

South Australia

## **Workers Rehabilitation and Compensation (Employer Payments) Variation Regulations 2012**

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 (Employer Payments) Variation Regulations 2012*.

### **2—Commencement**

- (1) Subject to subregulation (2), these regulations will come into operation on 1 July 2012.
- (2) Regulation 16 will come into operation on the day on which these regulations are made.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## **Part 2—Variation of *Workers Rehabilitation and Compensation Regulations 2010***

### **4—Variation of regulation 8—Evidentiary provision (section 31 of Act)**

Regulation 8—delete "disability" wherever occurring (including in a heading) and substitute in each case:

injury

### **5—Variation of regulation 9—Registration of employers (section 59 of Act)**

- (1) Regulation 9(1)(c)—delete "calendar" and substitute:  
financial
- (2) Regulation 9(1)—delete "Division 6" and substitute:  
Division 7
- (3) Regulation 9(3)—delete "calendar" and substitute:  
financial
- (4) Regulation 9(4)—delete "a disability" and substitute:  
an injury
- (5) Regulation 9(4)—delete "compensable disability" and substitute:  
compensable injury
- (6) Regulation 9(4)—delete "the disability until" and substitute:  
the injury until
- (7) Regulation 9(4)—delete "the disability occurred" and substitute:  
the injury occurred

- (8) Regulation 9(5)(a)—delete "Division 6" and substitute:

Division 7

- (9) Regulation 9—after subregulation (5) insert:

- (6) For the purposes of subregulation (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.

### **6—Variation of regulation 11—Registration (section 62 of Act)**

- (1) Regulation 11(1)(c)(i)(C)—delete "disabled" and substitute:

injured

- (2) Regulation 11—after subregulation (3) insert:

- (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.

### **7—Substitution of regulations 13, 14 and 15**

Regulations 13, 14 and 15—delete the regulations and substitute:

#### **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 subparagraph (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*.

### **8—Variation of regulation 21—Interpretation**

- (1) Regulation 21, definition of *injured worker*—delete "a disability" and substitute:  
an injury
- (2) Regulation 21, definition of *injured worker*—delete "worker's disability" and substitute:  
worker's injury
- (3) Regulation 21, definition of *pre-injury employer*—delete "a disability" and substitute:  
an injury
- (4) Regulation 21, definition of *pre-injury employment*—delete "a disability" and substitute:  
an injury

### **9—Variation of regulation 22—Standards and requirements—Rehabilitation programs (section 28C of Act)**

- (1) Regulation 22(b)(v)—delete "disability" and substitute:  
injury
- (2) Regulation 22(b)(vi)—delete "disability" and substitute:  
injury
- (3) Regulation 22(h)—delete "disability" wherever occurring and substitute in each case:  
injury
- (4) Regulation 22(i)(A)—delete "a supplementary levy in accordance with section 67" and substitute:  
a supplementary payment in accordance with section 72C

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

- (1) Regulation 23(b)(v)—delete "disability" and substitute:  
injury
- (2) Regulation 23(b)(vi)—delete "disability" and substitute:  
injury
- (3) Regulation 23(i)(A)—delete "a supplementary levy in accordance with section 67" and substitute:  
a supplementary payment in accordance with section 72C

**11—Variation of regulation 41—Exemption from 2 weeks of payments  
(section 46 of Act)**

- (1) Regulation 41(2)(a)—delete "disability" and substitute:  
injury
- (2) Regulation 41(2)(b)—delete "disability" wherever occurring and substitute in each case:  
injury
- (3) Regulation 41(3), definition of *RISE scheme*—delete "compensable disabilities" and substitute:  
compensable injuries

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

Regulation 44—delete "disability" and substitute:  
injury

**13—Variation of regulation 45—Substantive law (section 58AE of Act)**

Regulation 45—delete "disability" wherever occurring (including in the defined term) and substitute in each case:  
injury

**14—Variation of regulation 49—Disclosure of information (section 112 of Act)**

Regulation 49(2), definition of *Commonwealth workers compensation authority*—delete "disabilities" and substitute:  
injuries

**15—Variation of regulation 50—Noise induced hearing loss (section 113 of Act)**

Regulation 50(1)—delete "disability" and substitute:  
injury

**16—Insertion of new Part**

After regulation 55 insert:

**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).

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

- (1) Schedule 1, clause 4—delete "disabilities" and substitute:  
injuries
- (2) Schedule 1, clause 5(1)(b)(xiii)—delete "disability" and substitute:  
injury
- (3) Schedule 1, clause 5(1)(b)(xvii)—delete "disability" and substitute:  
injury
- (4) Schedule 1, clause 5(1)(b)(xviii)—delete "disability" and substitute:  
injury
- (5) Schedule 1, clause 5(1)(b)(xix)—delete "disability" and substitute:  
injury
- (6) Schedule 1, clause 5(1)(b)(xx)—delete "disability" and substitute:  
injury
- (7) Schedule 1, clause 5(1)(b)(xxi)—delete "disability" and substitute:  
injury
- (8) Schedule 1, clause 5(1)(b)(xxii)—delete "disability" and substitute:  
injury
- (9) Schedule 1, clause 5(1)(b)(xxiii)—delete "disability" and substitute:  
injury
- (10) Schedule 1, clause 5(1)(b)(xxvi)—delete "disability" wherever occurring and substitute in each case:  
injury
- (11) Schedule 1, clause 8(2)(a)(i)—delete "disabilities" and substitute:  
injuries
- (12) Schedule 1, clause 8(2)(a)(ii)—delete "disabilities" and substitute:  
injuries

- (13) Schedule 1, clause 11(b)—delete "disability" and substitute:

injury

**18—Variation of Schedule 2 heading**

Schedule 2, heading—after "employers" insert:

**(section 105 of Act)**

**19—Variation of Schedule 2**

- (1) Schedule 2, clause 2—delete "disability" wherever occurring and substitute in each case:

injury

- (2) Schedule 2, clause 7(d)—delete "disability" and substitute:

injury

- (3) Schedule 2, clause 9—delete "disability" wherever occurring and substitute in each case:

injury

**20—Variation of Schedule 4**

Schedule 4—delete "disabilities" wherever occurring and substitute in each case:

injuries

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 29 March 2012

No 20 of 2012

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