

South Australia

Workers Rehabilitation and Compensation (General) Regulations 1999

under the *Workers Rehabilitation and Compensation Act 1986*

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Legislative history

1—Short title

These regulations may be cited as the *Workers Rehabilitation and Compensation (General) Regulations 1999*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Workers Rehabilitation and Compensation Act 1986*;

GST means the tax payable under the GST law;

GST law means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth; and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

3A—Designated courts

For the purposes of paragraph (b) of the definition of *designated court* in section 6B(3) of the Act, the following are declared to be designated courts:

- (a) *Magistrates Court* of the Australian Capital Territory;
- (b) *Workers Compensation Commission of New South Wales*;
- (c) *Work Health Court* of the Northern Territory;
- (d) *Industrial Magistrates Court* of Queensland;
- (e) *Industrial Court of Queensland*;
- (f) *Queensland Industrial Relations Commission*;
- (g) *Workers Rehabilitation and Compensation Tribunal* of Tasmania;
- (h) *County Court* of Victoria;
- (i) *Magistrates' Court of Victoria*;
- (j) *District Court of Western Australia*.

3B—Rehabilitation and return to work co-ordinators—filling of vacancies

For the purposes of section 28D(6) of the Act, a period of 3 months after the occurrence of a vacancy in the office of a co-ordinator is prescribed.

3C—Rehabilitation and return to work co-ordinators—exemptions from requirements

- (1) Subject to subregulation (2), an employer is exempt from the requirement to appoint a co-ordinator under section 28D of the Act—
 - (a) in respect of a particular financial year if—
 - (i) the employer, as at the relevant time, employs fewer than 30 workers; or

- (ii) the employer, as at the relevant time, holds an exemption from the Corporation under this paragraph granted on the ground that the Corporation is satisfied—
 - (A) that the employer reasonably expects not to employ 30 or more workers during the financial year for any continuous period of 3 (or more) months; and
 - (B) that in the particular circumstances it is appropriate to grant the exemption; or
 - (b) in respect of part of a particular financial year if—
 - (i) the employer, at a particular time during the financial year, employs fewer than 30 workers; and
 - (ii) the employer obtains an exemption from the Corporation under this paragraph on the ground that the Corporation is satisfied that it is appropriate in the circumstances to grant the exemption.
- (2) An exemption under subregulation (1) ceases to apply if at any time the employer employs 30 or more workers for a continuous period of 3 (or more) months.
- (3) If an exemption ceases to apply under subregulation (2), the employer must appoint a person to the office of co-ordinator within 3 months after the cessation of the exemption.
- (4) An employer is exempt from the requirement set out under section 28D(2)(a) of the Act—
 - (a) in respect of a particular financial year if—
 - (i) the employer, as at the relevant time, holds an approval from the Corporation under this paragraph granted on the ground that the employer is a member of a group or association recognised by the Corporation for the purposes of this provision; and
 - (ii) the employer complies with any requirements determined by the Corporation for the purposes of this provision; or
 - (b) in respect of part of a financial year if—
 - (i) the employer, during the financial year, obtains an approval from the Corporation under this paragraph on the ground that the employer has become a member of a group or association recognised by the Corporation for the purposes of this provision; and
 - (ii) the employer complies with any requirements determined by the Corporation for the purposes of this provision.
- (5) The Corporation may vary or revoke an approval or determination under subregulation (4).
- (6) In this regulation—

relevant time, in relation to an employer, means—

 - (a) unless paragraph (b) applies—the commencement of each financial year;

- (b) if the employer is not (or was not) subject to the operation of this Act at the commencement of a particular financial year—the time at which the employer becomes subject to the operation of this Act.

4—Medical expenses

- (1) For the purposes of section 32(2)(e) of the Act, the maximum amount of compensation payable for the cost of the accommodation (including meals) of a worker away from home for the purpose of receiving medical services or approved rehabilitation is—
 - (a) where the accommodation is provided up to and including 31 December 2000—\$143 per day;
 - (b) where the accommodation is provided in the 2001 calendar year or a subsequent calendar year—an amount (calculated to the nearest multiple of \$10) that bears to \$138 the same proportion, subject to subregulation (1)(a), as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1998.
- (1a) For the purposes of determining the amount referred to in subregulation (1)(b), the amount of the Consumer Price Index for the September quarter, 2000, and for the September quarter of each subsequent year will be reduced by the amount of the component of the weighted average of the Consumer Price Index for the eight Australian capital cities for the September quarter, 2000, that, in the opinion of the Australian Bureau of Statistics, is attributable to the impact of the GST.
- (1b) If the Australian Bureau of Statistics has not determined and published the amount of the component referred to in subregulation (1a) that is attributable to the GST by 1 January 2001, the determination under subregulation (1)(b) for that year will be delayed until the amount has been published by the Bureau.
- (2) If an amount under subregulation (1) relates to accommodation outside South Australia, the maximum amount is increased by an additional \$55 per day.

5—Transportation for initial treatment

- (1) For the purposes of section 33(4) of the Act, the amount of \$240 is prescribed.
- (2) The amount prescribed by subregulation (1) will be indexed so that it is adjusted on 1 January of each year, beginning on 1 January 2010, by multiplying the stated amount by a proportion obtained by dividing the Consumer Price Index for the September quarter of the immediately preceding year by the Consumer Price Index for the September quarter 2008 (with the amount so adjusted being rounded up to the nearest multiple of \$5).

6—Compensation for property damage

- (1) For the purposes of section 34 of the Act, the following limits apply in relation to the compensation payable for damage to personal property:
 - (a) for damage to therapeutic appliances and tools of trade—no limit;
 - (b) for damage to clothes and personal effects—\$1 970 in total.

- (2) The amount prescribed by subregulation (1) will be indexed so that it is adjusted on 1 January of each year, beginning on 1 January 2009, by multiplying the stated amount by a proportion obtained by dividing the Consumer Price Index for the September quarter of the immediately preceding financial year by the Consumer Price Index for the September quarter 2007 (with the amount so adjusted being rounded up to the nearest multiple of \$10).

7—Notices

Pursuant to sections 36(3), 39(3) and 45(7) of the Act, the following information must be included in a notice under any of those sections:

- (a) a statement of the decision that has been made to discontinue, reduce, suspend or adjust weekly payments; and
- (b) a reference to the provision of the Act and, if relevant, the regulations made under the Act, on which the Corporation is relying to discontinue, reduce, suspend or adjust weekly payments, and the text of that provision; and
- (c) the general basis on which the Corporation has made its decision.

8—Recovery of certain amounts paid to workers

- (1) These regulations apply in relation to the Corporation's ability to recover or set off an amount under section 32A(8), 36(5c), (6) or (7), 42B(5) or 50H(2) of the Act.
- (2) Subject to subregulation (3), the Corporation must—
 - (a) commence proceedings to recover an amount due to the Corporation as a debt; or
 - (b) exercise a right of set off under section 32A(8)(b), 36(5c)(b) or 42B(5)(b) of the Act,

within two years after the date on which the Corporation becomes entitled to take action under the Act.

- (3) If the Corporation is satisfied on reasonable grounds that the worker provided false or misleading information to the Corporation, the Corporation may commence the proceedings or exercise the right of set off referred to in subregulation (2) at any time within 10 years after the date on which the Corporation becomes entitled to take action under the Act.
- (4) The Corporation may, according to what is reasonable in the circumstances of the particular case, recover an amount under section 32A(8)(a), 36(5c)(a), (6) or (7), 42B(5)(a) or 50H(2) of the Act—
 - (a) as a single lump sum; or
 - (b) by periodic payments; or
 - (c) by a combination of a lump sum and periodic payments; or
 - (d) in some other manner agreed between the Corporation and the worker.
- (5) Subregulation (4) operates subject to the following qualifications:
 - (a) the Corporation cannot require that a worker make periodic payments in excess of 10 per cent of the worker's net income for the period over which those payments are to be made without the agreement of the worker; and

- (b) the Corporation may, in its absolute discretion, waive (absolutely or subject to such conditions as the Corporation thinks fit) the whole or any part of an amount that it is entitled to recover if—
 - (i) the Corporation is satisfied that the worker is experiencing severe financial hardship, or it appears appropriate to do so on account of any other special circumstances peculiar to the worker; or
 - (ii) the Corporation considers that it is appropriate to do so after the Corporation has balanced the likely costs that would be associated with recovering the amount against the amount itself; and
- (c) unless the Corporation is satisfied on reasonable grounds that the worker has provided false or misleading information to the Corporation, the Corporation must grant the following remissions if the total amount payable is repaid within the following periods:
 - (i) a 15% remission if the total amount is repaid within 1 month of the date on which the worker first receives a written notification of the amount that the worker is liable to pay;
 - (ii) a 10% remission if the total amount is repaid within 6 months of the date on which the worker first receives a written notification of the amount that the worker is liable to pay.
- (6) If a worker has made a periodic payment to the Corporation under subregulation (4), the Corporation must, within a reasonable time after the end of the financial year in which the payment is made, furnish the worker with a statement that sets out—
 - (a) the total amount paid by the worker during that financial year; and
 - (b) the amount left to be paid (if any),

and must furnish a final statement when the debt is extinguished.

- (7) In this regulation—

net income of a worker means income after an appropriate deduction is made for any income tax payable by the worker.

11—Absence from Australia

- (1) For the purposes of section 41(1) of the Act, a worker intending to be absent from Australia must give the Corporation the following information:
 - (a) the date on which the worker intends to leave Australia; and
 - (b) the date on which the worker intends to return to Australia or, if there is no such date, an estimate of the duration of his or her absence from Australia; and
 - (c) details of the places where the worker will be while absent from Australia; and
 - (d) an address at which contact may be made with the worker; and
 - (e) details of any treatment that the worker intends to receive, or details of any arrangements for treatment that the worker has made, while absent from Australia; and

- (f) details of any employment that the worker might undertake while absent from Australia; and
 - (g) details of any consultation in relation to the proposed absence that the worker has undertaken with any employer (including information as to the outcome of that consultation).
- (2) The information required under subregulation (1) must be supplied—
- (a) in the form set out in Schedule 7; or
 - (b) in a form determined by the Corporation.
- (3) The information required under subregulation (1) may be provided in electronic form according to a determination made by the Corporation and published in the Gazette.

12—Prescribed limits on costs—Provision of professional advice

- (1) For the purposes of section 42(4) of the Act, the following limits are prescribed in relation to the indemnity provided by the Corporation for the costs of obtaining professional advice in the event of redemption negotiations where the advice is obtained up to and including 31 December 2000:

Item	Limit
Obtaining professional advice about the consequences of redemption	\$341
Obtaining financial advice about the investment or use of money received on redemption	\$220.

- (2) The limits in relation to the indemnity provided by the Corporation for the costs of obtaining professional advice in the event of redemption negotiations where the advice is obtained in the 2001 calendar year or a subsequent calendar year are to be determined by adjusting the amounts prescribed by subregulation (1) in accordance with subregulation (3).
- (3) Subject to subregulation (4), an amount prescribed by subregulation (1) will be adjusted on an annual basis so that the adjusted amount will on 1 January 2001 and on 1 January of each subsequent year be an amount (calculated to the nearest multiple of \$10) that bears to the amount prescribed by subregulation (1) the same proportion, subject to subregulation (5), as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1998.
- (4) In the application of subregulation (3) the maximum amount for obtaining professional advice about the consequences of redemption prescribed by subregulation (1) will be taken to be \$330 and not \$341.
- (5) For the purpose of making the adjustment referred to in subregulation (3), the amount of the Consumer Price Index for the September quarter, 2000, and for the September quarter of each subsequent year will be reduced by the amount of the component of the weighted average of the Consumer Price Index for the eight Australian capital cities for the September quarter, 2000, that, in the opinion of the Australian Bureau of Statistics, is attributable to the impact of the GST.

- (6) If the Australian Bureau of Statistics has not determined and published the amount of the component referred to in subregulation (5) that is attributable to the GST by 1 January 2001, the adjustment under subregulation (3) for that year will be delayed until the amount has been published by the Bureau.

13—Compensation for loss of earning capacity

- (1) For the purposes of section 42A(2)(c) of the Act, the prescribed discount rate is 3 per cent.
- (2) For the purposes of section 42A(5) of the Act, the principles, and discount and inflation rates, that are to be applied to determine the actuarial equivalence of equal instalments to a lump sum are reflected in the following formula:

$$X = \frac{(K \times P)}{\left(1 - \frac{1}{(1+K)^N}\right) \times (1 + K)}$$

Where—

X is the amount of each instalment

K equals $\left((1+I)^{1/M} - 1\right)$ where—

M is the number of instalments to be paid per year or, if the instalments are to be paid less frequently than annually, *M* is an amount calculated as follows:

$$M = \frac{1}{\text{Number of years duration of each particular instalment}}$$

I is the prescribed discount rate (expressed as a decimal number) plus the prescribed inflation rate (expressed as a decimal number) for the period to which the assessment relates (see subregulation (3))

P is the lump sum assessment of capital loss

N is the total number of instalments to be paid over the period to which the assessment relates.

- (3) For the purposes of subregulation (2)—
- (a) the prescribed discount rate is 3 per cent; and
 - (b) the prescribed inflation rate is the annual change (expressed as a percentage) in the Wage Cost Index, referenced to persons and South Australia, or its replacement, as published by the Commonwealth Statistician for September in the year immediately preceding the year in which the assessment is made.

14—Compensation for non-economic loss

Pursuant to section 43(9) of the Act, Schedule 3 of the Act is amended by adding the following disability and percentage:

<u>Nature of the disability</u>	<u>Percentage fixed in relation to the disability</u>
Loss of hand or loss of thumb and four fingers	80.

15—Compensation payable on death

- (1) For the purposes of section 45B(1) of the Act, the prescribed amount that may be payable in relation to a funeral benefit is—
 - (a) in relation to a worker who dies before or on 31 December 2000—\$5 599;
 - (b) in relation to a worker who dies in the 2001 calendar year or a subsequent calendar year—a sum (calculated to the nearest multiple of \$10) that bears to \$5 500 the same proportion, subject to subregulation (1a), as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1998.
- (1a) For the purpose of determining the sum referred to in subregulation (1)(b), the amount of the Consumer Price Index for the September quarter, 2000, and for the September quarter of each subsequent year will be reduced by the amount of the component of the weighted average of the Consumer Price Index for the eight Australian capital cities for the September quarter, 2000, that, in the opinion of the Australian Bureau of Statistics, is attributable to the impact of the GST.
- (1b) If the Australian Bureau of Statistics has not determined and published the amount of the component referred to in subregulation (1a) that is attributable to the GST by 1 January 2001, the determination under subregulation (1)(b) for that year will be delayed until the amount has been published by the Bureau.
- (2) For the purposes of section 44(14) of the Act, the prescribed rate of discount that is to be applied to the capitalised value of weekly payments under section 44 is 3%.
- (3) For the purposes of section 45A(15) of the Act, the prescribed rate of interest on an amount of compensation payable under that section will be the prime bank rate (within the meaning of regulation 17) for the financial year in which the compensation is paid.

16—Exemption from two weeks of payments

- (1) Pursuant to section 46(8a) of the Act, employers who are participating in the RISE scheme are, subject to subregulation (2), a prescribed class of employers exempt from the operation of section 46(3) of the Act.
- (2) The exemption under subregulation (1) is limited to cases where—
 - (a) the disability is suffered by a worker who is employed by the employer under the RISE scheme; and
 - (b) the disability is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of the disability to which the worker's participation in the RISE scheme can be attributed.
- (3) In this regulation—

RISE scheme means the re-employment scheme called the Re-employment Incentive Scheme for Employers established by the Corporation for workers who have suffered compensable disabilities.

17—Rate of interest payable on weekly payments in arrears

- (1) For the purposes of section 47(1) of the Act, the amount in arrears will be increased by interest on the amount at the prime bank rate for the financial year in which the amount went into arrears, compounded on a weekly basis for each complete week that the amount is in arrears.
- (2) In this regulation—

prime bank rate, for a particular financial year, means a rate (expressed as an annual percentage to 2 decimal places) equal to the average of—

- (a) the 12 months fixed-rate personal home loan rate fixed by the National Australia Bank Limited (*NAB*) as at the commencement of the financial year (or, if there is more than 1 such rate, the average of all such rates); and
- (b) the fixed-rate unsecured personal loan rate fixed by NAB as at the commencement of the financial year (or, if there is more than 1 such rate, the average of all such rates).

18—Payments by Corporation on behalf of defaulting employers

For the purposes of section 48(2) of the Act, the administration fee payable to the Corporation when the Corporation makes a payment on behalf of an employer is \$50.

18AA—Period of notice if provisional weekly payments not commenced

For the purposes of section 50D of the Act, a period of 7 days after initial notification of the disability under section 50B of the Act is prescribed.

18A—Substantive law

For the purposes of paragraph (b) of the definition of *a State's legislation about damages for a work related disability* in section 58AE of the Act—

- (a) the *Workers Compensation Act 1951* (ACT) is declared to be the legislation of the Australian Capital Territory about damages for a work related disability; and
- (b) the *Workers Compensation Act 1987* (NSW) and the *Workplace Injury Management and Workers Compensation Act 1998* (NSW) are declared to be the legislation of New South Wales about damages for a work related disability; and
- (c) the *Work Health Act* (NT) is declared to be the legislation of the Northern Territory about damages for a work related disability; and
- (d) the *Workers Compensation and Rehabilitation Act 2003* (Qld) is declared to be the legislation of Queensland about damages for a work related disability; and
- (e) the *Workers Rehabilitation and Compensation Act 1988* (Tas) is declared to be the legislation of Tasmania about damages for a work related disability; and
- (f) the *Accident Compensation Act 1985* (Vic) and the *Accident Compensation (WorkCover Insurance) Act 1993* (Vic) are declared to be the legislation of Victoria about damages for a work related disability; and

- (g) the *Workers' Compensation and Injury Management Act 1981* (WA) is declared to be the legislation of Western Australia about damages for a work related disability.

20—Notification by self-insured employers

Pursuant to section 63(3aa) of the Act—

- (a) a self-insured employer must provide the following information to the Corporation before it proceeds to make an assessment under Division 4B of Part 4 of the Act:
 - (i) the period to which the assessment relates; and
 - (ii) the worker's weekly earnings and an estimation of the income tax that would otherwise be payable over the period to which the assessment relates; and
 - (iii) whether the proposed assessment is to be a final assessment or an interim assessment; and
 - (iv) the amount of capital loss assessed by the self-insured employer; and
 - (v) whether it is proposed that the amount assessed be paid in a single lump sum or by instalments and, in the case of instalments, the frequency and amount of each instalment; and
- (b) if the self-insured employer has made an interim assessment of loss—a self-insured employer must, at least one month before the expiration of the period to which that interim assessment relates, furnish the Corporation with new information that complies with the requirements of paragraph (a) for the period to which the next assessment will relate; and
- (c) a self-insured employer must, on request, within a reasonable time, supply the Corporation with such other information as the Corporation may require in order to determine whether it is appropriate to grant its consent to the assessment under the Act.

20A—Constitution of Medical Panels

- (1) Pursuant to section 98(3) of the Act, the selection committee established by the Minister for the purpose of making recommendations under subsection (2) of that section is to consist of the following members:
 - (a) 1 person, to be appointed by the Minister after consultation with the Minister for Health, who is to preside at meetings of the committee;
 - (b) 1 person who is, in the opinion of the Minister, an appropriate person to represent the interests of employers;
 - (c) 1 person who is, in the opinion of the Minister, an appropriate person to represent the interests of workers;
 - (d) 1 person who is a member of the Australian Medical Association (South Australia) Incorporated;
 - (e) 1 person who is a member of the Medical Board of South Australia;
 - (f) at least 1, but not more than 5, persons—

- (i) representing the colleges of medical practitioners from which the Minister expects appointments to be made to Medical Panels; or
 - (ii) who have an interest in the function of Medical Panels and are appointed following consultation by the Minister with the person appointed to preside at meetings of the committee.
- (2) The members of the selection committee will hold office on such terms and conditions as the Minister may determine.
- (3) The committee will, subject to direction by the Minister as to the procedures it is to adopt, determine its own procedures.
- (4) Pursuant to section 98(4) of the Act, the selection committee must, for the purpose of making nominations under subsection (3) of that section, by notice in publications considered by the committee to be suitable for the purpose, invite expressions of interest for appointment to the list of medical practitioners appointed by the Governor under section 98(2) of the Act within a period specified in the notice (being not less than 2 weeks, and not more than 4 weeks, from the date of publication of the notice).

21—Progress reports to employers

For the purposes of section 107(2) of the Act, the fee payable on a request under section 107 by an employer to the Corporation for a report on a worker is \$5.

22—Medical examination requested by employers

For the purposes of section 108(2), a worker is not required to submit to examinations under section 108 more frequently than once in every two months.

23—Noise induced hearing loss

- (1) For the purposes of section 113(3) and (4) of the Act, noise induced hearing loss is a prescribed disability.
- (2) The following procedures apply for the purpose of establishing whether a worker is suffering from hearing loss that may be noise induced:
 - (a) the worker must first undergo an audiometric test of hearing conducted by—
 - (i) a legally qualified medical practitioner; or
 - (ii) an audiologist; or
 - (iii) an audiometrist; and
 - (b) for the purposes of paragraph (a)—
 - (i) an audiometric test must include air-conduction and bone-conduction pre-tone threshold measures with appropriate masking; and
 - (ii) air-conduction testing must comply with requirements of Rule 5.6.3.4 (a) and (c) of Australian Standard 1269 "Acoustics-Hearing Conversion"; and
 - (iii) bone-conduction testing must comply with the Audiological Society of Australia Professional Standards of Practice; and

- (iv) during an audiometric test, the hearing levels of the worker must be determined at audiometric test frequencies, 500, 1 000, 1 500, 2 000, 3 000 and 4 000Hz with an audiometer calibrated to the reference specified in Australian Standard AS 1591.2 : 1987, Part 2 "Reference Zero for the Calibration of Pure Tone Audiometers and AS 1591.4 : 1995, Part 1 "Reference Zero for the Calibration of Pure-Tone Bone Conduction Audiometers", and the instrumentation for bone conduction audiometry must also comply with Australian Standard 1591.4 : 1995, Part 4 "Acoustics-Instrumentation for Audiometry-A Mechanical Complier for Calibration of Bone Vibrators"; and
 - (v) if noise induced hearing loss is diagnosed, the hearing levels of the better and worse ear must be determined at each audiometric test frequency and, using the hearing levels obtained, a percentage loss of hearing must be read at each audiometric test frequency in accordance with the appropriate tables so as to obtain six values of percentage loss of hearing, and those six values of percentage loss of hearing are to be added together to obtain the binaural percentage loss of hearing; and
 - (vi) if the worker is a man of or over the age of 56 years or a woman of or over the age of 69 years, the value in table P set out in Appendix 5 of NAL Report No 118 appropriate to the worker's age and sex must be subtracted from the binaural percentage of loss of hearing obtained in accordance with the procedure set out in subparagraph (v); and
- (c) in addition to an audiometric test, a legally qualified medical practitioner registered in the speciality of otorhinolaryngology, or approved by the Corporation, must carry out a physical examination of the worker (and any other appropriate investigation that the medical practitioner considers necessary) to determine whether the worker's hearing loss is noise induced or is due, or partly due, to ear disease or other causes of hearing loss and must, having regard to the results of the audiometric test of hearing, determine the noise induced hearing loss of the worker as a binaural noise induced hearing loss expressed as a percentage loss of hearing.
- (3) For the purposes of this regulation—
- (a) **audiologist** means a person who is either a full member, or eligible to be a full member, of the Audiological Society of Australia and who holds, or is eligible to hold, a Clinical Certificate of the Society;
audiometrist means a person who is either an ordinary member, or eligible to be an ordinary member, of the Australian College of Audiology;
Australian Standard means a standard of the Standards Association of Australia as in force for the time being and from time to time;
Hz means Hertz where one Hertz equals one cycle per second;
NAL Report No 118 means the report entitled Improved Procedure for Determining Percentage Loss of Hearing published by the National Acoustic Laboratories in January 1988 (ISBN 0 644 06884 1); and

- (b) the appropriate tables are tables RB-500 to RB-4000 (inclusive) set out in Appendix 3 of NAL Report No 118.

24—Schedule 3—Percentage loss of bodily function

Pursuant to clause 4 of Schedule 3 of the Act, the Guides to the Evaluation of Permanent Impairment Third Edition (Revised) published by the American Medical Association (Department of Preventive Medicine and Public Health, American Medical Association, Chicago) are approved as professionally accepted principles for the purpose of determining the percentage loss of total bodily function represented by a particular impairment of a physical or sensory faculty.

25—Schedule 3—Aggregation of two or more disabilities

Pursuant to clause 5 of Schedule 3 of the Act, the following is prescribed as the principle to be applied if a worker is entitled to compensation in respect of two or more disabilities to which that Schedule applies:

$$P = P1 + P2 + P3 + P4 + \dots \text{and so on}$$

Where—

P is the worker's percentage entitlement of the prescribed sum;

P1, P2, P3, P4 are the percentages of the prescribed sum that are payable under this principle for the various disabilities, calculated as follows:

$$P1 = a$$

$$P2 = \frac{100 - P1}{100} \times b$$

$$P3 = \frac{100 - (P1 + P2)}{100} \times c$$

$$P4 = \frac{100 - (P1 + P2 + P3)}{100} \times d,$$

and so on, where a, b, c, d and so on are the percentages that would be individually applicable to the disabilities if there were no question of aggregation.

Note—

Where applicable, the supplementary benefit payable under section 43(7a) of the Act is payable in addition to the amount calculated above if that amount exceeds 55 per cent of the prescribed sum.

26—Transitional provision—Weekly payments

- (1) In this regulation—

principal Act means the *Workers Rehabilitation and Compensation Act 1986*;

2008 Amendment Act means the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.

- (2) To avoid doubt, the substitution of section 35 of the principal Act, as in existence immediately before 1 July 2008, does not affect the operation of that section, as in existence before its substitution, to workers who suffer compensable disabilities before 1 July 2008 (and the section in that form will be taken to continue to apply to such workers as if the substitution had not been effected).
- (3) Subregulation (2) ceases to apply in relation to a worker if or when the worker becomes subject to the operation of subclauses (2) and (3) of clause 4 of Schedule 1 of the 2008 Amendment Act.

27—Transitional provision—Compensation payable on death—lump sums

- (1) In this regulation—
principal Act means the *Workers Rehabilitation and Compensation Act 1986*;
2008 Amendment Act means the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.
- (2) For the period between the commencement of section 26 of the 2008 Amendment Act and section 24 of the 2008 Amendment Act, the *prescribed sum* under section 45A of the principal Act, as enacted by the 2008 Amendment Act, will be the prescribed sum under section 43 of the principal Act as if section 24 of the 2008 Amendment Act had come into operation (less any amount paid to the relevant worker under section 43 of the principal Act).

28—Transitional provision—References to exempt employers

A reference in a statutory instrument, any other kind of instrument or a contract, agreement or other document to an exempt employer will have effect as if it were a reference to a self-insured employer.

29—Transitional provision—Rehabilitation and return to work co-ordinators

- (1) In this regulation—
co-ordinator means a rehabilitation and return to work co-ordinator under the designated section;
designated section means section 28D of the principal Act, as enacted by the 2008 Amendment Act;
principal Act means the *Workers Rehabilitation and Compensation Act 1986*;
2008 Amendment Act means the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.
- (2) Subject to subregulation (3), the designated section will apply to employers registered under the principal Act on and from 1 December 2008 (including employers whose registration commenced before that date).
- (3) An employer is not required to appoint a co-ordinator under the designated section until 1 July 2009 (and may appoint a co-ordinator before that date subject to complying with any training or operational guidelines published by the Corporation from time to time for the purposes of the designated section but otherwise not derogating from the full operation of the designated section from that date).

- (4) Regulation 3B applies from 1 April 2009 and, in relation to a vacancy that has occurred before that date, the prescribed period for the purposes of section 28D(6) of the Act is a period expiring on 30 June 2009.

30—Transitional provision—Compensation for medical expenses

- (1) In this regulation—

designated set of regulations means—

- (a) the *Workers Rehabilitation and Compensation (Scales of Charges—Medical Practitioners) Regulations 1999*; or
- (b) the *Workers Rehabilitation and Compensation (Scales of Medical and Other Charges) Regulations 1995*;

principal Act means the *Workers Rehabilitation and Compensation Act 1986*;

2008 Amendment Act means the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.

- (2) Subject to subregulations (3) and (4), a designated set of regulations, as in force immediately before the commencement of section 11 of the 2008 Amendment Act, remains in force after that commencement.
- (3) If the Minister, by notice published under section 32 of the principal Act as amended by the 2008 Amendment Act, sets a scale of charges that is expressed to supersede any part of—
- (a) the *Workers Rehabilitation and Compensation (Scales of Charges—Medical Practitioners) Regulations 1999*; or
 - (b) the *Workers Rehabilitation and Compensation (Scales of Medical and Other Charges) Regulations 1995*,

then the relevant regulations will be taken to be superseded to the extent provided by the notice insofar as the regulations apply in relation to workers who have suffered compensable disabilities under the principal Act.

- (4) A designated set of regulations will cease to have effect when entirely superseded by 1 or more notices published by the Minister under section 32 of the principal Act.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1999	239	<i>Gazette 25.11.1999 p2743</i>	1.12.1999: r 2
2000	207	<i>Gazette 31.8.2000 p1045</i>	31.8.2000: r 2
2007	227	<i>Gazette 30.8.2007 p3570</i>	30.8.2007: r 2
2008	12	<i>Gazette 7.2.2008 p402</i>	7.2.2008: r 2
2008	187	<i>Gazette 26.6.2008 p2679</i>	1.7.2008: r 2
2008	268	<i>Gazette 25.9.2008 p4641</i>	2.10.2008: r 2
2008	269	<i>Gazette 2.10.2008 p4750</i>	2.10.2008: r 2
2008	318	<i>Gazette 18.12.2008 p5698</i>	1.1.2009: r 2
2009	27	<i>Gazette 26.3.2009 p1171</i>	1.4.2009: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>30.8.2007</i>
r 3		
GST	inserted by 207/2000 r 3	31.8.2000
GST law	inserted by 207/2000 r 3	31.8.2000
<i>prime bank rate</i>	<i>deleted by 12/2008 r 4</i>	<i>7.2.2008</i>
r 3A	inserted by 227/2007 r 4	30.8.2007
rr 3B and 3C	inserted by 318/2008 r 4	1.1.2009
r 4		
r 4(1)	varied by 207/2000 r 4(a)	31.8.2000
r 4(1a) and (1b)	inserted by 207/2000 r 4(b)	31.8.2000
r 4(2)	varied by 207/2000 r 4(c)	31.8.2000

r 5		
r 5(1)	r 5 varied and redesignated as r 5(1) by 269/2008 r 4(1), (2)	2.10.2008
r 5(2)	inserted by 269/2008 r 4(2)	2.10.2008
r 6		
r 6(1)	varied by 269/2008 r 5(1)	2.10.2008
r 6(2)	substituted by 269/2008 r 5(2)	2.10.2008
r 8		
r 8(1)	varied by 187/2008 r 4(1) varied by 318/2008 r 5(1)	1.7.2008 1.1.2009
r 8(2)	varied by 187/2008 r 4(2) varied by 318/2008 r 5(2)	1.7.2008 1.1.2009
r 8(3)	substituted by 187/2008 r 4(3)	1.7.2008
r 8(4)	varied by 187/2008 r 4(4) varied by 318/2008 r 5(3)	1.7.2008 1.1.2009
r 8(5)	varied by 187/2008 r 4(5)	1.7.2008
rr 9 and 10	<i>deleted by 187/2008 r 5</i>	1.7.2008
r 12		
r 12(1)	varied by 207/2000 r 5(a)—(c)	31.8.2000
r 12(2)	substituted by 207/2000 r 5(d)	31.8.2000
r 12(3)—(6)	inserted by 207/2000 r 5(d)	31.8.2000
r 15		
r 15(1)	varied by 207/2000 r 6(a) varied by 187/2008 r 6(1)	31.8.2000 1.7.2008
r 15(1a) and (1b)	inserted by 207/2000 r 6(b)	31.8.2000
r 15(3)	inserted by 187/2008 r 6(2)	1.7.2008
r 17	substituted by 12/2008 r 5	7.2.2008
r 18AA	inserted by 318/2008 r 6	1.1.2009
r 18A	inserted by 227/2007 r 5	30.8.2007
r 19	<i>deleted by 187/2008 r 7</i>	1.7.2008
r 20	varied by 187/2008 r 8(1), (2)	1.7.2008
r 20A	inserted by 268/2008 r 4	2.10.2008
rr 26, 27 and 28	inserted by 187/2008 r 9	1.7.2008
r 29	inserted by 269/2008 r 6	2.10.2008
r 29(4)	inserted by 318/2008 r 7	1.1.2009
r 30	inserted by 269/2008 r 6	2.10.2008
Schs 1—6	<i>deleted by 187/2008 r 10</i>	1.7.2008

Historical versions

31.8.2000
30.8.2007
7.2.2008
1.7.2008

2.10.2008