

South Australia

# **Workers Rehabilitation and Compensation Regulations 2010**

under the *Workers Rehabilitation and Compensation Act 1986*

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# Part 1—Preliminary

## 1—Short title

These regulations may be cited as the *Workers Rehabilitation and Compensation Regulations 2010*.

## 3—Interpretation

In these regulations—

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

*commercial motor vehicle* means a motor vehicle constructed or adapted solely or mainly for the carriage of goods or materials (including money) by road, including a prime mover, truck, panel van, utility and station wagon, but not including a motor cycle;

*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;

*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).

## 4—Indexation

If a monetary sum referred to in these regulations is followed by the words (*index adjusted*) and a specified year, the amount is to be adjusted on 1 January of each year 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 of the specified year (with the amount so adjusted being rounded up to the nearest dollar).

### Example—

If the adjustment of a monetary sum followed by (index adjusted—2011) is to be determined in 2015, the amount is to be adjusted on 1 January of that year by multiplying the amount by a proportion obtained by dividing the Consumer Price Index for the September quarter of 2014 by the Consumer Price Index for the September quarter of 2011.

## Part 2—Claims and registration

### 5—Contract of service and other terms (section 3 of Act)

- (1) For the purposes of the definition of *contract of service* in section 3(1) of the Act (but subject to this regulation and regulation 6), the following classes of work under a contract, arrangement or understanding are prescribed classes of work:
  - (a) building work, other than wall or floor tiling, where—
    - (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
    - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
    - (iii) the worker does not employ any other person to carry out any part of the work; and
    - (iv) the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed—
      - (A) 4% of the total amount payable, or reasonably expected to be payable, under or pursuant to the contract, arrangement or understanding; or
      - (B) \$50,whichever is the greater; and
    - (v) the value of any 1 tool, or any single item of plant or equipment, owned or leased by the worker for work purposes (whether or not it is used in the performance of the particular work) does not exceed \$16 800 (index adjusted—2009);
  - (b) cleaning work, where—

- (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
  - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
  - (iii) the worker does not employ any other person to carry out any part of the work; and
  - (iv) —
    - (A) in the case of window cleaning work—the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed—
      - if the term of the contract, arrangement or understanding is not more than 1 month—\$25;
      - if the term of the contract, arrangement or understanding is more than 1 month—an average of \$25 per month;
    - (B) in any other case—the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed—
      - if the term of the contract, arrangement or understanding is not more than 1 month—\$50;
      - if the term of the contract, arrangement or understanding is more than 1 month—an average of \$50 per month;
- (c) driving a motor vehicle used for the purposes of transporting goods or materials (whether or not the vehicle is registered in the driver's name) where the driver is paid under the *Local Government Employees Award* or the *Adelaide City Corporation Award* and where—
- (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
  - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
  - (iii) the worker does not employ any other person to carry out any part of the work; and
  - (iv) the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed \$50;
- (d) driving a taxi-cab or similar motor vehicle used for the purpose of transporting members of the public where the driver does not hold or lease a licence issued in relation to the vehicle and where—

- (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
  - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
  - (iii) the worker does not employ any other person to carry out any part of the work; and
  - (iv) the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed \$50;
- (e) driving or riding for fee or reward a vehicle, other than a commercial motor vehicle, for the purpose of transporting by road goods or materials (including money) where the driver or rider does not simultaneously own or operate more than 1 vehicle for work purposes and where—
  - (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
  - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
  - (iii) the worker does not employ any other person to carry out any part of the work; and
  - (iv) the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed \$50; and
  - (v) the goods or materials being transported are not owned (and have not been previously owned) by the driver or rider (as the case may be), or by the employer;
- (f) performing as a singer, dancer, musician, ventriloquist, acrobat, juggler, comedian or other entertainer at a hotel, discotheque, restaurant, dance hall, club, reception house or other similar venue, but excluding work as an actor, model or mannequin, or as any other type of entertainer, in performing as part of a circus, concert recital, opera, operetta, mime, play or other similar performance, where—
  - (i) the work is performed by 1 person to the contract, arrangement or understanding (the *worker*) in the course of or for the purposes of a trade or business carried on by another person to the contract, arrangement or understanding (the *employer*); and
  - (ii) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
  - (iii) the worker does not employ any other person to carry out any part of the work; and
  - (iv) the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed \$50;
- (g) thoroughbred riding work where the work is performed by a licensed jockey.

- (2) For the purposes of subregulation (1)—
- (a) the value of any tool, plant or equipment owned or leased by a worker is the price that, at the time that the worker enters into the relevant contract, arrangement or understanding, the worker would reasonably be expected to pay if the worker were to purchase an equivalent, unused, tool or item of plant or equipment; and
  - (b) a vehicle will not be taken to be used for work purposes if its sole or principal use is to transport the worker, and any tools, plant or equipment, to any work site.
- (3) In relation to the work prescribed under paragraph (g) of subregulation (1), TRSA is designated as the presumptive employer of workers who are within the ambit of that paragraph.
- (4) If—
- (a) a person performs work as an outworker; and
  - (b) any aspect of that work is governed by an award or industrial agreement that is expressed to apply to outworkers (or a specified class or classes of outworkers),
- that work is prescribed work for the purposes of the definition of *contract of service* in section 3(1) of the Act.
- (5) Subject to regulation 6, the work of a minister, priest or other member of a religious order is a prescribed class of work for the purposes of the definition of *contract of service* in section 3(1) of the Act.
- (6) For the purposes of the definition of *local government corporation* in section 3(1) of the Act, the following bodies are prescribed as being within this definition:
- (a) committees of a council under the *Local Government Act 1999*;
  - (b) subsidiaries of a council (or councils) established under the *Local Government Act 1999*;
  - (c) the Local Government Finance Authority of South Australia established under the *Local Government Finance Authority Act 1983*;
  - (e) Council Purchasing Authority Pty. Limited;
  - (f) LGCS Pty. Ltd.;
  - (g) Local Government Managers Australia, South Australian Division Incorporated;
  - (h) LG System Incorporated;
  - (i) Northern Adelaide Business Enterprise Centre Incorporated;
  - (j) Upper Spencer Gulf Business Incubator Network Incorporated.
- (7) For the purposes of section 3(6) of the Act, a prescribed circumstance is where a person (the principal) contracts with another person (the contractor) who is not registered as an employer under the Act.

(8) In this regulation—

**award** means—

- (a) an award under the *Fair Work Act 1994*; or
- (b) an award, determination or order of Fair Work Australia under the *Fair Work Act 2009* of the Commonwealth; or
- (c) an award or determination given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;

**building work** has the same meaning as in the *Building Work Contractors Act 1995*;

**cleaning work** means the work of cleaning any building or a part of a building (including the windows of a building or the surrounds of a building);

**industrial agreement** means—

- (a) an enterprise agreement within the meaning of the *Fair Work Act 1994*; or
- (b) an enterprise agreement under the *Fair Work Act 2009* of the Commonwealth; or
- (c) an agreement given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;

**licensed jockey** means a jockey, an interstate jockey, or an apprentice jockey, licensed by TRSA;

**licensed trainer** means a trainer licensed by TRSA;

**outworker** has the meaning given by the *Fair Work Act 1994*;

**thoroughbred riding work** means mounting, dismounting or riding a thoroughbred horse—

- (a) in the course of a race meeting conducted and controlled by TRSA; or
- (b) in the course of a barrier trial conducted and controlled by TRSA; or
- (c) in the course of a training session conducted and controlled by a licensed trainer;

**TRSA** means—

- (a) Thoroughbred Racing SA Ltd (ACN 094 475 939); or
- (b) if a body other than Thoroughbred Racing SA Ltd is designated under section 6 of the *Authorised Betting Operations Act 2000* as the racing controlling authority for horse racing—that body;

**wall or floor tiling** means any work performed within the wall and floor tiling trade (including any ancillary building work of a minor nature only);

**window cleaning work** means the work of cleaning any window of a building or a part of a building.

## 6—Exclusions (section 3 of Act)

- (1) Pursuant to section 3(7) of the Act, the following persons are excluded from the application of the Act:
  - (a) a minister ministering within The Anglican Church of Australia in South Australia;
  - (b) a priest or other member of a religious order ministering within the Catholic Church of South Australia;
  - (c) a pastor ministering within the Lutheran Church of Australia South Australia District Inc;
  - (d) an ordained minister, deaconess or lay pastor of The Uniting Church in Australia ministering in South Australia in an approved placement under the "Classification of Ministers" of that Church;
  - (e) an officer of The Salvation Army appointed in South Australia under the orders and regulations for officers of The Salvation Army.
- (2) Pursuant to section 3(7) of the Act, but subject to subregulation (3), a worker who is employed by an employer to participate as a contestant in a sporting or athletic activity (and to engage in training or preparation with a view to such participation, and other associated activities) is, in relation to that employment, excluded from the application of the Act.
- (3) Subregulation (2) does not apply to—
  - (a) a person authorised or permitted by a racing controlling authority within the meaning of the *Authorised Betting Operations Act 2000* to ride or drive in a race within the meaning of that Act; or
  - (b) a boxer or wrestler employed or engaged for a fee to take part in a boxing or wrestling match.
- (4) Pursuant to section 3(7) of the Act, a person (the *driver*) who is employed or engaged by another (the *principal*) to transport goods or materials (including money) by motor vehicle in the course of or for the purposes of a trade or business carried on by the principal is excluded from the application of the Act if—
  - (a) the motor vehicle is a commercial motor vehicle; and
  - (b) the motor vehicle is owned, leased or hired by the driver; and
  - (c) the motor vehicle is not owned by, leased from or hired out by, or otherwise supplied by (directly or indirectly)—
    - (i) the principal; or
    - (ii) a third person who is related to the principal; and
  - (d) the goods or materials are not owned (and have not been previously owned) by the driver or by the principal.
- (5) For the purposes of subregulation (4), a principal and another person will be taken to be related if—
  - (a) they are employer and employee; or

- (b) the other person is accustomed or under an obligation (whether formal or informal) to control the use of the relevant motor vehicle in accordance with the directions or determinations of the principal.
- (6) Pursuant to section 3(7) of the Act, a person to whom the *Seafarers Rehabilitation and Compensation Act 1992* of the Commonwealth applies is excluded from the application of the Act.

### 7—Average weekly earnings (section 4 of Act)

For the purposes of section 4(13)(b) of the Act, each of the following is prescribed as a class of non-cash benefit:

- (a) access to a discounted rate of interest on a loan;
- (b) payment of school fees;
- (c) payment of health insurance premiums;
- (d) payment of medical benefits;
- (e) a computer for personal use;
- (f) access to the Internet;
- (g) accommodation;
- (h) payment of, or towards, housing costs;
- (i) a motor vehicle and payment of costs associated with running or maintaining the vehicle;
- (j) a telephone and payment of costs associated with using or maintaining the telephone;
- (k) a staff discount program;
- (l) a credit card.

### 8—Evidentiary provision (section 31 of Act)

Pursuant to section 31(3) of the Act, the operation of section 31(2) of the Act is extended to the following injury and type of work:

<u>Description of injury</u>	<u>Type of work</u>
Mesothelioma	Any work involving exposure to inhalation of asbestos fibres

### 9—Registration of employers (section 59 of Act)

- (1) If—
  - (a) a person (the *employer*) employs 1 or more persons (the *workers*) under a contract of service or contracts of service; and
  - (b) the workers are not employed for the purposes of a trade or business carried on by the employer; and
  - (c) the total remuneration payable by the employer to the workers in a particular financial year does not exceed \$10 870 (index adjusted—2009),

the employer is not, in respect of those workers, required to be registered under section 59 of the Act (and the remuneration paid to those workers need not be included in any return or statement submitted or provided to the Corporation under Part 5 Division 7 of the Act).

- (2) The employers who are not required to be registered under section 59 of the Act by virtue of subregulation (1) are, in respect of the workers referred to in subregulation (1), a prescribed class of employers exempt from the operation of section 46(3) of the Act.
- (3) If the total remuneration payable in a particular financial year by an employer to workers employed by the employer (other than workers of a kind referred to in subregulation (1)) does not exceed \$10 870 (index adjusted—2009), the employer is not required to be registered under section 59 of the Act.
- (4) However, if a worker employed by an employer who is, but for this subregulation, exempted from the obligation to be registered under section 59 of the Act by virtue of subregulation (3) suffers an injury arising from that employment that is determined under the Act to be a compensable injury, the exemption does not apply in relation to the employer from the day of the occurrence of the injury until the end of the financial year in which the injury occurred.

**Note—**

An employer required to be registered by the Corporation must apply for registration within 14 days after the obligation to be registered arises—see section 59(3) of the Act.

- (5) The employers referred to in subregulation (3)—
  - (a) are not required to include the remuneration paid to their workers in any return or statement submitted or provided to the Corporation under Part 5 Division 7 of the Act; and
  - (b) are a prescribed class of employers exempt from the operation of section 46(3) of the Act,(regardless of whether they are required under subregulation (4) to be registered under section 59 of the Act).
- (6) For the purposes of subregulations (1) and (3), the amount applying in relation to an employer at any time during a financial year will be the amount applying as at the beginning of that financial year.

## **10—Agencies of the Crown (section 61 of Act)**

Pursuant to section 61(4) of the Act, the following bodies are prescribed for the purposes of the definition of *agency or instrumentality of the Crown*:

- (a) Minda Incorporated;
- (b) Royal Society for the Blind of South Australia Inc;
- (c) Royal District Nursing Service of SA Limited.

## 11—Registration (section 62 of Act)

- (1) For the purposes of section 62 of the Act, an application for registration as a self-insured employer or group of self-insured employers must contain, or be accompanied by, the following:
  - (a) a statement, prepared by an actuary, of the liabilities that an employer would be undertaking over the first 12 months if the applicant were registered as a self-insured employer;
  - (b) details of the financial guarantee or other security arrangements, and the contract of insurance, that the applicant would obtain for the purposes of Schedule 1 if the applicant were registered as a self-insured employer;
  - (c) a detailed plan of the arrangements that the applicant would implement to administer claims under the Act, which must—
    - (i) include details of—
      - (A) the job specifications of the officers who would be responsible for administering the claims; and
      - (B) the lines of accountability and control that would apply to those officers; and
      - (C) the policies that would be adopted for the rehabilitation of injured workers; and
      - (D) the arrangements that would be implemented for the making of claims under the Act; and
    - (ii) be accompanied by a copy of any form that the applicant would require a claimant to complete;
  - (d) in respect of safety policies—
    - (i) a copy of any safety policy that has been adopted by the applicant; and
    - (ii) details of any programs that the applicant has implemented, or proposes to implement, to train workers in safe working procedures; and
    - (iii) details of the facilities and arrangements that the applicant has for providing first aid to workers; and
    - (iv) details of any safety committees that have been established by the applicant, and a copy of any minutes kept from meetings held by those committees over the period of 6 months immediately preceding the application;
  - (e) the name of any registered association of which any worker employed by the applicant is a member.
- (2) Pursuant to section 62(2) of the Act, a fee of \$10 000 (plus GST) in addition to \$15 (plus GST) for each worker employed by the employer, or group of employers, at the time of the application is fixed as the fee that must accompany an application for registration as a self-insured employer, or group of self-insured employers.

- (3) However—
- (a) if the applicant is an employer who is taking over, or who has within the preceding period of 12 months before the date of application taken over, an activity undertaken by the Crown or an agency or instrumentality of the Crown and who, at the same time, is taking over, or has taken over, the employment of various workers engaged in that activity then—
    - (i) if that activity is the sole activity undertaken by the employer within the State—no fee is payable under subregulation (2); and
    - (ii) in any other case—there will be a proportionate reduction in the fee that is otherwise payable under subregulation (2) according to the proportion that the activity that is being taken over, or that has been taken over, bears to all activities undertaken by the employer within the State; and
  - (b) if the applicant is an employer who has, within the preceding period of 2 months before the date of application, ceased to be a self-insured employer by virtue of a proclamation under section 61(2) of the Act then no fee is payable under subregulation (2); and
  - (c) the maximum fee payable under subregulation (2) is \$40 000 (plus GST).
- (4) For the purposes of section 62(3) of the Act—
- (a) any material change in any details or information previously provided under section 62(1) of the Act will constitute prescribed circumstances; and
  - (b) the period of 30 days from the occurrence of any such change is prescribed.

## **12—Special provisions relating to self-insured employers (sections 50 and 60 of Act)**

- (1) The registration of an employer as a self-insured employer (or as 1 of a group of self-insured employers) is subject to the terms and conditions prescribed in Schedule 1.
- (2) For the purposes of section 50(4) of the Act—
  - (a) the actuarial guidelines approved by the Corporation from time to time for the purposes of the calculation of financial guarantees under Schedule 1 clause 8; and
  - (b) the principle that a scaling factor equal to the scaling factor that applies under Schedule 1 clause 8(2)(a) should be applied to any actuarial determination of the value of liabilities,are prescribed for estimating and capitalising liabilities under that section.

## **13—Employer categories (section 68 of Act)**

- (1) For the purposes of section 68(1) of the Act, employers (other than self-insured employers) are divided into the following categories:
  - (a) small employers;
  - (b) medium employers;
  - (c) large employers.

- (2) For the purposes of subregulation (1)—
- (a) a small employer is an employer—
    - (i) whose aggregate base premiums applying to the employer in respect of all classes of industry in which the employer employs workers is less than an amount determined by the Corporation for the purposes of this subparagraph in relation to a particular premium period; or
    - (ii) whose total remuneration payable by the employer to all workers in any industry is less than an amount determined by the Corporation for the purposes of this subparagraph in relation to a particular premium period; or
    - (iii) who satisfies both subparagraphs (i) and (ii); and
  - (b) a medium employer is an employer who is not a small employer and whose aggregate base premiums applying to the employer in respect of all classes of industry in which the employer employs workers is less than an amount determined by the Corporation for the purposes of this paragraph in relation to a particular premium period; and
  - (c) a large employer is an employer whose aggregate base premiums applying to the employer in respect of all classes of industry in which the employer employs workers is equal to or greater than the amount determined by the Corporation for the purposes of paragraph (b) in relation to a particular premium period.
- (3) The Corporation may, in acting under this regulation—
- (a) provide for the adjustment of aggregate base premiums and total remuneration so that they apply on an annualised basis in cases where the period to which the premium payable by a particular employer is less than 12 months; and
  - (b) rely on estimates at the beginning of a particular premium period and then adjust an assignment of an employer to a particular category at the time that an adjusted premium or a hindsight premium payable by the employer falls to be determined.
- (4) Nothing in this regulation limits or affects the ability of the Corporation to aggregate base premiums or total remuneration of all employers within a group so as to determine the category into which all employers within the group will be assigned.
- (5) In this regulation—
- premium period* means the period that applies in relation to a WorkCover premium order under section 71(1) of the Act.

#### **14—Industry rates (section 70 of Act)**

For the purposes of section 70(4) of the Act, the following criteria are prescribed:

- (a) the extent to which work carried on in the particular class of industry is, in the opinion of the Corporation, likely to contribute to the cost of compensable injuries;
- (b) the need for the Corporation to establish and maintain sufficient funds—

- (i) to satisfy the Corporation's current and future liabilities in respect of compensable injuries attributable to traumas occurring in a particular period from premiums raised in relation to that period; and
- (ii) to make proper provision for administrative and other expenditure of the Corporation; and
- (iii) to make up any insufficiency in the Compensation Fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities.

### **15—Remission of premium (section 72 of Act)**

For the purposes of section 72(8) of the Act, the following are prescribed as circumstances where the Corporation may remit the premium payable by an employer under that section:

- (a) if the remuneration otherwise subject to the premium belongs to a category of remuneration determined by the Corporation for the purposes of this paragraph to be a category in relation to which the premium will be remitted (with the extent of the remission under this paragraph reflecting the extent to which remuneration falls into any such category);
- (b) if the Corporation considers that administrative savings are being made (or will be made) on account of the employer managing claims made by workers who suffer compensable injuries in the employment of the employer;
- (c) if, in the opinion of the Corporation, the amount standing to the credit of the Compensation Fund is sufficient to justify a remission of premium.

### **16—Limit on fine (section 72A(6) of Act)**

For the purposes of section 72A(6) of the Act, the amount of \$5 000 is prescribed.

### **16A—Remissions and supplementary payments (section 72C of Act)**

For the purposes of section 72C(5) of the Act, a scheme for the provision or payment of remissions and supplementary payments will include matters determined by the Corporation for the purposes of this regulation and published in the Gazette.

### **16B—Penalty for late payment (section 72K of Act)**

- (1) For the purposes of section 72K of the Act, the rate of penalty interest on an amount in arrears is a simple interest rate equal to 5% of the amount in arrears (expressed as an annual rate and applied with respect to the relevant period) plus the TAA market rate for the financial year in which, under Part 5 of the Act, notice of an assessment is given, with the interest to be calculated at a daily rate over the relevant period.
- (2) In this regulation—

*relevant period* means the period during which the amount in arrears is unpaid;

*TAA market rate* means the market rate as defined in section 26 of the *Taxation Administration Act 1996*.

## 17—Volunteers (section 103A of Act)

- (1) For the purposes of section 103A of the Act—
  - (a) volunteer fire-fighters are prescribed as a class of persons under that section; and
  - (b) the following activities are prescribed as a class of work:
    - (i) any activity directed towards—
      - (A) preventing, controlling or extinguishing a fire; or
      - (B) dealing with any other emergency that requires SACFS to act to protect life or property;
    - (ii) attending in response to a call for assistance by SACFS;
    - (iii) attending an SACFS meeting, competition, training exercise or other organised activity;
    - (iv) carrying out any other function or duty under the *Fire and Emergency Services Act 2005*.

- (2) In this regulation—

**volunteer fire-fighter** means—

- (a) a member of SACFS within the meaning of the *Fire and Emergency Services Act 2005*; or
- (b) a fire control officer under the *Fire and Emergency Services Act 2005*; or
- (c) a person who, at the request or with the approval of a person who is apparently in command pursuant to Part 4 of the *Fire and Emergency Services Act 2005*, at the scene of a fire or other emergency, assists in fire-fighting or dealing with the emergency,

who receives no remuneration in respect of his or her service in that capacity.

## 18—Insurance for employers against liabilities apart from Act (section 105 of Act)

For the purposes of section 105 of the Act, the terms and conditions to the insurance provided under that section to employers by the Corporation are set out in Schedule 2.

## 19—Expiation of section 59 offences (section 122A of Act)

- (1) Pursuant to section 122A of the Act, the following is fixed as the expiation fee for an alleged offence against section 59 of the Act:
  - (a) \$500 (index adjusted—2009); or
  - (b) 5% of the aggregate remuneration paid to the employer's workers during the period for which the employer is in breach of the section,

whichever is the greater.

- (2) In this regulation—

**remuneration** has the same meaning as under Part 5 Division 4 of the Act (but does not include remuneration paid to any worker in respect of whom an employer is not required to be registered under section 59 of the Act).

## 20—Interest payable under transitional provisions (Schedule 1 of Act)

- (1) For the purposes of Schedule 1 clause 2(4) of the Act, the amount recoverable from the employer will be increased by interest on the amount at the prime bank rate for the financial year in which the employer receives notification of a payment under that clause, compounded on a monthly basis for each complete month that has elapsed between the date of the notification and the date of payment.
- (2) For the purposes of Schedule 1 clause 2(11) of the Act, if a compensating authority has recovered an amount to which the compensating authority is not entitled, the amount to be repaid to the Corporation will be increased by interest on the amount at the prime bank rate for the financial year in which the amount in respect of which interest is payable is paid to the Corporation, compounded on a monthly basis for each complete month that has elapsed between the date of the determination of the Corporation and the date of payment.

## Part 3—Rehabilitation

### 21—Interpretation

In this Part, unless the contrary intention appears—

*different employer*, in relation to an injured worker, means an employer of the worker (whether identified or not) who is not the pre-injury employer;

*different employment*, in relation to an injured worker, means employment that is not pre-injury employment;

*injured worker* means a worker who has been incapacitated for work by an injury (whether or not it has been finally established that the worker's injury is compensable);

*plan* means a rehabilitation and return to work plan under Part 3 of the Act;

*pre-injury employer* means the person by whom an injured worker was employed immediately before the occurrence of an injury to which a program or plan relates;

*pre-injury employment* means the form of employment that an injured worker performed immediately before the occurrence of an injury to which a program or plan relates;

*program* means a rehabilitation program under Part 3 of the Act.

### 22—Standards and requirements—Rehabilitation programs (section 28C of Act)

Pursuant to section 28C of the Act, a rehabilitation program for an injured worker must comply with the following standards and requirements:

- (a) it must be in writing;
- (b) it must specify the following details:
  - (i) the worker's full name;
  - (ii) the worker's date of birth;
  - (iii) the claim number;

- (iv) the employer's name;
- (v) the nature of the injury;
- (vi) the date that the injury was suffered;
- (c) it must have as its objectives—
  - (i) the achievement by the worker of the best practicable levels of physical and mental recovery; and
  - (ii) the restoration, where possible, of the worker to the workforce and the community; and
  - (iii) other specific objectives (not inconsistent with the objectives referred to above) appropriate to the circumstances of the worker specified for that purpose in the program;
- (d) it must specify, to the extent practicable, action that the worker and the employer of the worker must undertake for the purpose of fulfilling the objectives of the program;
- (e) it must specify, to the extent practicable, the rehabilitation services relevant to the program that are to be provided to, and accepted by, the worker;
- (f) it must specify, to the extent practicable, the point of commencement and completion of the program (expressed either as particular dates, the commencement and expiration of a particular period, or the occurrence of particular activities or circumstances);
- (g) it must specify the method by which the Corporation will review the program and, where practicable, the times or occasions on which reviews will take place;
- (h) if at the time of the preparation of the program it has not been practicable to undertake a complete evaluation of—
  - (i) the worker's incapacity arising from the injury; or
  - (ii) the employment that will be suitable employment for the worker given the worker's physical and mental condition as a consequence of the injury,

it must specify that these matters will be evaluated and reported to the Corporation as soon as it becomes practicable to do so;

- (i) it must contain the following statements:

**(A)—Important Notice to Employers**

A failure by an employer to co-operate with respect to the implementation of a rehabilitation program or to provide suitable employment for an injured worker may be considered by the Corporation as appropriate grounds to impose on that employer a supplementary payment in accordance with section 72C of the *Workers Rehabilitation and Compensation Act 1986*.

### **(B)—Important Notice to Injured Workers**

A refusal or failure by an injured worker to participate in a rehabilitation program, or participation in a rehabilitation program in a way that frustrates the objectives of a rehabilitation program, may lead to the discontinuance of weekly payments under section 36 of the *Workers Rehabilitation and Compensation Act 1986*.

A refusal or failure by a worker to undertake work that the worker has been offered and is capable of performing, or to take reasonable steps to find or obtain suitable employment, may lead to the discontinuance of payments under section 36 of the *Workers Rehabilitation and Compensation Act 1986*. This may also occur if a worker obtains suitable employment and then unreasonably discontinues the employment.

### **23—Standards and requirements—Rehabilitation and return to work plans (section 28C of Act)**

Pursuant to section 28C of the Act, a rehabilitation and return to work plan for an injured worker must comply with the following standards and requirements:

- (a) it must be in writing;
- (b) it must specify the following details:
  - (i) the worker's full name;
  - (ii) the worker's date of birth;
  - (iii) the claim number;
  - (iv) the employer's name;
  - (v) the nature of the injury;
  - (vi) the date that the injury was suffered;
- (c) it must have as its objectives—
  - (i) the return of the worker at the earliest practicable time to suitable employment at a level of remuneration which, as near as practicable, is not less than the worker's notional weekly earnings; and
  - (ii) other specific objectives (not inconsistent with the objective referred to above) appropriate to the circumstances of the worker specified for that purpose in the plan, but at least including 1 of the following:
    - (A) the worker's return to the pre-injury employment with the pre-injury employer;
    - (B) the worker's return to different employment by the pre-injury employer;
    - (C) the worker's return to the pre-injury employment but with a different employer;
    - (D) the worker's return to different employment with a different employer;

- (d) in the case of a plan that contemplates the worker returning to different employment—to the extent practicable, it must specify the suitable employment to which the worker should return;
- (e) it must specify action that the worker and the pre-injury employer must undertake in order to meet the objectives of the plan, including (but not limited to)—
  - (i) in relation to the worker—what training or, where applicable, job search functions the worker should undertake; and
  - (ii) in relation to the pre-injury employer—what workplace or employment modifications the pre-injury employer should provide or undertake in order to achieve the worker's return to work;
- (f) it must specify, to the extent practicable, the rehabilitation services relevant to the plan that are to be provided to, and accepted by, the worker;
- (g) it must specify, to the extent practicable, the point of commencement and completion of the plan (expressed either as particular dates, the commencement and expiration of a particular period, or the occurrence of particular activities or circumstances);
- (h) it must specify the method by which the Corporation will review the plan and, where practicable, the times or occasions on which reviews will take place;
- (i) it must contain the following statements:

**(A)—Important Notice to Employers**

A failure by an employer to co-operate with respect to the implementation of a rehabilitation and return to work plan or to provide suitable employment for an injured worker may be considered by the Corporation as appropriate grounds to impose on that employer a supplementary payment in accordance with section 72C of the *Workers Rehabilitation and Compensation Act 1986*. An employer may apply for a review of a provision of a rehabilitation and return to work plan on the ground that the provision is unreasonable but such review proceedings do not suspend obligations imposed by the rehabilitation and return to work plan until a review or appeal authority makes a decision to modify the plan, if at all.

**(B)—Important Notice to Injured Workers**

A failure by an injured worker to comply with an obligation under a rehabilitation and return to work plan may lead to the discontinuance of weekly payments under section 36 of the *Workers Rehabilitation and Compensation Act 1986*.

A worker may apply for a review of a provision of a rehabilitation and return to work plan on the ground that the provision is unreasonable but such review proceedings do not suspend obligations imposed by the rehabilitation and return to work plan until a review or appeal authority makes a decision to modify the plan, if at all.

A refusal or failure by a worker to undertake work that the worker has been offered and is capable of performing, or to take reasonable steps to find or obtain suitable employment, may lead to the discontinuance of payments under section 36 of the *Workers Rehabilitation and Compensation Act 1986*. This may also occur if a worker obtains suitable employment and then unreasonably discontinues the employment.

#### **24—Amendment to programs and plans**

A reference in this Part to a matter to be contained in a program or plan includes any amendments, alterations or modifications to the program or plan made by the Corporation in the course of a review of the program or plan, subject to the Corporation satisfying the requirements of the Act in respect of the implementation of an amendment, alteration or modification.

#### **25—Rehabilitation and return to work co-ordinators—filling of vacancies (section 28D of Act)**

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.

#### **26—Rehabilitation and return to work co-ordinators—exemptions from requirements (section 28D of Act)**

- (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.

## Part 4—Dispute resolution

### 27—Notice of dispute and other applications (sections 90, 90A and 97 of Act)

- (1) Schedule 3 Form 1 prescribes the form of a notice of dispute under section 90 of the Act.
- (2) An application for extension of time under section 90A(3) of the Act is to be made by completing the appropriate part of a notice of dispute.
- (3) Schedule 3 Form 2 prescribes the form of an application for expedited determination of a matter under section 97 of the Act.

### 28—Nomination of person to reconsider a disputed decision (section 91 of Act)

For the purposes of section 91(2)(b) of the Act, the nomination of a person to the Registrar is made by a relevant compensating authority providing, in writing, the following information about the person to the Registrar:

- (a) the person's full name;

- (b) the name of the person's employer (if the person is an employee), or a relevant business name;
- (c) the person's position in the organisation in which he or she works, or his or her occupation;
- (d) details of any relevant qualifications and experience;
- (e) an address for correspondence;
- (f) the person's business telephone number, email address and a fax number.

## **29—Costs (sections 95 and 97C of Act)**

- (1) Pursuant to section 95(1) of the Act, the costs awarded to a party who is represented in proceedings that take place under Part 6A of the Act (other than Division 6 of that Part) cannot exceed—
  - (a) for assistance in the preparation and lodgement of a notice of dispute and participation in the initial reconsideration of a disputed decision and in the initial conciliation process, including attendance at a conciliation conference—\$355 (index adjusted—2009); and
  - (b) for participation in the conciliation/dispute resolution process (including the preparation of any necessary documentation)—
    - (i) \$659 (index adjusted—2009); or
    - (ii) if the Tribunal determines, on application by the party, that the party is entitled to an award of costs of an amount greater than \$659 (index adjusted—2009)—\$2 180 (index adjusted—2009).
- (2) However, if the proceedings in respect of which a party is entitled to an award of costs involve more than 1 notice of dispute, the party and the relevant compensating authority may agree, or the Tribunal may order, that the party is not to be awarded costs up to the relevant limit for participation in the conciliation/dispute resolution process in respect of each separate notice of dispute.
- (3) The relevant compensating authority is entitled to appear and be heard on an application under subregulation (1)(b)(ii).
- (4) Pursuant to section 95(1) of the Act, the costs awarded to a party who is represented in proceedings before the Tribunal under Part 6A Division 6 of the Act cannot exceed 85% of the costs that would be payable on a party and party basis if the proceedings were proceedings before the Supreme Court.
- (5) Pursuant to section 95(2)(b) of the Act, costs may be awarded to reimburse disbursements incurred by a party to a dispute up to a reasonable amount reasonably incurred, subject to the qualification that costs for medical services reimbursed as disbursements in the dispute resolution process are limited to the scales of charges that apply for the purposes of section 32 of the Act or, if a service is not covered by a scale of charges under that section, to an amount determined in accordance with the principles that apply under that section.

- (6) Pursuant to section 97C of the Act, the following limits on costs are fixed in relation to proceedings that take place under Part 6B of the Act:

Item	Limit
Assistance in the preparation and lodgement of an application	\$122 (index adjusted—2009)
Preparation of a case for hearing	\$234 (index adjusted—2009)
Appearance before the Tribunal (to a maximum of \$467 (index adjusted—2009))	
(a) First hour	\$153 (index adjusted—2009)
(b) Second hour	\$92 (index adjusted—2009)
(c) Third and subsequent hour	\$51 (index adjusted—2009)

- (7) If a limit on costs prescribed by subregulation (1) or (6) is varied or adjusted following the commencement of a process in relation to which an award of costs may be made under section 95 or 97C of the Act, the award of costs is subject to the limit that applied when the process was commenced.

## Part 5—General

### 30—Indexation (section 3 of Act)

An amount adjusted in accordance with section 3(15) of the Act is to be rounded up to the nearest dollar.

### 31—Designated courts (section 6B of Act)

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*.

### 32—Medical expenses—accommodation costs (section 32 of Act)

- (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 \$190 per day (index adjusted—2009).

- (2) If an amount under subregulation (1) relates to accommodation outside South Australia, the maximum amount is increased by an additional \$76 per day (index adjusted—2009).

### **33—Transportation for initial treatment (section 33 of Act)**

For the purposes of section 33(4) of the Act, the amount of \$245 (index adjusted—2009) is prescribed.

### **34—Compensation for property damage (section 34 of Act)**

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—\$2 100 (index adjusted—2009) in total.

### **35—Notices**

Pursuant to sections 36(3), 39(3), 45(7) and 53(6) 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;
- (b) a reference to the provision of the Act and, if relevant, the regulations made under the Act, on which the Corporation has relied in making the decision, and the text of that provision;
- (c) the reasons for the decision.

### **36—Recovery of certain amounts paid to workers (sections 32A, 36 and 50H of Act)**

- (1) This regulation applies in relation to the Corporation's ability to recover or set off an amount under section 32A(8), 36(5c), (6) or (7) 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) or 36(5c)(b) of the Act, within 2 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) 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% of the worker's net income for the period over which those payments are to be made without the agreement of the worker;
  - (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;
  - (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.

### **37—Absence from Australia (section 41 of Act)**

- (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;
  - (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;
  - (c) details of the places where the worker will be while absent from Australia;

- (d) an address at which contact may be made with the worker;
  - (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;
  - (f) details of any employment that the worker might undertake while absent from Australia;
  - (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 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.

### **38—Prescribed limits on costs—Provision of professional advice (section 42 of Act)**

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:

<b>Item</b>	<b>Limit</b>
Obtaining professional advice about the consequences of redemption	\$450 (index adjusted—2009)
Obtaining financial advice about the investment or use of money received on redemption	\$800 (index adjusted—2009)

### **39—Lump sum compensation (section 43 of Act)**

- (1) For the purposes of section 43(2) of the Act, the portion of the prescribed sum to which a worker is entitled will be calculated in accordance with the table set out in Schedule 4, based on the worker's whole of person impairment assessed under Part 4 Division 5 of the Act.
- (2) Pursuant to section 43(8)(b) of the Act, the amount of \$426 255 (index adjusted—2009) is prescribed for the purposes of the definition of *prescribed sum* under section 43 of the Act.

### **40—Compensation payable on death (sections 44, 45A and 45B of Act)**

- (1) For the purposes of section 44(18) 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%.
- (2) 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 for the financial year in which the compensation is paid.
- (3) For the purposes of section 45B(1) of the Act, the prescribed amount that may be payable in relation to a funeral benefit is \$9 000 (index adjusted—2009).

#### **41—Exemption from 2 weeks of payments (section 46 of Act)**

- (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 injury is suffered by a worker who is employed by the employer under the RISE scheme; and
  - (b) the injury is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of the injury 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 injuries.

#### **42—Rate of interest payable on weekly payments in arrears (section 47 of Act)**

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.

#### **43—Payments by Corporation on behalf of defaulting employers (section 48 of Act)**

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 \$120 (including GST).

#### **44—Period of notice if provisional weekly payments not commenced (section 50D of Act)**

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

#### **45—Substantive law (section 58AE of Act)**

For the purposes of paragraph (b) of the definition of *a State's legislation about damages for a work related injury* 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 injury; 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 injury; and
- (c) the *Workers Rehabilitation and Compensation Act* (NT) is declared to be the legislation of the Northern Territory about damages for a work related injury; and

- (d) the *Workers Compensation and Rehabilitation Act 2003* (Qld) is declared to be the legislation of Queensland about damages for a work related injury; and
- (e) the *Workers Rehabilitation and Compensation Act 1988* (Tas) is declared to be the legislation of Tasmania about damages for a work related injury; and
- (f) the *Accident Compensation Act 1985* (Vic) is declared to be the legislation of Victoria about damages for a work related injury; 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 injury.

#### **46—Notification by self-insured employers (section 63 of Act)**

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 the repealed Division 4B of Part 4 of the Act:
  - (i) the period to which the assessment relates;
  - (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;
  - (iii) whether the proposed assessment is to be a final assessment or an interim assessment;
  - (iv) the amount of capital loss assessed by the self-insured employer;
  - (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 1 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.

#### **47—Constitution of Medical Panels (section 98 of Act)**

- (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).

#### **48—Medical examination requested by employers (section 108 of Act)**

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

#### **49—Disclosure of information (section 112 of Act)**

- (1) Pursuant to section 112(2)(h) of the Act, the following disclosures are authorised:
- (a) a disclosure made to Safe Work Australia or a Commonwealth workers compensation authority in accordance with an arrangement about sharing information obtained in the course of carrying out functions related to the administration, operation or enforcement of the Act;
  - (b) a disclosure made to the SafeWork SA Advisory Committee or the Department in accordance with an arrangement about sharing information obtained in the course of carrying out functions related to the administration, operation or enforcement of the Act;
  - (c) a disclosure made to a tax officer of any of the following in respect of an employer registered under the Act:
    - (i) the employer's name, trading name, WorkCover employer registration number, postal address or telephone number;
    - (ii) the location of the employer's head office or other workplaces;
    - (iii) the employer's ACN and ABN;

- (iv) an estimate of the aggregate remuneration expected to be paid to the employer's workers during a financial year;
- (v) the actual remuneration paid to the employer's workers during a financial year;
- (vi) the relevant South Australian (WorkCover) Industrial Classification (SAWIC) Code;
- (vii) the date of the employer's registration under the Act;
- (viii) the date of cancellation of the employer's registration under the Act;
- (ix) the status of the employer's registration under the Act.

(2) In this regulation—

**Commonwealth workers compensation authority** means a person or authority of the Commonwealth with power to determine or manage claims for compensation for injuries arising from employment;

**Department** has the same meaning as in the *Occupational Health, Safety and Welfare Act 1986*;

**tax officer** has the same meaning as in the *Taxation Administration Act 1996*.

#### **49A—Disclosure of information (section 112AA of Act)**

Pursuant to section 112AA(1)(h) of the Act, a disclosure of information is authorised if—

- (a) the information—
  - (i) constitutes, or is contained in, a claim summary report provided to the employer by or on behalf of the Corporation; or
  - (ii) in the case of a self-insured employer—constitutes, or is contained in, a summary report prepared by the employer that provides information that is similar to the information contained in reports provided under subparagraph (i); and
- (b) the disclosure is reasonably required for, or in connection with, the possible or proposed transfer of the business of the employer.

#### **50—Noise induced hearing loss (section 113 of Act)**

- (1) For the purposes of section 113(3) and (4) of the Act, noise induced hearing loss is a prescribed injury.
- (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;

- (b) 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 subregulation (2)(a)—
- (a) an audiometric test must include air-conduction and bone-conduction pre-tone threshold measures with appropriate masking; and
- (b) air-conduction testing must comply with the requirements of section 7—Audiometry and section 8—Audiometric test procedures of AS/NZS 1269.4:2005 *Occupational noise management—Part 4: Auditory assessment*; and
- (c) bone-conduction testing must comply with the Audiological Society of Australia Professional Standards of Practice; and
- (d) 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 AS IEC 60645—1:2002 *Electroacoustics—Audiological equipment, Part 1 Pure tone audiometers (IEC 60645 —1:2001, MOD)* and AS/NZS 1591.1:1995 *Part 1: Reference zero for the calibration of pure tone bone conduction audiometers*, and the instrumentation for bone conduction audiometry must also comply with AS/NZS 1591.4:1995 *Part 4: A mechanical coupler for calibration of bone vibrators*; and
- (e) 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 6 values of percentage loss of hearing, and those 6 values of percentage loss of hearing are to be added together to obtain the binaural percentage loss of hearing; and
- (f) 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 paragraph (e).

- (4) In this regulation—

**appropriate tables** means tables RB-500 to RB-4000 (inclusive) set out in Appendix 3 of NAL Report No 118;

**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 Certificate of Competency 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;

*Hz* means Hertz where 1 Hertz equals 1 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).

## **Part 6—Transitional provisions (*Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*)**

### **51—Interpretation**

In this Part—

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

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

### **52—Transitional provision—Weekly payments**

- (1) 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).
- (2) Subregulation (1) 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.

### **53—Transitional provision—Compensation payable on death—lump sums**

- (1) In relation to 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(8)(a) 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).
- (2) To avoid doubt, the *prescribed sum* under section 45A of the principal Act in relation to the period between 1 January 2009 and the commencement of section 24 of the 2008 Amendment Act (disregarding any amount that must be deducted in a particular case) will be the prescribed sum applying under subregulation (1) on 1 January 2009, indexed from 1 January 2009 in accordance with the requirements of section 3(15) of the Act.

### **54—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.

## **55—Transitional provision—lump sum compensation**

- (1) The minimum amounts of compensation payable under Schedules 3 and 3A of the principal Act, as inserted by section 83 of the 2008 Amendment Act, will be taken to have been indexed from 1 January 2009 in the manner specified by section 3(15) of the principal Act.
- (2) For the purposes of Schedule 1 clause 10 of the 2008 Amendment Act, the amount of compensation payable to a particular worker will be assessed as a proportion of—
  - (a) in respect of a compensable disability occurring before 1 January 2009—\$400 000 as the prescribed sum;
  - (b) in respect of a compensable disability occurring on or after 1 January 2009 and before the commencement of section 24 of the 2008 Amendment Act—\$400 000, indexed from 1 January 2009 in the manner specified by section 3(15) of the principal Act, as the prescribed sum.

## **Part 7—Transitional provisions (*Workers Rehabilitation and Compensation (Employer Payments) Amendment Act 2011*)**

### **56—Interpretation**

In this Part—

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

*2011 Amendment Act* means the *Workers Rehabilitation and Compensation (Employer Payments) Amendment Act 2011*.

### **57—Retro-paid loss arrangement**

The Corporation may, for the purposes of any arrangement or agreement entered into under section 71(6)(d) of the principal Act, as enacted by the 2011 Amendment Act, require that certain steps be taken by the relevant employer (for example, the provision of a financial guarantee) before 1 July 2012 (so that the matter to which a step relates is then in place on 1 July 2012).

## **Schedule 1—Self-insured employers terms and conditions of registration**

- 1 The employer must ensure that forms for making a claim under the Act, in a form approved by the Corporation, are reasonably available to the employer's workers.
- 2 The employer must ensure that all claims under the Act are promptly and efficiently investigated and determined.
- 3 The employer must ensure that any benefit to which a worker is entitled under the Act is—
  - (a) provided promptly; and
  - (b) periodically reviewed in accordance with the Act.
- 4 The employer must ensure, so far as is reasonably practicable, that up to date programs that are designed to prevent or reduce the incidence of compensable injuries are established and maintained at places where the employer's workers work.

- 5 (1) The employer must, in respect of each reporting period, provide the following information to the Corporation:
- (a) Employer details:
    - (i) the Employer Registration Number;
    - (ii) the relevant Location Number;
    - (iii) the relevant Location Address;
  - (b) Particulars relating to each new claim received by the employer during the reporting period:
    - (i) the claim number assigned by the employer;
    - (ii) the full name of the worker;
    - (iii) the sex of the worker;
    - (iv) the date of birth of the worker;
    - (v) the language usually spoken at home by the worker;
    - (vi) the worker's country of birth;
    - (vii) the postcode of the worker's residence;
    - (viii) the worker's notional weekly earnings (if applicable);
    - (ix) the postcode of the location where the injury occurred;
    - (x) if the injury occurred at a particular workplace—the predominant class of industry at that workplace;
    - (xi) whether the worker is employed on a full time or part time basis by the employer;
    - (xii) whether the worker is employed on a permanent or casual basis by the employer;
    - (xiii) the occupation of the worker at the time of the injury (including, if the worker is an apprentice, making specific reference to that fact);
    - (xiv) the main tasks usually performed by the worker in the stated occupation;
    - (xv) the normal hours, and days per week, worked by the worker;
    - (xvi) the date on which the worker commenced employment with the employer;
    - (xvii) the activity being undertaken by the worker at the time of the occurrence of the injury;
    - (xviii) the date of the occurrence of the injury;
    - (xix) the time of day at which the injury occurred (so far as is known to the employer);
    - (xx) the date on which the employer was first notified of the injury;
    - (xxi) the apparent cause of the injury;
    - (xxii) a description of the injury;

- (xxiii) a statement as to the parts of the worker's body affected by the injury;
  - (xxiv) the date on which the worker ceased work (if incapacitated for work);
  - (xxv) if relevant, the date of death of the worker;
  - (xxvi) the date on which the occurrence of the injury, or the incident that caused the injury, was reported to the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Occupational Health, Safety and Welfare Act 1986* (if applicable);
- (c) Particulars relating to each claim that is open during any part of the reporting period:
- (i) the WorkCover reference number;
  - (ii) sufficient details to allow the worker and the claim to be identified;
  - (iii) the status of the claim (eg accepted, rejected, undetermined, finalised, reopened);
  - (iv) the total time lost from work by the worker during the relevant period (if any);
  - (v) the worker's last known work status;
  - (vi) the date on which the worker resumed work (if known);
  - (vii) the date on which the claim was determined and the date and effect of any redetermination of the claim;
- (d) Particulars relating to each claim on which action has occurred during the period, including details of any changes and, if relevant, the latest totals of payments in the following categories:
- (i) income maintenance;
  - (ii) medical services (eg medical practitioner or dentist);
  - (iii) medical—allied health;
  - (iv) medical—other goods and services;
  - (v) hospital outpatient;
  - (vi) hospital inpatient;
  - (vii) rehabilitation;
  - (viii) lump sum payments (section 43 or 45A of the Act);
  - (ix) redemption of income maintenance payments (section 42 of the Act);
  - (x) redemption of medical expenses (section 42 of the Act);
  - (xi) common law;
  - (xii) legal;
  - (xiii) investigation;
  - (xiv) travel;

- (xv) other goods and services;
  - (xvi) other non-compensation;
  - (xvii) property damage;
  - (xviii) third party recovery;
  - (e) Other information reasonably required by the Corporation (including information required to meet national data collection requirements).
- (2) For the purposes of subclause (1)—
- (a) the information must be provided in a manner and form (including by electronic means), and at a time, determined by the Corporation; and
  - (b) the Corporation may, from time to time—
    - (i) by notice in writing, waive or postpone the obligation to comply with the requirements of that subclause, either for an individual self-insured employer or for self-insured employers of a specified class, subject to conditions (if any) determined by the Corporation; and
    - (ii) on giving reasonable notice (by further notice in writing), vary or revoke the operation of a notice under subparagraph (i), or vary, revoke or substitute a condition that applies under that subparagraph.
- (3) In this clause—
- reporting period** means a period of 14 days or such longer period approved by the Corporation with respect to the relevant employer from time to time.
- 6 (1) The employer must deliver to the Corporation within 5 months after the end of each financial year of the employer—
- (a) an audited copy of the employer's financial statements for that financial year; and
  - (b) an actuarial report on the outstanding liabilities of the employer under the Act, as at the end of that financial year.
- (2) For the purposes of this clause, the financial years of an employer are successive periods, not exceeding 12 months, determined by the employer to be the employer's financial years or, in the absence of such a determination, each period of 12 months ending on the 30th day of June.
- 7 (1) The employer must at all reasonable times allow an authorised officer to examine—
- (a) the accounting and other records of the employer; and
  - (b) any system or facility used by the employer in connection with acting as a self-insured employer under the Act.
- (2) The employer must provide such assistance as may be reasonably required to facilitate an examination referred to in subclause (1).
- (3) The employer must, at the request of a person carrying out an examination referred to in subclause (1), provide any explanations, information or assistance that the person may reasonably require for the purposes of the examination.

- (4) The employer must comply with any written notice served on the employer by an authorised officer requiring the employer to exercise or perform a power or function of the employer under the Act in accordance with the Act.
- 8 (1) The employer must ensure that there is in force at all times a guarantee given by a financial institution to or in favour of the Corporation which—
- (a) guarantees the payment of an amount to the Corporation in the event that the employer becomes insolvent or ceases to be a self-insured employer; and
  - (b) complies with subclause (3).
- (2) The amount guaranteed by a guarantee entered into for the purposes of subclause (1)—
- (a) must be an amount, at least equal to the prescribed sum, determined by the Corporation to be reasonable for the purposes of this provision after taking into account the principle that a scaling factor of 2 should be applied to—
    - (i) an actuarial estimate of the value of the current and contingent liabilities of the employer under the Act at the time of the determination (whether or not claims have been made with respect to those injuries); plus
    - (ii) an actuarial estimate of the value of the liabilities of the employer as a self-insured employer under the Act in respect of compensable injuries attributable to traumas expected to arise from employment by the employer over the ensuing period of 12 months; less
    - (iii) an actuarial estimate of the amounts expected to be paid out by the employer under the Act over the ensuing period of 12 months; and
  - (b) must be reviewed annually.
- (3) A guarantee complies with this subclause if—
- (a) the guarantee is given by a financial institution which has a credit rating at least equal to a standard set by the Corporation for the purposes of this provision and which is specifically approved by the Corporation as a financial institution which can give guarantees under this clause; and
  - (b) the guarantee is in a form, and for a term, approved by the Corporation.
- (4) A financial institution cannot give a guarantee under subclause (1) if the financial institution and the employer are related bodies corporate.
- (5) The Corporation and an employer may agree to enter into and maintain an arrangement that will apply in substitution for a guarantee under this clause if the Corporation is satisfied that the arrangement provides adequate and appropriate security to the Corporation in case the employer becomes insolvent or ceases to be a self-insured employer and, in the event of such an agreement, the employer is not (while the agreement remains in force) required to comply with a preceding subclause.
- (6) In this clause—
- financial institution*** means—
- (a) an ADI; or

- (b) a person whose sole or principal business is the provision of financial services;

*prescribed sum* means—

- (a) in respect of an amount that is to apply to a period that corresponds to, or ends during, 2010—\$730 000;
- (b) in respect of an amount that is to apply to a period that corresponds to, or ends during, a subsequent year—a sum (calculated to the nearest multiple of \$10 000) that bears to \$730 000 the same proportion as the Consumer Price Index for the September quarter of the immediately preceding financial year bears to the Consumer Price Index for the September quarter, 2009;

*related bodies corporate* has the same meaning as in section 60(9) of the Act.

- 9 The employer must ensure that there is in force at all times a contract of insurance, in a form approved by the Corporation, for an amount approved by the Corporation, in excess of an amount approved by the Corporation, against any liability of the employer that may arise under the Act as a result of the occurrence of 1 event or series of events during the period of the contract.
- 10 In relation to an employer that is a company incorporated, or taken to be incorporated, under the *Corporations Act 2001* of the Commonwealth—
  - (a) the employer must immediately give the Corporation written notice of the commencement of any procedure to liquidate or wind up the employer; and
  - (b) the employer must, within 5 business days, give the Corporation written notice of—
    - (i) the commencement of steps to merge or take over the employer or the undertaking of the employer; or
    - (ii) a change in the board of directors of the employer that substantially changes the management of the employer; or
    - (iii) a relocation of the undertaking of the employer; or
    - (iv) the purchase or sale of any asset that materially changes the financial position of the employer, the composition of its workforce or the nature of the work undertaken by its workers; or
    - (v) any other action that significantly affects the employer's ability to meet its liabilities under the Act.
- 11 The employer must ensure that—
  - (a) all documentation that relates to a claim against the employer under the Act is retained for at least 20 years after the day on which the final payment is made in respect of the claim; and
  - (b) any documentation that relates to a claim against the employer under the Act in respect of an injury that occurred before the employer became a self-insured employer or 1 of a group of self-insured employers is provided to the Corporation after the material has been retained by the employer for 20 years as required by paragraph (a).

- 12(1) The employer must, in carrying out its functions under the Act, take into account the racial, ethnic and linguistic diversity of the employer's workforce, the interests of both sexes, and the interests of those who may be physically, mentally or intellectually impaired, and must ensure that those of the employer's workers who are entitled to benefits under the Act are not disadvantaged because of their origins or background, their sex, or some physical, mental or intellectual impairment.
- (2) The employer should, as far as reasonably practicable, ensure that information provided for use in the workplace is in a language and form appropriate for those expected to make use of it.
- 13 This Schedule applies to self-insured employers who are registered under section 60 of the Act.

## **Schedule 2—Terms and conditions for insurance of employers (section 105 of Act)**

- 1 In this Schedule—
- claim* means a claim against an employer in respect of which the employer is insured by virtue of section 105 of the Act.
- 2 If the employer becomes aware of the occurrence of a compensable injury that is likely to give rise to a claim against the employer, the employer must, within 5 business days, forward to the Corporation written notice of the injury.
- 3 If a claim is made against the employer, the employer must immediately forward the claim to the Corporation.
- 4 The employer must provide any assistance that the Corporation reasonably requires to assist the Corporation—
- (a) in investigating, determining, defending or settling a claim; and
  - (b) in preparing, conducting, defending or settling any proceedings in respect of a claim.
- 5 The employer must sign any authority or other document required by the Corporation for the purpose of—
- (a) investigating, determining, defending or settling a claim; and
  - (b) preparing, conducting, defending or settling any proceedings in respect of a claim, (and if the employer fails to sign the authority or other document, the Corporation may do so on the employer's behalf).
- 6 The employer must not incur any expense, enter into any litigation, make any settlement or admit any liability in respect of a claim without the written authority of the Corporation.
- 7 The Corporation may, for any purpose related to any liability or potential liability pursuant to section 105 of the Act—
- (a) take over and control any proceedings in respect of a claim on behalf of the employer; or
  - (b) conduct and defend any proceedings, and, if appropriate, admit liability, in the name of, and on behalf of, the employer; or
  - (c) settle any claim or proceedings against the employer; or

- (d) issue and conduct proceedings in the name of the employer against any other person who may also be liable in respect of the compensable injury.
- 8 To the extent that the Corporation acts on behalf of the employer in any proceedings, the employer is indemnified by the Corporation against all costs and expenses of or incidental to the proceedings.
- 9 If at the time of the occurrence of the compensable injury other insurance also covers the liability in respect of which the Corporation provides insurance pursuant to section 105 of the Act, the Corporation is only liable to pay a pro rata share of any amount recoverable from the employer in respect of the injury (and may, if it is appropriate, exercise a right of contribution against any other insurer).

## Schedule 3—Forms

### Form 1—Notice of dispute

#### SA Workers Compensation Tribunal

#### Applicant

*[Tick 1 box]*

- Worker
- Employer
- Other

If Other, specify:

#### Worker's details

*Please complete all relevant parts of this section.*

Given name:

Family name:

Address:

Postcode:

Date of birth:

Occupation:

Phone:

Fax:

Email:

#### Employer's details

*Please complete all relevant parts of this section.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Phone:

Fax:

Email:

### **Case manager's details**

*If the employer is self-insured, leave this section blank.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Phone:

Fax:

Email:

### **Other applicant's details**

*If you ticked Other in the Applicant section, please complete all relevant parts of this section.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Phone:

Fax:

Email:

### **Representative's details**

*If you have representation (eg legal, union or employer association), please complete all relevant parts of this section.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Internal reference:

Phone:

Fax:

Email:

### **Claim details**

*Please complete all relevant parts of this section.*

Date of injury:

Description of injury:

Claim number (if known):

### **Interpreter**

*If you require an interpreter, please complete this section.*

Do you need an interpreter?

Yes

No

If Yes, what language?

### **Details of dispute**

*Describe the matter in dispute. If insufficient space, please attach a separate page.  
Attach a copy or evidence of the decision or determination that led to the dispute. Also, attach any documents (such as your claim form, medical reports or opinions from a Medical Panel) that may be relevant, but have not previously been supplied.  
Please provide a list of all attachments.*

Date of determination or decision:

Date on which you received the determination or decision:

Reason for the dispute:

### **Extension of time**

*If you require an extension of time, please complete this section. If insufficient space, please attach a separate page.*

Did you receive the determination or decision that you are disputing more than 1 month ago?

Yes

No

*If Yes, then you require an extension of time to file this Notice of Dispute.*

I am seeking an extension of time because:

*[explain the reasons why you are seeking an extension]*

## Signature

Signature of applicant or representative:

Name:

Date:

## Form 2—Application for expedited decision

### SA Workers Compensation Tribunal

#### Applicant

*[Tick 1 box]*

- Worker
- Employer

#### Worker's details

*Please complete all relevant parts of this section.*

Given name:

Family name:

Address:

Postcode:

Date of birth:

Occupation:

Phone:

Fax:

Email:

#### Employer's details

*Please complete all relevant parts of this section.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Phone:

Fax:

Email:

### **Case manager's details**

*If the employer is self-insured, leave this section blank.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Phone:

Fax:

Email:

### **Representative's details**

*If you have representation (eg legal, union or employer association), please complete all relevant parts of this section.*

Business name:

Address:

Postcode:

Contact person:

Job title:

Internal reference:

Phone:

Fax:

Email:

### **Claim details**

*Please complete all parts of this section.*

*Describe the claim. If insufficient space, attach a separate page.*

*Please attach any information (such as your claim form or medical reports) that may be relevant.*

*Please provide a list of all attachments.*

Date of injury:

Description of injury:

Date of claim:

Claim number (if known):

What is the outcome you are looking for?

Why do you think there has been an undue delay?

*[explain the reasons]*

## Interpreter

If you require an interpreter, please complete this section.

Do you need an interpreter?

Yes

No

If Yes, what language?

## Signature

Signature of applicant or representative:

Name:

Date:

## Schedule 4—Scale of entitlements—section 43(2) of Act

For the purposes of this scale—

- (a) **WPI degree** is the worker's degree of whole of person impairment assessed under Part 4 Division 5 of the Act;
- (b) the amounts set out in Column 2 apply in respect of compensable injuries occurring before 1 January 2009;
- (c) the amounts set out in Column 3 apply in respect of compensable injuries occurring during 2009;
- (d) the amounts set out in Column 4 apply in respect of compensable injuries occurring during 2010 or a year succeeding 2010.

WPI degree	Compensation amount for 2008 and all preceding years	Compensation amount for 2009	Compensation amount for 2010 and succeeding years
0	0	0	0
1	0	0	0
2	0	0	0
3	0	0	0
4	0	0	0
5	\$10 000	\$10 514	\$10 657 (index adjusted—2009)
6	\$11 424	\$12 012	\$12 175 (index adjusted—2009)
7	\$12 874	\$13 536	\$13 720 (index adjusted—2009)
8	\$14 363	\$15 102	\$15 307 (index adjusted—2009)
9	\$15 902	\$16 720	\$16 947 (index adjusted—2009)
10	\$17 500	\$18 400	\$18 650 (index adjusted—2009)
11	\$19 168	\$20 154	\$20 427 (index adjusted—2009)
12	\$20 916	\$21 991	\$22 289 (index adjusted—2009)

**1.7.2012 to 13.10.2012—Workers Rehabilitation and Compensation Regulations 2010**  
Scale of entitlements—section 43(2) of Act—Schedule 4

<b>WPI degree</b>	<b>Compensation amount for 2008 and all preceding years</b>	<b>Compensation amount for 2009</b>	<b>Compensation amount for 2010 and succeeding years</b>
13	\$22 753	\$23 923	\$24 248 (index adjusted—2009)
14	\$24 689	\$25 958	\$26 310 (index adjusted—2009)
15	\$26 731	\$28 105	\$28 486 (index adjusted—2009)
16	\$28 889	\$30 374	\$30 786 (index adjusted—2009)
17	\$31 170	\$32 772	\$33 216 (index adjusted—2009)
18	\$33 582	\$35 308	\$35 787 (index adjusted—2009)
19	\$36 132	\$37 990	\$38 505 (index adjusted—2009)
20	\$38 827	\$40 823	\$41 376 (index adjusted—2009)
21	\$41 673	\$43 815	\$44 409 (index adjusted—2009)
22	\$44 676	\$46 973	\$47 610 (index adjusted—2009)
23	\$47 842	\$50 301	\$50 983 (index adjusted—2009)
24	\$51 176	\$53 807	\$54 536 (index adjusted—2009)
25	\$54 683	\$57 494	\$58 273 (index adjusted—2009)
26	\$58 368	\$61 368	\$62 200 (index adjusted—2009)
27	\$62 236	\$65 435	\$66 322 (index adjusted—2009)
28	\$66 288	\$69 695	\$70 640 (index adjusted—2009)
29	\$70 531	\$74 156	\$75 161 (index adjusted—2009)
30	\$75 000	\$78 855	\$79 924 (index adjusted—2009)
31	\$79 594	\$83 685	\$84 819 (index adjusted—2009)
32	\$84 421	\$88 760	\$89 963 (index adjusted—2009)
33	\$89 446	\$94 044	\$95 318 (index adjusted—2009)
34	\$94 673	\$99 539	\$100 888 (index adjusted—2009)
35	\$100 101	\$105 246	\$106 672 (index adjusted—2009)
36	\$105 732	\$111 167	\$112 673 (index adjusted—2009)
37	\$111 566	\$117 300	\$118 889 (index adjusted—2009)
38	\$117 604	\$123 649	\$125 324 (index adjusted—2009)
39	\$123 845	\$130 211	\$131 975 (index adjusted—2009)
40	\$130 288	\$136 985	\$138 841 (index adjusted—2009)
41	\$136 932	\$143 970	\$145 921 (index adjusted—2009)
42	\$143 775	\$151 165	\$153 213 (index adjusted—2009)
43	\$150 817	\$158 569	\$160 717 (index adjusted—2009)
44	\$158 055	\$166 179	\$168 430 (index adjusted—2009)
45	\$165 486	\$173 992	\$176 349 (index adjusted—2009)
46	\$173 107	\$182 004	\$184 470 (index adjusted—2009)
47	\$180 916	\$190 215	\$192 792 (index adjusted—2009)
48	\$188 907	\$198 616	\$201 307 (index adjusted—2009)

**Workers Rehabilitation and Compensation Regulations 2010—1.7.2012 to 13.10.2012**

Schedule 4—Scale of entitlements—section 43(2) of Act

<b>WPI degree</b>	<b>Compensation amount for 2008 and all preceding years</b>	<b>Compensation amount for 2009</b>	<b>Compensation amount for 2010 and succeeding years</b>
49	\$197 078	\$207 207	\$210 014 (index adjusted—2009)
50	\$205 424	\$215 982	\$218 908 (index adjusted—2009)
51	\$213 940	\$224 936	\$227 983 (index adjusted—2009)
52	\$222 621	\$234 063	\$237 234 (index adjusted—2009)
53	\$231 461	\$243 357	\$246 654 (index adjusted—2009)
54	\$240 455	\$252 814	\$256 239 (index adjusted—2009)
55	\$250 000	\$262 849	\$266 410 (index adjusted—2009)
56	\$258 877	\$272 182	\$275 869 (index adjusted—2009)
57	\$268 292	\$282 081	\$285 902 (index adjusted—2009)
58	\$277 832	\$292 112	\$296 069 (index adjusted—2009)
59	\$287 491	\$302 267	\$306 362 (index adjusted—2009)
60	\$297 260	\$312 538	\$316 772 (index adjusted—2009)
61	\$307 131	\$322 916	\$327 291 (index adjusted—2009)
62	\$317 094	\$333 392	\$337 908 (index adjusted—2009)
63	\$327 140	\$343 954	\$348 613 (index adjusted—2009)
64	\$337 260	\$354 594	\$359 398 (index adjusted—2009)
65	\$347 444	\$365 301	\$370 250 (index adjusted—2009)
66	\$357 680	\$376 063	\$381 157 (index adjusted—2009)
67	\$367 959	\$386 871	\$392 112 (index adjusted—2009)
68	\$378 270	\$397 712	\$403 100 (index adjusted—2009)
69	\$388 600	\$408 573	\$414 108 (index adjusted—2009)
70	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
71	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
72	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
73	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
74	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
75	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
76	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
77	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
78	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
79	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
80	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
81	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
82	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
83	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
84	\$400 000	\$420 558	\$426 255 (index adjusted—2009)

WPI degree	Compensation amount for 2008 and all preceding years	Compensation amount for 2009	Compensation amount for 2010 and succeeding years
85	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
86	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
87	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
88	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
89	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
90	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
91	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
92	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
93	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
94	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
95	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
96	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
97	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
98	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
99	\$400 000	\$420 558	\$426 255 (index adjusted—2009)
100	\$400 000	\$420 558	\$426 255 (index adjusted—2009)

## Schedule 5—Transitional provisions

### Part 2—Transitional provisions

#### 7—Transitional provisions

- (1) A determination of the Corporation in force under regulation 13(a) of the revoked *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999* immediately before the revocation of those regulations will be taken to be a determination made by the Corporation for the purposes of regulation 13(a) of these regulations.
- (2) Regulation 15(1) of the revoked *Workers Rehabilitation and Compensation (General) Regulations 1999* applies for the purpose of determining the prescribed amount under section 45B(1) of the Act in respect of a funeral benefit in relation to a worker who died before the commencement of regulation 40 of these regulations.
- (3) A rehabilitation program in force immediately before the revocation of the *Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996* will, if the program complied with the standards and requirements of regulation 4 of those regulations, be taken to be a rehabilitation program that complies with the standards and requirements of regulation 22 of these regulations.

- (4) A rehabilitation and return to work plan in force immediately before the revocation of the *Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996* will, if the program complied with the standards and requirements of regulation 5 of those regulations, be taken to be a rehabilitation and return to work plan that complies with the standards and requirements of regulation 23 of these regulations.
- (5) An exemption or approval held by an employer under a provision of regulation 3C of the revoked *Workers Rehabilitation and Compensation (General) Regulations 1999* immediately before the revocation of that regulation will be taken to be an exemption or approval (as the case requires) granted or obtained under the corresponding provision of regulation 26 of these regulations.
- (6) A determination of the Corporation in force for the purposes of a provision of regulation 3C of the revoked *Workers Rehabilitation and Compensation (General) Regulations 1999* immediately before the revocation of that regulation will be taken to be a determination of the Corporation for the purposes of the corresponding provision of regulation 26 of these regulations.
- (7) If the Corporation has approved a financial institution as a financial institution that can give guarantees under Schedule 4 clause 10 of the revoked *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999*, and the approval was in force immediately before the revocation of those regulations, the financial institution will be taken to have been approved as a financial institution that can give guarantees under Schedule 1 clause 8 of these regulations.
- (8) If the Corporation and an employer have entered into an arrangement that applies in substitution for a guarantee under Schedule 4 clause 10 of the revoked *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999*, and the arrangement was in force immediately before the revocation of those regulations, the arrangement will be taken to be an arrangement that applies in substitution for a guarantee under Schedule 1 clause 8 of these regulations.
- (9) Schedule 1 clause 11 applies in relation to documentation relating to claims made before or after the commencement of that clause (other than documentation lawfully disposed of before that commencement).

## 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](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Workers Rehabilitation and Compensation Regulations 2010* revoked the following:

*Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999*

*Workers Rehabilitation and Compensation (Disclosure of Information) Regulations 1999*

*Workers Rehabilitation and Compensation (Dispute Resolution) Regulations 1996*

*Workers Rehabilitation and Compensation (General) Regulations 1999*

*Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996*

*Workers Rehabilitation and Compensation (Reviews and Appeals) Regulations 1999*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2010	154	<i>Gazette 24.6.2010 p3162</i>	1.11.2010 except r 49—11.11.2010: r 2
2010	220	<i>Gazette 4.11.2010 p5264</i>	4.11.2010: r 2
2012	6	<i>Gazette 2.2.2012 p500</i>	2.2.2012 except r 5—31.8.2011: r 2
<b>2012</b>	<b>20</b>	<b><i>Gazette 29.3.2012 p1297</i></b>	<b>29.3.2012 except rr 4—15 &amp; 17—20—1.7.2012: r 2</b>
<b>2012</b>	<b>21</b>	<b><i>Gazette 29.3.2012 p1306</i></b>	<b>1.7.2012: r 2</b>
2012	157	<i>Gazette 14.6.2012 p2757</i>	14.10.2012: 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
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>31.8.2011</i>
Pt 2		
r 5		
<i>r 5(6)</i>	<i>(d) deleted by 6/2012 r 4</i>	<i>2.2.2012</i>
<b>r 8</b>	<b>varied by 20/2012 r 4</b>	<b>1.7.2012</b>
<b>r 9</b>		
<b>r 9(1)</b>	<b>varied by 20/2012 r 5(1), (2)</b>	<b>1.7.2012</b>
<b>r 9(3)</b>	<b>varied by 20/2012 r 5(3)</b>	<b>1.7.2012</b>
<b>r 9(4)</b>	<b>varied by 20/2012 r 5(4)—(7)</b>	<b>1.7.2012</b>
<b>r 9(5)</b>	<b>varied by 20/2012 r 5(8)</b>	<b>1.7.2012</b>
<b>r 9(6)</b>	<b>inserted by 20/2012 r 5(9)</b>	<b>1.7.2012</b>
r 10	varied by 6/2012 r 5	31.8.2011
r 11		
<b>r 11(1)</b>	<b>varied by 20/2012 r 6(1)</b>	<b>1.7.2012</b>
<b>r 11(4)</b>	<b>inserted by 20/2012 r 6(2)</b>	<b>1.7.2012</b>
<b>rr 13—15</b>	<b>substituted by 20/2012 r 7</b>	<b>1.7.2012</b>
r 16	deleted by 220/2010 r 4	4.11.2010
	<b>inserted by 20/2012 r 7</b>	<b>1.7.2012</b>
<b>rr 16A and 16B</b>	<b>inserted by 20/2012 r 7</b>	<b>1.7.2012</b>
r 17		
r 17(1)	substituted by 157/2012 r 4(1)	14.10.2012—not incorporated
r 17(2)		
marine rescue association	inserted by 157/2012 r 4(2)	14.10.2012—not incorporated
volunteer marine rescue member	inserted by 157/2012 r 4(3)	14.10.2012—not incorporated
volunteer SASES member	inserted by 157/2012 r 4(3)	14.10.2012—not incorporated
Pt 3		
<b>r 21</b>		
<b>injured worker</b>	<b>varied by 20/2012 r 8(1), (2)</b>	<b>1.7.2012</b>
<b>pre-injury employer</b>	<b>varied by 20/2012 r 8(3)</b>	<b>1.7.2012</b>
<b>pre-injury employment</b>	<b>varied by 20/2012 r 8(4)</b>	<b>1.7.2012</b>
<b>r 22</b>	<b>varied by 20/2012 r 9(1)—(4)</b>	<b>1.7.2012</b>
<b>r 23</b>	<b>varied by 20/2012 r 10(1)—(3)</b>	<b>1.7.2012</b>

**Pt 5**

<b>r 41</b>		
<b>r 41(2)</b>	varied by 20/2012 r 11(1), (2)	1.7.2012
<b>r 41(3)</b>		
<b>RISE scheme</b>	varied by 20/2012 r 11(3)	1.7.2012
<b>r 44</b>	varied by 20/2012 r 12	1.7.2012
<b>r 45</b>	varied by 20/2012 r 13	1.7.2012
<b>a State's legislation about damages for a work related injury</b>	<b>a State's legislation about damages for a work related disability varied to read a State's legislation about damages for a work related injury by 20/2012 r 13</b>	1.7.2012
<b>r 49</b>		
<b>r 49(2)</b>		
<b>Commonwealth workers compensation authority</b>	varied by 20/2012 r 14	1.7.2012
<b>r 49A</b>	inserted by 21/2012 r 4	1.7.2012
<b>r 50</b>		
<b>r 50(1)</b>	varied by 20/2012 r 15	1.7.2012
<b>Pt 7</b>	inserted by 20/2012 r 16	29.3.2012
<b>Sch 1</b>		
<b>cl 4</b>	varied by 20/2012 r 17(1)	1.7.2012
<b>cl 5</b>		
<b>cl 5(1)</b>	varied by 20/2012 r 17(2)—(10)	1.7.2012
<b>cl 8</b>		
<b>cl 8(2)</b>	varied by 20/2012 r 17(11), (12)	1.7.2012
<b>cl 11</b>	varied by 20/2012 r 17(13)	1.7.2012
<b>Sch 2</b>		
<b>heading</b>	varied by 20/2012 r 18	1.7.2012
<b>cl 2</b>	varied by 20/2012 r 19(1)	1.7.2012
<b>cl 7</b>	varied by 20/2012 r 19(2)	1.7.2012
<b>cl 9</b>	varied by 20/2012 r 19(3)	1.7.2012
<b>Sch 4</b>	varied by 20/2012 r 20	1.7.2012
<b>Sch 5</b>		
<b>Pt 1</b>	<i>omitted under Legislation Revision and Publication Act 2002</i>	31.8.2011

**Historical versions**

4.11.2010 (electronic only)  
11.11.2010  
31.8.2011 (electronic only)  
2.2.2012  
29.3.2012

