

(Reprint No. 9)

South Australia

**WORKERS REHABILITATION AND COMPENSATION (CLAIMS AND
REGISTRATION) REGULATIONS 1999**

These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at 26 September 2002.

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

**REGULATIONS UNDER THE WORKERS
REHABILITATION AND COMPENSATION ACT 1986**

**WORKERS REHABILITATION AND COMPENSATION (CLAIMS AND
REGISTRATION) REGULATIONS 1999**

being

No. 241 of 1999: *Gaz.* 25 November 1999, p. 2764¹

as varied by

No. 5 of 2000: *Gaz.* 27 January 2000, p. 521²

No. 20 of 2000: *Gaz.* 16 March 2000, p. 1474³

No. 27 of 2000: *Gaz.* 13 April 2000, p. 2170⁴

No. 30 of 2000: *Gaz.* 28 April 2000, p. 2357⁵

No. 34 of 2000: *Gaz.* 4 May 2000, p. 2445⁶

No. 124 of 2000: *Gaz.* 1 June 2000, p. 3017⁷

No. 230 of 2000: *Gaz.* 7 September 2000, p. 1772⁸

No. 254 of 2000: *Gaz.* 26 October 2000, p. 2827⁹

No. 268 of 2000: *Gaz.* 23 November 2000, p. 3326¹⁰

No. 183 of 2002: *Gaz.* 26 September 2002, p. 3538¹¹

¹ Came into operation 1 December 1999: reg. 2.

² Came into operation 27 January 2000: reg. 2.

³ Came into operation 16 March 2000: reg. 2.

⁴ Came into operation 13 April 2000: reg. 2.

⁵ Came into operation 1 May 2000: reg. 2.

⁶ Came into operation 4 May 2000: reg. 2.

⁷ Came into operation 1 June 2000: reg. 2.

⁸ Came into operation 7 September 2000: reg. 2.

⁹ Came into operation 26 October 2000: reg. 2.

¹⁰ Came into operation 1 January 2001: reg. 2.

¹¹ **Came into operation 26 September 2002: reg. 2.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the regulations see Appendix.

SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Revocation
4. Interpretation
5. Legislative definitions
6. Evidentiary provision
7. Claims for compensation
8. Registration of employers
9. Exempt employers
10. Agencies of the Crown
11. Registration
12. Special provisions relating to exempt employers
13. Remission of levy
14. Minimum levy
15. Returns by employers
16. Penalty for late payment of levy
17. Volunteers
18. Insurance for employers against liabilities apart from the Act
19. Expiration of certain offences
20. Interest payable under transitional provisions
21. Transitional provision

SCHEDULE 1

SCHEDULE 2

Employer Report Form

SCHEDULE 3

SCHEDULE 4

Exempt Employers

Terms and Conditions of Registration

SCHEDULE 5

Section 105—Insurance of Employers

Terms and Conditions

SCHEDULE 6

Section 61—Agencies and Instrumentalities of the Crown

APPENDIX LEGISLATIVE HISTORY

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

Citation

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

Commencement

2. These regulations will come into operation on 1 December 1999.

Revocation

3. The *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1987* (see *Gazette* 6 August 1987 p. 379), as varied, are revoked.

Interpretation

4. In these regulations, unless the contrary intention appears—

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

"**award**" means an award under the *Industrial and Employee Relations Act 1994* or the *Workplace Relations Act 1996* of the Commonwealth;

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

"**C.F.S.**" means the Country Fire Service;

"**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);

"**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;

"**industrial agreement**" means—

- (a) an enterprise agreement within the meaning of the *Industrial and Employee Relations Act 1994*; or
- (b) a certified agreement or Australian Workplace agreement within the meaning of the *Workplace Relations Act 1996* of the Commonwealth;

"**outworker**" has the meaning given by the *Industrial and Employee Relations Act 1994*;

"**prime bank rate**", for a particular financial year, means the average of the 12 months fixed-rate personal home loan rate and the fixed-rate unsecured personal loan rate, as fixed by the National Australian Bank Limited at the commencement of that financial year (expressed as a percentage per annum to two decimal places);

"**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.

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 5

Legislative definitions

5. (1) For the purposes of the definition of "**contract of service**" in section 3(1) of the Act (but subject to this regulation), 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 one 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 per cent 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 one 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—
 - (A) in 1999—\$12 000;
 - (B) in a subsequent year—an amount (calculated to the nearest multiple of \$100) that bears to \$12 000 the same proportion 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;
- (b) cleaning work, where—
 - (i) the work is performed by one 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

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

- (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 one month—\$25;
 - if the term of the contract, arrangement or understanding is more than one 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 one month—\$50;
 - if the term of the contract, arrangement or understanding is more than one 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 one 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 one 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

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 7

- (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 one vehicle for work purposes and where—
 - (i) the work is performed by one 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 one 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.
- (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.

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

(3) If—

- (a) a licensed gas fitter is engaged by Boral Energy Limited to perform building work; and
- (b) the licensed gas fitter supplies materials for the purposes of that work,

that work is not included in the classes of work prescribed by subregulation (1).

(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 subregulation (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) 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; or
- (b) a priest or other member of a religious order ministering within the Catholic Church of South Australia; or
- (c) a pastor ministering within the Lutheran Church of Australia South Australia District Inc.; or
- (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; or
- (e) an officer of The Salvation Army appointed in South Australia under the orders and regulations for officers of The Salvation Army.

(7) The work of a Review Officer appointed under the Act is prescribed work for the purposes of the definition of "**contract of service**" in section 3(1) of the Act (and, for the purposes of the application of the Act to such a Review Officer as a worker, the Crown will be taken to be his or her employer).

(8) 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) control boards established under the *Animal and Plant Control (Agricultural and Other Purposes) Act 1986*;

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 9

- (d) the Local Government Finance Authority of South Australia established under the *Local Government Finance Authority Act 1983*;
- (e) the Local Government Superannuation Board continued under the *Local Government Act 1999*;
- (f) Local Government Training Authority (S.A.) Incorporated;
- (g) Council Purchasing Authority Pty. Limited;
- (h) Maxima Training Group Inc.

(9) For the purposes of the definition of "**prescribed allowance**" in section 3(1) of the Act, any contribution to a superannuation scheme paid or payable by an employer on behalf of or for the benefit of a worker is prescribed as being within this definition.

(10) 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.

(11) Pursuant to section 3(7) of the Act, but subject to subregulation (11), 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.

(12) Subregulation (11) does not apply to—

- (a) a person authorised or permitted under the *Racing Act 1976* to ride or drive in a race as defined in that Act; or
- (b) a boxer or wrestler employed or engaged for a fee to take part in a boxing or wrestling match.

(13) 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 this 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.

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

(14) For the purposes of subregulation (13), 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.

(15) 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.

Evidentiary provision

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

Description of Disability	Type of work
Mesothelioma	Any work involving exposure to inhalation of asbestos fibres

Claims for compensation

7. (1) For the purposes of section 52(1)(c) of the Act, the form of a certificate by a recognised medical expert that must support a claim for compensation is the form set out in schedule 1 completed in accordance with the instructions contained in that schedule.

(2) For the purposes of section 52(5)(b) of the Act, the statement required to be forwarded to the Corporation with a copy of a claim for compensation must be in the form set out in schedule 2—

- (a) completed in accordance with the instructions contained in that schedule; and
- (b) containing the information required by that schedule.

(3) A form referred to in subregulation (1) or (2) may be provided in electronic form according to a determination made by the Corporation and published in the *Gazette*.

Registration of employers

8. (1) If—

- (a) a person (the employer) employs one 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 does not exceed—
 - (i) in 1999—\$7 800;

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 11

- (ii) in a subsequent year—an amount (calculated to the nearest multiple of \$100) that bears to \$7 800 the same proportion 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,

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 furnished to the Corporation under section 69 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.

Exempt employers

9. For the purposes of section 60(2) of the Act, the prescribed number of workers to be employed by an individual employer or a group of employers making an application for registration as an exempt employer or group of exempt employers is 200.

Agencies of the Crown

10. (1) Pursuant to section 61(4) of the Act, the bodies listed in schedule 6 are prescribed for the purposes of the definition of "**agency or instrumentality of the Crown**" under section 61 of the Act.

(2) Subregulation (1) has effect in relation to a body listed in Part 2 of schedule 6 only for the period specified in the entry listing the body.

Registration

11. (1) For the purposes of section 62 of the Act—

- (a) an application for registration under Part 5 of the Act; or
- (b) an application to amend any registration details; or
- (c) an application to provide additional location details to the Corporation,

must be in a form set out in schedule 3—

- (d) completed in accordance with the instructions contained in that schedule; and
- (e) containing, or accompanied by, the information required by that schedule.

(2) A form referred to in subregulation (1) may be provided in electronic form according to a determination made by the Corporation and published in the *Gazette*.

(3) Pursuant to section 62(2) of the Act, a fee of \$5 000 plus \$5 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 an exempt employer, or group of exempt employers.

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

(4) 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 (3);
 - (ii) in any other case—there will be a proportionate reduction in the fee that is otherwise payable under subregulation (3) 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 two months before the date of application, ceased to be an exempt employer by virtue of a proclamation under section 61(2) of the Act then no fee is payable under subregulation (3); and
- (c) the maximum fee payable under subregulation (3) is \$20 000.

(5) Pursuant to section 62(2) of the Act, a fee not exceeding \$4 000 determined by the Corporation is fixed as the fee that must accompany an application for registration as a self managed employer, or group of self managed employers.

Special provisions relating to exempt employers

12. (1) The registration of an employer as an exempt employer (or as one of a group of exempt employers) is subject to the terms and conditions prescribed in schedule 4.

(2) For the purposes of subsection (4) of section 50 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 clause 10 of schedule 4; and
- (b) the principle that a scaling factor equal to the scaling factor that applies under clause 10(2)(a) of schedule 4 should be applied to any actuarial determination of the value of liabilities,

are prescribed for estimating and capitalising liabilities under that section.

Remission of levy

13. Pursuant to subsection (12) of section 66 of the Act, the following are prescribed as circumstances where the Corporation may remit the levy payable by an employer under that section:

- (a) if the employer, with the approval of the Corporation, makes a payment of levy in advance on the basis of estimates of the annual levy that would be payable by the employer under the Act; or
- (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 disabilities in the employment of the employer; or

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 13

- (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 the levy.

Minimum levy

14. Pursuant to section 66(13) of the Act, the prescribed minimum levy is \$50.

Returns by employers

15. (1) For the purposes of section 69(1) of the Act, if a return is the first return furnished to the Corporation after the end of a financial year, the employer must, in relation to each class of industry in which the employer employs workers, include the following information—

- (a) the aggregate remuneration paid to the employer's workers in that industry during that financial year;
- (b) an estimate of the aggregate remuneration that the employer expects to pay to the employer's workers in that industry during the ensuing financial year.

(2) For the purposes of section 69(3) of the Act, if the Corporation requires that a person with accounting qualifications verify the information contained in a return, that person must be—

- (a) a registered company auditor; or
- (b) a member of The Institute of Chartered Accountants in Australia; or
- (c) a member of the Australian Society of Accountants.

Penalty for late payment of levy

16. For the purposes of section 71(1) of the Act, the rate of penalty interest on an amount in arrears is 5 per cent per annum plus the prime bank rate for the financial year in which the notice of an amount in arrears is given.

Volunteers

17. (1) In this regulation—

"volunteer fire-fighter" means—

- (a) a member of the C.F.S.; or
- (b) a fire control officer under the *Country Fires Act 1989*; or
- (c) a person who, at the request or with the approval of a person who is apparently in command pursuant to the *Country Fires Act 1989*, at the scene of a fire or other emergency, assist in fire-fighting or dealing with the emergency,

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

(2) 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—
- preventing, controlling or extinguishing a fire;

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

- dealing with any other emergency that requires the C.F.S. to act to protect life or property;
- (ii) attending in response to a call for assistance by the C.F.S.;
- (iii) attending a C.F.S. meeting, competition, training exercise or other organised activity;
- (iv) carrying out any other function or duty under the *Country Fires Act 1989*.

Insurance for employers against liabilities apart from the Act

18. 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 5.

Expiation of certain offences

19. (1) Pursuant to section 122A of the Act, the following amounts are fixed as expiation fees in respect of offences against the following sections:

SECTION	EXPIATION FEE
Section 59—Failing to register as an employer within the time allowed under that section	(a) \$360 indexed; 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.
Section 69(5) in respect of the offence of failing to furnish an Annual Declaration within the time required under section 69	\$120 indexed

(2) For the purposes of this regulation, a fee under subregulation (1) that is expressed to be indexed will be adjusted on an annual basis (according to calendar years) beginning on 1 January 2000 so that the fee payable in respect of an offence committed on or after that date will be an amount (calculated to the nearest multiple of \$10) that bears to the relevant fee prescribed by subregulation (1) the same proportion as the Consumer Price Index for the September quarter of the year immediately preceding the year of the offence bears to the Consumer Price Index for the September quarter, 1998.

(3) In this regulation—

"**Annual Declaration**" means a return containing the information required by regulation 15 that must be furnished by an employer to the Corporation after the end of each financial year;

"**remuneration**" has the same meaning as under Division 4 of Part 5 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).

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 15

Interest payable under transitional provisions

20. (1) For the purposes of clause 2(4) of schedule 1 to the Act, the rate of interest will be the prime bank rate for the financial year in which the employer receives notification of a payment under that clause.

(2) For the purposes of clause 2(11) of schedule 1 to the Act, the rate of interest will be the prime bank rate for the financial year in which the amount in respect of which interest is payable is paid to the Corporation.

Transitional provision

21. Despite regulations 3 and 7, a certificate in the form prescribed by schedule 1 of the *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1987* before revocation of those regulations by these regulations may continue to be used for the purposes of the Act after the commencement of these regulations.

(Reprint No. 9)

SCHEDULE 1

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

SCHEDULE 1

SCHEDULE 2

(Reprint No. 9)

SCHEDULE 3

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

SCHEDULE 3

PART 1

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 19

PART 2

**ADDITIONAL INFORMATION THAT MUST ACCOMPANY AN APPLICATION
FOR REGISTRATION AS AN EXEMPT EMPLOYER OR GROUP OF
EXEMPT EMPLOYERS**

Financial information

1. The applicant must provide—

- (a) a copy of the audited financial statements of the applicant for the last five financial years immediately preceding the application;
- (b) 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 an exempt employer;
- (c) details of the financial guarantee or other security arrangements, and the contract of insurance, that the applicant would obtain for the purposes of schedule 4 if the applicant were registered as an exempt employer.

Claims administration

2. The applicant must provide a detailed plan of the arrangements that the applicant would implement to administer claims under the Act, which must 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 disabled workers; and
- (d) the arrangements that would be implemented for the making of claims under the Act,

and a copy of any form that the applicant would require a claimant to complete must accompany the plan.

Claims record

3. The applicant must, in relation to the period of five financial years immediately preceding the application, provide details of—

- (a) the disabilities arising from employment that the applicant's workers have suffered over that period, identifying those disabilities according to—
 - (i) nature and severity; and
 - (ii) cause; and
- (b) the rehabilitation programs that the applicant has provided over that period for disabled workers; and
- (c) the success that the applicant has achieved over that period in returning workers who have suffered disabilities to work.

Safety policies

4. The applicant must provide—

- (a) a copy of any safety policy that has been adopted by the applicant;
- (b) details of any programs that the applicant has implemented, or proposes to implement, to train workers in safe working procedures;
- (c) details of the facilities and arrangements that the applicant has for providing first aid to workers;

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

- (d) 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 six months immediately preceding the application.

Details of registered associations

5. The applicant must provide the name of any registered association of which any worker employed by the applicant is a member.

PART 3

**ADDITIONAL INFORMATION THAT MUST ACCOMPANY AN APPLICATION FOR
REGISTRATION AS A SELF MANAGED EMPLOYER OR GROUP OF
SELF MANAGED EMPLOYERS**

1. The applicant must provide details of the corporate structure of the applicant (being either an employer or a group of employers) sufficient to enable the Corporation to satisfy itself about the corporate relationships within the applicant (or the group).
2. The applicant must provide a detailed plan of the arrangements that the applicant would implement to administer claims under the Act, which must 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 and procedures that would be adopted for the rehabilitation of disabled workers; and
 - (d) the arrangements that would be implemented for the making of claims under the Act,and, if the applicant proposes that claimants would be required to complete any form that would be additional to the forms required under the Act, a copy of any such additional form must accompany the plan.
3. The applicant must provide the name of any registered association of which any worker employed by the applicant is a member or, if the applicant is unaware of any of its workers being members of a registered association, the applicant must provide the name of any registered association which would normally be expected to represent the industrial interests of workers employed in the type of work undertaken by the applicant.

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 21

SCHEDULE 4

Exempt 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. (1) The employer must ensure that a prompt assessment is made of whether a rehabilitation program would be of assistance to a worker who has suffered a compensable disability and, if required, ensure that an appropriate rehabilitation program is provided for the worker.

(2) If the Corporation considers that an appropriate rehabilitation program is not being provided to a worker who has suffered a compensable disability, the employer must—

(a) allow the Corporation to establish a rehabilitation program for the worker; and

(b) reasonably co-operate with any rehabilitation adviser in the implementation of that program.

5. 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 disabilities are established and maintained at places where the employer's workers work.

6. The employer must, as soon as practicable after the receipt of a claim under the Act, estimate the employer's expected liability on the claim.

7. (1) In this clause—

"**reporting period**" means a period of seven days or such longer period, not exceeding 14 days, agreed between the Corporation and the relevant employer from time to time.

(2) The employer must, in respect of each reporting period, provide the following information to the Corporation:

(a) Employer details:

(i) the name of the employer;

(ii) the name used by the employer at the location to which the report relates;

(iii) the Employer Registration Number;

(iv) the relevant Location Number;

(v) 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;

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

- (vii) whether the worker is employed on a full time or part time basis by the employer;
 - (viii) whether the worker is employed on a permanent or casual basis by the employer;
 - (ix) the occupation of the worker at the time of the disability (including, if the worker is an apprentice, making specific reference to that fact);
 - (x) the main tasks usually performed by the worker in the stated occupation;
 - (xi) the normal hours, and days per week, worked by the worker;
 - (xii) the date on which the worker commenced employment with the employer;
 - (xiii) the activity being undertaken by the worker at the time of the occurrence of the disability;
 - (xiv) the date of the occurrence of the disability;
 - (xv) the time of day at which the disability occurred (so far as is known to the employer);
 - (xvi) the date on which the employer was first notified of the disability;
 - (xvii) the apparent cause of the disability;
 - (xviii) a description of the disability;
 - (xix) a statement as to the parts of the worker's body affected by the disability;
 - (xx) the date on which the worker ceased work (if incapacitated for work);
 - (xxi) if relevant, the date of death of the worker;
 - (xxii) an estimate of the costs associated with the claim;
 - (xxiii) the date on which the occurrence of the disability, or the incident that caused the disability, was reported to the Department for Administrative and Information Services (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 (e.g., accepted, rejected, undetermined, finalised, reopened);
 - (iv) the total time lost from work by the worker during the relevant period (if any);
 - (v) a date for the resumption of work (if known), and whether on normal or alternative duties;
- (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 and other health-care expenses (other than hospital expenses);
 - (iii) hospital expenses;
 - (iv) rehabilitation;
 - (v) lump sum payments for non-economic loss;
 - (vi) payments made under a liability at common law;
 - (vii) redemption payments under section 42 of the Act;

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 23

- (viii) payments for loss of future earning capacity under section 42A of the Act (including relevant start and end dates);
 - (ix) commutation payments under section 44 of the Act;
 - (x) legal costs;
 - (xi) investigative costs;
 - (xii) travel costs;
 - (xiii) other costs;
 - (xiv) amounts recovered from third parties;
- (e) Other information reasonably required by the Corporation.

(3) For the purposes of subregulation (2)—

- (a) the information must be provided in a manner and form (including by electronic means), and at a time, determined by the Corporation;
- (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 subregulation, either for an individual exempt employer or for exempt employers of a specified class, subject to conditions (if any) determined by the Corporation;
 - (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.

8. (1) The employer must deliver to the Corporation—

- (a) within the prescribed period after the end of each financial year of the employer—an audited copy of the employer's financial statements for that financial year; and
- (b) within three months after the end of each financial year of the employer—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 thirtieth day of June.

(3) In this clause—

"prescribed period" means—

- (a) in relation to an employer that is a company incorporated under the *Corporations Law*—the period within which the company must lodge an annual return with the Australian Securities and Investments Commission under that law for the relevant financial year; or
- (b) if paragraph (a) does not apply—three months.

9. (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 an exempt 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.

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

(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.

10. (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 an exempt 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 1.5 should be applied to—
 - 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 disabilities); plus
 - an actuarial estimate of the value of the liabilities of the employer as an exempt employer under the Act in respect of compensable disabilities attributable to traumas expected to arise from employment by the employer over the ensuing period of 12 months; less
 - 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 corporations.

(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 an exempt 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, 1999—\$520 000;
- (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 \$520 000 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, 1998;

"related corporations" has the same meaning as in section 60(9) of the Act.

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 25

11. 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 one event or series of events during the period of the contract.

12. In relation to an employer that is a company incorporated under the *Corporations Law*—

- (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 five 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.

13. The employer must ensure that all documentation that relates to a claim against the employer under the Act is retained for at least six years after the claim is finalised.

14. (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.

15. This schedule applies to—

- (a) exempt employers who are registered under section 60 of the Act; and
- (b) exempt employers who are deemed to be registered under the Act by virtue of schedule 1 to the Act.

SCHEDULE 5

*Section 105—Insurance of Employers
Terms and Conditions*

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 disability that is likely to give rise to a claim against the employer, the employer must, within five business days, forward to the Corporation written notice of the disability.

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;

(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;

(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;

(b) conduct and defend any proceedings, and, if appropriate, admit liability, in the name of, and on behalf of, the employer;

(c) settle any claim or proceedings against the employer;

(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 disability.

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 disability 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 disability (and may, if it is appropriate, exercise a right of contribution against any other insurer).

Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1999 27

SCHEDULE 6

Section 61—Agencies and Instrumentalities of the Crown

PART 1

**BODIES PERMANENTLY PRESCRIBED AS AGENCIES OR INSTRUMENTALITIES
OF THE CROWN**

Aboriginal Health Council.
Adelaide Central Community Health Centre.
Adelaide Convention Centre.
Balaklava and Riverton Districts Health Service Inc.
Barossa Area Health Services Inc.
Booleroo Centre District Hospital Inc.
Bordertown Memorial Hospital Inc.
Burra Clare Snowtown Health Service.
Ceduna Hospital Inc.
Ceduna-Koonibba Aboriginal Health Service Inc.
Central Eyre Peninsula Hospital Inc.
Child and Youth Health.
Cleve District Health and Aged Care Inc.
Cooper Pedy Hospital Inc.
Cowell Community Health and Aged Care Inc.
Crystal Brook District Hospital Inc.
Cummins and District Memorial Hospital Inc.
Drug & Alcohol Services Council.
Elliston Hospital Inc.
Eudunda and Kapunda Health Service Inc.
Eyre Regional Health Service Inc.
Fire Equipment Services.
Flinders Medical Centre Inc.
Frontier Services.
Funds SA.
Gawler Health Service Inc.
Gladstone and District Community Health and Welfare Centre.
Hawker Memorial Hospital Inc.
Hills Mallee Southern Regional Health Service.
Homestart Finance
Independent Living Centre.
Institute of Medical and Veterinary Services.
Intellectual Disability Services Council.
Julia Farr Centre.
Kangaroo Island Health Service.
Karoonda & District Soldiers' Memorial Hospital Inc.
Kimba District Hospital Inc.
Kingston Soldiers' Memorial Hospital Inc.
Lameroo District Health Services Inc.
Laura & Districts Hospital Inc.
Leigh Creek South Hospital Inc.
Loxton Hospital Complex Inc.
Meningie & Districts Memorial Hospital and Health Service Inc.
Mid-North Regional Health Service Inc.
Mid-West Health & Aged Care Inc.
Millicent & District Hospital and Health Service Inc.
Minda Inc.
Modbury Hospital Inc.
Motor Accident Commission.
Mt Barker District Soldiers' Memorial Hospital Inc.
Mt Gambier and Districts Health Services Inc.
Naracoorte Hospital & Health Service Inc.
Noarlunga Health Services Incorporated.
North West Adelaide Health Service.
North West Health Services QEH Campus.
Northern Adelaide and Barossa CWMB.
Northern Adelaide Hills Health Service Inc.
Northern and Far Western Regional Health Service Inc.
Northern Metropolitan Community Service.

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

Northern Yorke Peninsula Regional Health Service Inc.
Office of Catchment Water Management Board.
Onkaparinga CWMB.
Ororoo and District Health Service Inc.
Penola War Memorial Hospital Inc.
Peterborough Soldiers' Memorial Hospital and Health Service Inc.
Pika Wiya Health Service Inc.
Pinnaroo Soldiers' Memorial Hospital Inc.
Planning SA.
Playford Centre.
Port Augusta Hospital and Regional Health Services Inc.
Port Broughton District Hospital and Health Service Inc.
Port Lincoln Health Services Inc.
Port Pirie Regional Health Service Inc.
Quorn & District Memorial Hospital Inc.
Racing Industry Development Authority.
Renmark Paringa District Hospital Inc.
Repatriation General Hospital Inc.
Riverland Health Authority.
Riverland Regional Health Service Inc.
River Murray CWMB
Royal Society for the Blind of SA Inc.
Royal District Nursing Society of SA Inc.
Royal Adelaide Hospital Inc.
S.A. Dental Service.
S.A. Ambulance Service
South Coast District Hospital Inc.
South East CWMB.
South East Regional Health Service Inc.
Southern Domiciliary Care & Rehabilitation Service.
Southern Yorke Peninsula Health Service.
St Margaret's Hospital Inc.
Strathalbyn & District Soldiers' Memorial Hospital and Health Service.
Streaky Bay Hospital Inc.
Taillem Bend District Hospital.
The Jamestown Hospital and Health Service Inc.
The Mannum District Hospital Inc.
The Murray Bridge Soldiers' Memorial Hospital Inc.
The Whyalla Hospital & Health Service Inc.
Tumby Bay Hospital and Health Service Inc.
Waikerie Hospital and Health Services Inc.
Wakefield Regional Health Service.
Women's & Children's Hospital.

**PART 2
BODIES TEMPORARILY PRESCRIBED AS AGENCIES OR INSTRUMENTALITIES
OF THE CROWN**

<i>Bodies prescribed as agency or instrumentality of the Crown</i>	<i>Period for which regulation prescribing body has effect</i>
Utilities Management Pty Ltd (ACN 090 664 878)	28 January 2000 to 28 January 2001
Power Traders Pty Ltd (ACN 091 105 092)	28 January 2000 to 28 January 2001
TXU (No. 4) Pty Ltd (ACN 081 074 197)	6 June 2000 to 6 June 2001
NRG Flinders Operating Services Pty Ltd (ACN 094 130 837)	8 September 2000 to 8 September 2001
Bluemint Pty Ltd (ACN 094 482 416)	31 October 2000 to 31 October 2001

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Regulation 5(8):	substituted by 183, 2002, reg. 3
Regulation 10:	redesignated as reg. 10(1) by 5, 2000, reg. 3
Regulation 10(2):	inserted by 5, 2000, reg. 3
Regulation 11(1):	varied by 27, 2000, reg. 3(a)
Regulation 11(5):	inserted by 27, 2000, reg. 3(b)
Regulation 12:	redesignated as reg. 12(1) by 20, 2000, reg. 3
Regulation 12(2):	inserted by 20, 2000, reg. 3
Regulation 13:	varied by 34, 2000, reg. 3
Schedule 2:	substituted by 268, 2000, reg. 3
Schedule 3	
Part 1:	substituted by 30, 2000, reg. 3
Part 3:	inserted by 27, 2000, reg. 4
Schedule 6	
Part 1 heading:	inserted by 5, 2000, reg. 4(a)
Part 2 heading:	inserted by 5, 2000, reg. 4(b)
Part 2:	inserted by 5, 2000, reg. 4(b); varied by 124, 2000, reg. 3; 230, 2000, reg. 3; 254, 2000, reg. 3