

South Australia

Workers Rehabilitation and Compensation (Reviews and Appeals) Regulations 1999

under the *Workers Rehabilitation and Compensation Act 1986*

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Legislative history

1—Short title

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

2—Commencement

These regulations will come into operation on 1 December 1999.

3—Revocation

The *Workers Rehabilitation and Compensation (Reviews and Appeals) s 1987* (see *Gazette 24.9.1987 p1008*), as varied, are revoked.

4—Interpretation

- (1) In these regulations, unless the contrary intention appears—

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

Chief Review Officer means a person acting with the authority of the Corporation in the position of Chief Review Officer for the purposes of proceedings to which these regulations apply;

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;

1987 regulations means the *Workers Rehabilitation and Compensation (Reviews and Appeals) s 1987*, as in force immediately before the commencement of these regulations;

Registrar means the Registrar of the Tribunal;

review authority has the meaning given by the Act immediately before 3 June 1996;

Tribunal means the Workers Compensation Appeal Tribunal.

- (2) These regulations apply to proceedings commenced under the Act before 3 June 1996.
- (3) A reference in these regulations to a section of the Act is a reference to that section as in force immediately before 3 June 1996.

5—Expenses for witnesses

For the purposes of section 91 of the Act (and subject to any contrary direction by the review authority), a witness in proceedings before a review authority is entitled to reimbursement of any expense that the review authority certifies has been, or is likely to be, reasonably incurred by the witness as a consequence of appearing before the review authority.

6—Costs on account of representation

- (1) Pursuant to section 92A of the Act, the following limits on costs are fixed in relation to proceedings before a Review Officer, and related conciliation proceedings where the proceedings take place up to and including 31 December 2000:

| Item | Limit \$ |
|--|---------------------------|
| Assistance in the preparation and lodgement of an application for review | 88 |
| Participation in the conciliation process | 110 |
| Participation in the dispute resolution/conclusion process | 88 |
| Preparation of case for a review hearing | 165 |
| Appearance before a Review Officer (to a maximum of \$363) | |
| First hour | 110 |
| Second hour | 66 |
| Third and subsequent hours | 33 |

- (1a) The limits on costs in relation to proceedings before a Review Officer, and related conciliation proceedings, that take place in the 2001 calendar year or a subsequent calendar year are to be determined by adjusting the amounts prescribed by subregulation (1) in accordance with subregulation (5).
- (2) Pursuant to section 92A of the Act, the costs awarded to a party who is represented in proceedings before the Tribunal cannot exceed 85 per cent of the costs that would have been payable on a party and party basis had the proceedings been proceedings before the Supreme Court.

- (3) If a bill of costs is ordered to be made subject to examination, or is disputed—
 - (a) if the proceedings were before a Review Officer (or relate to conciliation proceedings)—the bill of costs must be submitted to a Review Officer for examination;
 - (b) if the proceedings were before the Tribunal—the bill of costs must be submitted to the Registrar for examination.
- (4) A copy of a bill of costs submitted by a party to proceedings for examination under subregulation (3) must be served on all other parties to the proceedings.
- (5) Subject to subregulation (6), an amount prescribed by subregulation (1) will be adjusted on an annual basis so that the adjusted amount will on 1 January 2001 and on 1 January of each subsequent year be an amount (calculated to the nearest multiple of \$10) that bears to the amount prescribed by subregulation (1) the same proportion, subject to subregulation (7), as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1998.
- (6) In the application of subregulation (5) the maximum amount for appearance before a Review Officer prescribed by subregulation (1) will be taken to be \$352 and not \$363.
- (7) For the purpose of making the adjustment referred to in subregulation (5), the amount of the Consumer Price Index for the September quarter, 2000, and for the September quarter of each subsequent year will be reduced by the amount of the component of the weighted average of the Consumer Price Index for the eight Australian capital cities for the September quarter, 2000, that, in the opinion of the Australian Bureau of Statistics, is attributable to the impact of the GST.
- (8) If the Australian Bureau of Statistics has not determined and published the amount of the component referred to in subregulation (7) that is attributable to the GST by 1 January 2001, the adjustment under subregulation (5) for that year will be delayed until the amount has been published by the Bureau.

7—Reimbursement of medical costs

The cost fixed in relation to a service in a scale published in the Gazette under section 32(9) of the Act is fixed as the limit on the costs which may be reimbursed for that service under section 92A of the Act.

8—Applications for review

- (1) An application for review must be in the form set out in the First Schedule of the 1987 Regulations containing the information required by that Schedule.
- (2) An application for review—
 - (a) must be signed by the applicant, or by the applicant's representative; and
 - (b) must be delivered or posted to the office of the Review Panel.
- (3) If an application for review is received under subregulation (2), the Chief Review Officer, or an officer nominated by the Chief Review Officer, must cause notice of the application and a copy of the application (together with any accompanying documentation) to be sent to each of the following (other than the applicant):
 - (a) the Corporation;

- (b) any employer or former employer who appears to the Chief Review Officer to have a proper interest in the decision sought to be reviewed;
- (c) the worker.

9—Extensions of time

An application for an extension of time pursuant to section 95(4) of the Act—

- (a) must be in the form set out in the Fourth Schedule of the 1987 Regulations containing the information required by that Schedule; or
- (b) at the discretion of the Chief Review Officer or another Review Officer authorised by the Chief Review Officer for the purposes of section 95(4) of the Act—may be made orally.

10—Appeals

- (1) An appeal to the Tribunal must be in the form set out in the Second Schedule of the 1987 Regulations containing the information required by that Schedule.
- (2) An appeal to the Tribunal must be lodged with the Registrar.
- (3) The appellant must, within seven days of lodging the appeal, serve a copy of the appeal notice on any other person who was a party to the proceedings to which the appeal relates.

11—Special references to review officers

For the purposes of section 102 of the Act, an application by a worker must be in the form set out in the Third Schedule of the 1987 Regulations containing the information required by that Schedule.

Legislative history

Notes

- 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.

Revocation of regulations

The *Workers Rehabilitation and Compensation (Reviews and Appeals) Regulations 1999* were revoked by Sch 5 cl 6 of the *Workers Rehabilitation and Compensation Regulations 2010* on 1.11.2010.

Principal regulations and variations

| Year | No | Reference | Commencement |
|------|-----|---------------------------------|----------------|
| 1999 | 238 | <i>Gazette 25.11.1999 p2740</i> | 1.12.1999: r 2 |
| 2000 | 208 | <i>Gazette 31.8.2000 p1048</i> | 31.8.2000: r 2 |

Provisions varied

| Provision | How varied | Commencement |
|------------|--------------------------------|--------------|
| r 4 | | |
| r 4(1) | | |
| GST | inserted by 208/2000 r 3 | 31.8.2000 |
| GST law | inserted by 208/2000 r 3 | 31.8.2000 |
| r 6 | | |
| r 6(1) | varied by 208/2000 r 4(a), (b) | 31.8.2000 |
| r 6(1a) | inserted by 208/2000 r 4(c) | 31.8.2000 |
| r 6(5) | substituted by 208/2000 r 4(d) | 31.8.2000 |
| r 6(6)—(8) | inserted by 208/2000 r 4(d) | 31.8.2000 |