Section 184 of the Act applies as if the Policy had been cancelled under that section.

19 No waiver or alteration

A provision of this Policy cannot be waived or altered unless the consent of the Insurer has been previously obtained and signified by endorsement on this Policy.

20 Employer must tell Insurer if unable to give suitable work requested by injured worker

If a worker employed by the Employer is partially incapacitated for work as a result of an injury and requests the Employer to provide suitable employment for him or her and the Employer does not immediately provide suitable employment, the Employer must promptly notify the Insurer of the following:

- (a) the fact of the worker's request and that the Employer has not provided suitable employment,

- (b) any proposal to provide or arrange for suitable employment for the worker, having regard to the medical certificate which the worker supplies and to the Employer's return-to-work program (if any) or otherwise.

21 Employer must advise change of business or industry

The Employer must notify the Insurer, as soon as practicable, of any change in the business or industrial activity carried on by the Employer.

22 Records to be kept of wages

The Employer agrees to allow the Insurer to inspect the records kept by the Employer under section 174 of the Act.

Note—

Section 174 of the Act requires the Employer to keep certain records (such as records of wages paid to workers) and requires the Employer to keep those records for at least 7 years. The section gives the WorkCover Authority certain rights to inspect those records.

23 Cover conditional on Employer complying with Policy, Act and regulations

The indemnity provided by this Policy is conditional on compliance by the Employer with the provisions of this Policy, the Act and the regulations under the Act.

24 Act and regulations form part of Policy

This Policy is subject to the provisions of the Act and the regulations under the Act and those provisions are taken to form part of this Policy.

Notes—

- 1** *Recovery of excess from Employer.* Under section 160 of the Act, the Employer is required to repay an excess of the first \$500 (or if another amount is prescribed by regulations under the Act, that other amount) of weekly payments of compensation in respect of each claim paid by the Insurer. An Employer is not required to make the repayment to the extent that the Insurer either offsets the amount against compensation duly advanced by the Employer to the claimant worker or makes an appropriate debit against any amount standing to the Employer's credit for premiums. If the basic tariff premium calculated for the policy does not exceed \$3,000, the excess is repayable only if the Employer and Insurer have agreed that it is repayable.
- 2** *Disputes about premium.* If the Employer disputes the premium for this Policy calculated by the Insurer under an Insurance Premiums Order, the Act lets the Employer apply to the WorkCover Authority for a determination of the disputed aspect of the calculation. If the Employer wishes to make such an application, it must usually be lodged within 1 month after the Insurer demands the premium. *The Employer should first try to resolve any premium problem by contacting the Insurer.* Even if the Employer lodges such an application with the WorkCover Authority, the premium demanded by the Insurer remains payable (except to the extent that the WorkCover Authority otherwise directs) pending the WorkCover Authority's determination.
- 3** *Domestic etc workers.* If this Policy is issued for domestic or similar workers (including when this Policy forms part of a household insurance package) it is to be read as if:
 - (a) the reference to the Employer carrying on business were a reference to the Employer employing domestic or similar workers, and
 - (b) the provisions in clause 4 for the Employer to notify a change of business or industrial activity were omitted, and the provisions of clauses 17 (Renewal of Policy) and 21 (Employer must advise change of business or industry) were omitted.
- 4** *Workplace injury management.* The Employer of an injured worker who has been totally or partially incapacitated for work has certain obligations under Chapter 3 of the [Workplace Injury Management and Workers Compensation Act 1998](#), including an obligation under section 49 to provide suitable employment if the worker is able to return to work. It is a condition of this Policy that the Employer must comply with the requirements of that Chapter, but only if the Insurer has taken appropriate steps to ensure that the Employer is made aware of those obligations.

Schedule 2 Diseases

(Clause 5)

Column 1	Column 2
Poisoning by lead, its alloys or compounds, and its sequelae.	Handling of ore containing lead including fine shot in zinc factories. Casting of old zinc and lead in ingots. Manufacture of articles made of cast lead or of lead alloys. Employment in the polygraphic industries. Manufacture of lead compounds. Manufacture and repair of electric accumulators. Preparation and use of enamels containing lead. Polishing by means of lead files or putty powder with a lead content. All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.
Poisoning by mercury or its amalgams or compounds, and its sequelae.	Handling of mercury ore. Manufacture of mercury compounds. Manufacture of measuring and laboratory apparatus. Preparation of raw material for the hat-making industry. Hot gilding. Use of mercury pumps in the manufacture of incandescent lamps. Manufacture of fulminate of mercury primers.
Anthrax infection.	Work in connection with animals infected with anthrax. Handling of animal carcasses or parts of such carcasses including hides, hoofs and horns. Loading and unloading or transport of merchandise that has come in contact with animals infected with anthrax or with animal carcasses or parts of such carcasses.
Phosphorus poisoning by phosphorus or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of phosphorus or its compounds.
Arsenic poisoning by arsenic or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae.	Any process involving the production, liberation or utilisation of benzene or its homologues, or their nitro- and amido-derivatives.
Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series.	Any process involving the production, liberation or utilisation of halogen derivatives of hydrocarbons of the aliphatic series.
Pathological manifestations of a kind which are due to or contributed to by: (a) radium and other radioactive substances, (b) X-rays.	Any process involving exposure to the action of radium, radioactive substances or X-rays.

Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Brucellosis, Leptospirosis and Q fever.	<p>Slaughtering of cattle on the slaughter-floor of an abattoir or slaughter-house.</p> <p>Handling or processing of the slaughtered carcasses of cattle in an abattoir or slaughter-house.</p> <p>Penning up or running cattle through a race at an abattoir or slaughter-house.</p> <p>Any activity, incidental or necessary to the carrying out of the above activities, on the slaughter-floor, in any area where the raw by-products of slaughtered cattle are handled or in or about any pen or race of an abattoir or slaughter-house.</p>

Schedule 3 Medical tests and results—brucellosis, Q fever and leptospirosis

(Clause 6)

Column 1	Column 2	Column 3
Brucellosis.	<p>A <i>Brucella abortus</i> agglutination or complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.</p> <p>A <i>Brucella abortus</i> agglutination test of a single blood sample.</p> <p>A <i>Brucella abortus</i> complement fixation test of a single blood sample, where the sample was taken from a person with symptoms consistent with chronic brucellosis.</p> <p>A laboratory culture of any specimen.</p>	<p>A four-fold or greater increase in antibody titre.</p> <p>An antibody titre of 640 or greater.</p> <p>An antibody titre of 640 or greater.</p> <p>The isolation of <i>Brucella abortus</i>.</p>
Q fever.	<p>A Q fever complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.</p> <p>A fluorescence test of a single blood sample.</p> <p>A laboratory culture of any specimen.</p>	<p>A four-fold or greater increase in antibody titre.</p> <p>The demonstration of Q fever specific IgM antibodies.</p> <p>The isolation of <i>Coxiella burnetii</i>.</p>

Leptospirosis.	<p>The comparison of 2 blood samples (the second of which was taken not earlier than 10 days and not later than 60 days after the day on which the first sample was taken) by any technical method which:</p> <p>(a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of comparing blood samples to establish whether or not a person has contracted leptospirosis, and</p> <p>(b) involves the use of a panel of leptospiral antigens or serovars which is recommended by the Leptospiral Reference Laboratory for use in making such a comparison.</p>	<p>A four-fold or greater increase in antibody titre.</p>
	<p>The analysis of a single specimen of blood serum by any technical method which:</p> <p>(a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of analysing a single specimen of blood serum to establish whether or not a person has contracted leptospirosis, and</p> <p>(b) involves the use of a panel of leptospiral antigens or serovars which is recommended by that Leptospiral Reference Laboratory for use in carrying out such an analysis.</p>	<p>Agglutination of a leptospiral antigen at a dilution of 1 in 400 or greater.</p>
	<p>A laboratory culture of a leptospire from blood or urine.</p>	<p>The isolation of an invasive leptospire.</p>

Schedule 4

(Clause 63)

Religious body or organisation

Class

Employer

Anglican Church of Australia—Diocese of Canberra and Goulburn	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Anglican Church of Australia Property Trust Diocese of Canberra and Goulburn
Anglican Church of Australia—Diocese of Grafton	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	The Corporate Trustees of the Diocese of Grafton
Anglican Church of Australia—Diocese of Riverina	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Riverina Diocesan Trust
Assemblies of God New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by the Assemblies of God New South Wales who receive a stipend paid by that congregation	The Assembly of the congregation concerned
The Baptist Union of New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by The Baptist Union of New South Wales who receive a stipend paid by that congregation	The Secretary of the congregation concerned
Central Coast Christian Life Centre	Ministers serving a congregation in New South Wales affiliated with or recognised by the Central Coast Christian Life Centre who receive a stipend paid by that congregation	The Central Coast Christian Life Centre Limited
Church of Christ (Non-denominational)—Bankstown	Ministers serving a congregation in New South Wales affiliated with or recognised by the Church of Christ (Non-denominational)—Bankstown who receive a stipend paid by that congregation	The congregation concerned
Classis New South Wales of the Reformed Churches of Australia	(a) Ministers serving a congregation in New South Wales affiliated with or recognised by the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by that congregation	(a) The Session of the congregation concerned

	(b) Ministers serving the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by the Classis	(b) The Classis New South Wales of the Reformed Churches of Australia
Coptic Orthodox Church, New South Wales, Australia	Clergy authorised by the President of the Church Council in New South Wales to serve a parish in New South Wales	Coptic Orthodox Church (NSW) Property Trust
Fellowship of Congregational Churches	Clergy serving a congregation in New South Wales affiliated with or recognised by the Fellowship of Congregational Churches who receive a stipend paid by that congregation	The Secretary of the congregation concerned
Lutheran Church of Australia, New South Wales District	(a) Pastors who serve, and receive a stipend paid by, a congregation in New South Wales which is: (i) a member of the Lutheran Church of Australia, New South Wales District, or (ii) authorised by the Church Council of the Lutheran Church of Australia, New South Wales District,	The Administrator of the Lutheran Church of Australia, New South Wales District
Presbyterian Church of Australia in the State of New South Wales	(b) Pastors who serve, and receive a stipend paid by, the Lutheran Church of Australia, New South Wales District	Presbyterian Church in the State of New South Wales
Southside Christian Fellowship	Ministers serving a congregation in New South Wales affiliated with or recognised by the Southside Christian Fellowship who receive a stipend paid by that congregation	The Southside Christian Fellowship Incorporated

Schedule 5 Penalty notice offences

(Clauses 73A, 73B)

Part 1 Provisions of 1987 Act

Column 1

Column 2

Column 3

Provision	Short description	Penalty \$
Section 43 (2A)	Not comply sec 43 (2) (provision of information)	200
Section 63 (5)	Manager mine/quarry contravene sec 63 (1) (register of injuries)	500
Section 63 (5)	Occupier factory/workshop/office/shop contravene sec 63 (1) (register of injuries)	500
Section 69 (1) (a)	Not forward claim/documents to insurer within 7 days	500
Section 69 (1) (b)	Not provide further information to insurer within 7 days	500
Section 69 (1) (c)	Not pay compensation money as soon as practicable	500
Section 126 (2)	Employer/insurer not supply medical report within 10 days	200
Section 155 (1)	Employer fail to insure workers	750
Section 161 (3)	Not comply sec 161 (1) notice within 21 days/time specified/allowed	200
Section 163 (1)	Not keep register of policies with required particulars	200
Section 163 (3)	Not retain policy/claim records in good order/condition for 7 years	200
Section 163A (2)	Fail to produce certificate of currency for inspection	500
Section 163A (6)	Fraudulently alter certificate of currency	500
Section 163A (7)	Fail to notify error in certificate of currency	500
Section 174 (1) (a)	Not keep correct wage records	500
Section 174 (1) (b)	Not keep correct livelihood records	500
Section 174 (1) (c)	Not keep correct prescribed records	500
Section 174 (2)	Not retain wage/livelihood/prescribed records in good order/condition for 7 years	500
Section 174 (3)	Not keep wage/livelihood/prescribed records in prescribed manner	500
Section 174 (8)	Not comply sec 174 (5) (a) order (information to Authority/insurer)	500
Section 174 (8)	Not comply sec 174 (5) (b) order (Authority/insurer inspect records)	500
Section 174 (8)	Not comply sec 174 (6A) order (records to Authority/insurer)	500

Section 174 (8)	Obstruct/delay person exercising sec 174 (7) power (inspect/copy/extract records)	500
Section 231 (3)	Manager mine/quarry contravene sec 231 (post summary of Act)	200
Section 231 (3)	Occupier factory/workshop/office/shop contravene sec 231 (post summary of Act)	200
Section 232 (2) (a)	Employer/employer's agent fail to supply information to worker	200
Section 232 (2) (b)	Employer/employer's agent supply false/misleading information to worker	200

Part 2 Provisions of 1998 Act

Column 1	Column 2	Column 3
Provision	Short description	Penalty \$
Section 79A (4)	Fail to exchange information before conciliation	200
Section 80 (5)	Fail to comply with sec 80 direction	200
Section 81A (2)	Fail to provide documents before conciliation conference	200
Section 82 (3)	Fail to comply with conciliation conference summons	200
Section 90 (7)	Make false/misleading statement in connection with conciliation	200
Section 94 (1)	Fail to commence weekly payments	500
Section 94 (2)	Referring non-genuine dispute	500
Section 155A (2)	Fail to produce certificate of currency for inspection	500
Section 155A (6)	Fraudulently alter certificate of currency	500
Section 155A (7)	Fail to notify error in certificate of currency	500

Part 3 Provisions of the Workers Compensation (General) Regulation 1995

Column 1	Column 2	Column 3
Provision	Short description	Penalty \$
Clause 40A (2)	Not comply sec 74 (notice when liability disputed)	200
Clause 73F (1)	Not comply with advertising restriction	750

Part 4 Provisions of the Workers Compensation (Insurance Premiums) Regulation 1995

Column 1	Column 2	Column 3
Provision	Short description	Penalty \$
Clause 9 (1)	Fail to supply wages estimate/actual wages return (cl 6 (1)/(2))	500
Clause 9 (1)	Fail to supply required declaration (cl 7)	500
Clause 9 (1)	Fail to supply declaration and statement (cl 8)	500