

(Reprint No. 7)

SOUTH AUSTRALIA

**WORKERS REHABILITATION AND COMPENSATION (CLAIMS AND
REGISTRATION) REGULATIONS 1987**

These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at 1 July 1999.

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REGULATIONS UNDER THE WORKERS REHABILITATION AND COMPENSATION ACT 1986

WORKERS REHABILITATION AND COMPENSATION (CLAIMS AND REGISTRATION) REGULATIONS 1987

being

No. 179 of 1987: *Gaz.* 6 August 1987, p. 379¹

as varied by

No. 271 of 1987: *Gaz.* 12 November 1987, p. 1598²

No. 216 of 1988: *Gaz.* 6 October 1988, p. 1249³

No. 168 of 1989: *Gaz.* 31 August 1989, p. 761⁴

No. 68 of 1990: *Gaz.* 24 May 1990, p. 1438⁵

No. 230 of 1990: *Gaz.* 29 November 1990, p. 1641

No. 263 of 1990: *Gaz.* 20 December 1990, p. 1915

No. 2 of 1991: *Gaz.* 17 January 1991, p. 191

No. 46 of 1991: *Gaz.* 24 April 1991, p. 1390

No. 85 of 1991: *Gaz.* 27 June 1991, p. 2064

No. 158 of 1991: *Gaz.* 11 July 1991, p. 249

No. 159 of 1991: *Gaz.* 11 July 1991, p. 250

No. 232 of 1991: *Gaz.* 14 November 1991, p. 1292

No. 32 of 1992: *Gaz.* 26 March 1992, p. 930⁶

No. 125 of 1992: *Gaz.* 25 June 1992, p. 1978⁷

No. 126 of 1992: *Gaz.* 25 June 1992, p. 1980⁸

No. 162 of 1992: *Gaz.* 16 July 1992, p. 625

No. 193 of 1992: *Gaz.* 1 October 1992, p. 1264⁹

No. 146 of 1993: *Gaz.* 24 June 1993, p. 2112¹⁰

No. 177 of 1993: *Gaz.* 22 July 1993, p. 645¹¹

No. 253 of 1993: *Gaz.* 4 November 1993, p. 2195¹²

No. 31 of 1994: *Gaz.* 26 May 1994, p. 1301¹³

No. 106 of 1994: *Gaz.* 30 June 1994, p. 1955¹⁴

No. 112 of 1994: *Gaz.* 7 July 1994, p. 37¹⁵

No. 116 of 1994: *Gaz.* 14 July 1994, p. 102¹⁶

No. 25 of 1995: *Gaz.* 23 March 1995, p. 1007¹⁷

No. 232 of 1995: *Gaz.* 21 December 1995, p. 1791¹⁸

No. 36 of 1996: *Gaz.* 14 March 1996, p. 1647¹⁹

No. 41 of 1996: *Gaz.* 28 March 1996, p. 1816²⁰

No. 175 of 1996: *Gaz.* 25 July 1996, p. 201²¹

No. 143 of 1999: *Gaz.* 1 July 1999, p. 55²²

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.

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- ¹ Came into operation at 4 p.m. on 30 September 1987: reg. 2.
- ² Came into operation (except regs. 4 and 5) 12 November 1987: reg. 2(1); regs. 4 and 5 came into operation 23 November 1987: reg. 2(2).
- ³ Came into operation 17 October 1988: reg. 2.
- ⁴ Came into operation 18 September 1989: reg. 2.
- ⁵ Came into operation 1 June 1990: reg. 2.
- ⁶ Came into operation 1 April 1992: reg. 2.
- ⁷ Came into operation 1 July 1992: reg. 2.
- ⁸ Came into operation 1 July 1992: reg. 2.
- ⁹ Came into operation 1 October 1992: reg. 2.
- ¹⁰ Came into operation 1 July 1993: reg. 2.
- ¹¹ Came into operation 1 July 1993: reg. 2.
- ¹² Came into operation 4 November 1993: reg. 2.
- ¹³ Came into operation 26 September 1994: reg. 2.
- ¹⁴ Came into operation 1 July 1994: reg. 2.
- ¹⁵ Came into operation 7 July 1994: reg. 2.
- ¹⁶ Came into operation 14 July 1994: reg. 2.
- ¹⁷ Came into operation 23 March 1995: reg. 2.
- ¹⁸ Came into operation 1 January 1996: reg. 2.
- ¹⁹ Came into operation 14 March 1996: reg. 2.
- ²⁰ Came into operation 1 April 1996: reg. 2.
- ²¹ Came into operation 25 July 1996: reg. 2.
- ²² **Came into operation 1 July 1999: reg. 2.**

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Citation

1. These regulations may be cited as the *Workers Rehabilitation and Compensation (Claims and Registration) Regulations 1987*.

Commencement

2. These regulations will come into operation at 4 p.m. on 30 September, 1987.

Interpretation

3. In these regulations—

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

"**award**" means—

- (a) an award or order of the Industrial Commission; or
- (b) an award of a conciliation committee; or
- (c) an award or order of the Australian Industrial Relations Commission;

"**building work**" has the same meaning as in *Builders Licensing Act 1986*;

"**cleaning work**" means the work of cleaning any building or a part of a building (including the windows of the building and the surrounds of the 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 industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1972*; or
- (b) a certified agreement within the meaning of the *Industrial Relations Act 1988* of the Commonwealth;

"**outworker**" means an outworker as defined in the *Industrial Conciliation and Arbitration Act 1972*;

"**prime bank rate**", for a particular financial year, means the rate (expressed as a percentage per annum) fixed by the State Bank of South Australia at the commencement of that financial year as its indicator lending rate;

"**wall or floor tiling**" means any work performed within the wall and floor tiling trade, as prescribed under the *Builders Licensing Act 1986*.

Legislative definitions

4. (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:

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- (a) building work, other than wall or floor tiling;
- (b) cleaning work;
- (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;
- (ca) 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;
- (cb) 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;
- (d) 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—

- (e) 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
- (f) the work is performed personally by the worker (whether or not the worker supplies any tools, plant or equipment); and
- (g) the worker does not employ any other person to carry out any part of the work; and
- (h) (i) in the case of building work—
 - the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed—
 - 4 per cent of the total amount payable, or reasonably expected to be payable, under or pursuant to the contract, arrangement or understanding; or
 - \$50,whichever is the greater; and

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- 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—
 - in 1991—\$10 000;
 - in a subsequent year—an amount (calculated to the nearest multiple of \$100) that bears to \$10 000 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, 1990;
- (ia) in the case of cleaning work (other than window cleaning)—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;
- (ib) in the case of window cleaning—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;
- (ii) in any other case—the value of any materials supplied, or reasonably expected to be supplied, by the worker does not exceed \$50; and
- (i) in the case of work referred to in paragraph (cb)—the goods or materials are not owned (and have not been previously owned) by the driver or rider (as the case may be), or by the employer.
- (1aa) For the purposes of subregulation (1)(h)(i)—
 - (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.
- (1a) Where—
 - (a) a licensed gas fitter is engaged by the South Australian Gas Company to perform building work; and

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- (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).

(1b) Subject to subregulation (1ba), 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.

(1ba) 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.

(1c) Where—

- (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.

(1d) 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).

(2) For the purposes of the definition of "**local government corporation**" in section 3(1) of the Act, all controlling authorities constituted under the *Local Government Act 1934*, are prescribed as being within this definition.

(2a) 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.

(3) 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.

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(4) Pursuant to section 3(7) of the Act, but subject to subregulation (5), 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.

(5) Subregulation (4) 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.

(6) 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.

(7) For the purposes of subregulation (6), 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.

(8) 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

4A. Pursuant to section 31(2) of the Act, the operation of section 31(1) 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

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Claims for compensation

5. (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.

Registration of employers

6. (1) Where—

- (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 1991—\$6 600;
 - (ii) in a subsequent year—an amount (calculated to the nearest multiple of \$100) that bears to \$6 600 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, 1990,

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

7. 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

7A. (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) Forwood Products Pty Ltd is prescribed for the purposes of the definition of "**agency or instrumentality of the Crown**" under section 61 of the Act.

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(3) Subregulation (2) will cease to have effect on 31 March 1995.

(4) Bank of South Australia Limited is prescribed for the purposes of the definition of "**agency or instrumentality of the Crown**" under section 61 of the Act.

(5) Subregulation (4) will cease to have effect on 30 June 1996.

(6) United Water International Pty Ltd is prescribed for the purposes of the definition of "**agency or instrumentality of the Crown**" under section 61 of the Act.

(7) Subregulation (6) will cease to have effect on 30 June 1998.

(8) Healthscope Limited is prescribed for the purposes of the definition of "**agency or instrumentality of the Crown**" under section 61 of the Act.

(9) Subregulation (8) will cease to have effect on 30 June 1998.

Registration

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

- (a) an application for registration as an employer, exempt employer or group of exempt employers; 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) 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.

(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);
 - (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

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(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 (2); and

(c) the maximum fee payable under subregulation (2) is \$20 000.

Terms and conditions applicable to exempt employers

9. 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.

Returns by employers

10. (1) For the purposes of section 69(1) of the Act, where 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

11. For the purposes of section 71(1) of the Act, the rate of penalty interest on an amount in arrears is 20% per annum.

Insurance for employers against liabilities apart from the Act

12. 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.

Interest payable under transitional provisions

13. (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.

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Remission of levy

13A. 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.

Volunteers

14. (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;
 - 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*.

Minimum levy

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

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Expiation of certain offences

16. (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) \$300 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	\$100 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 so that the fee payable in respect of an offence committed on or after 1 January 1992 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 immediately preceding year bears to the Consumer Price Index for the September quarter, 1990.

(3) In this regulation—

"**Annual Declaration**" means a return containing the information required by regulation 10 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).

SCHEDULE 1

[Form appears in *Gaz.* 28 March 1996, p. 1816]

SCHEDULE 2

[Form appears in *Gaz.* 28 March 1996, p. 1816]

SCHEDULE 3

[Part 1 appears in *Gaz.* 27 June 1991, p. 2064]

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 programmes 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.

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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 programmes 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;
- (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.

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 programme would be of assistance to a worker who has suffered a compensable disability and, if required, ensure that an appropriate rehabilitation programme is provided for the worker.

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

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

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

5. The employer must ensure, so far as is reasonably practicable, that up to date programmes 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—

(a) 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;

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- (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) 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 Industrial Affairs (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;

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- (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;
 - (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.

* * * * *

10. (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.

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(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 Commission under that law for the relevant financial year; or
- (b) if paragraph (a) does not apply—three months.

11. (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.

(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.

12. (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.

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(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.

(4a) 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.

(5) 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, the 1995/1996 financial year—\$500 000;
- (b) in respect of an amount that is to apply to a period that corresponds to, or ends during, a subsequent financial year—a sum (calculated to the nearest multiple of \$10 000) that bears to \$500 000 the same proportion as the Consumer Price Index for the March quarter of the immediately preceding financial year bears to the Consumer Price Index for the March quarter, 1995;

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

13. 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.

14. 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

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- (v) any other action that significantly affects the employer's ability to meet its liabilities under the Act.

15. 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.

15A. The employer must seek to ensure that in the provision of rehabilitation and compensation under the Act, racial, ethnic and linguistic diversity in the employer's workforce is taken into account and that those of the employer's workers who may have grounds for seeking rehabilitation or compensation under the Act are not disadvantaged by their racial, ethnic or linguistic origins or backgrounds.

16. 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.

17. Despite a preceding clause, an exempt employer may, between the day on which this clause comes into operation (the "relevant day") and 30 June 1996 (inclusive), either—

- (a) comply with clauses 7, 8 and 9, as those clauses were in force immediately before the relevant day; or
- (b) comply with clause 7, as that clause is in force from the relevant day.

SCHEDULE 5

*Section 105—Insurance of Employers
Terms and Conditions*

1. In this schedule—

"**a 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).

SCHEDULE 6

Section 61—Agencies and Instrumentalities of the Crown

Aboriginal Health Council of S.A.
Adelaide Convention Centre.
Adelaide Medical Centre for Women and Children.
Adelaide Rape Crisis Centre.
Adelaide Women's Community Health Centre.
Alfreda Rehabilitation.
Andamooka Outpost Hospital.
Angaston District Hospital Inc.
Barmera District Hospital Inc.
Bishop Kirkby Memorial Hospital.
Blyth District Hospital Inc.
Bookmakers Licensing Board.
Booleroo Centre District Hospital Inc.
Bordertown Memorial Hospital Inc.
Burra Burra Hospital Inc.
Ceduna-Koonibba Aboriginal Health Service.
Central Eyre Peninsula Hospital.
Child & Adolescent Mental Health Services (Northern and Southern Regions).
Child, Adolescent & Family Health Service.
Clare District Hospital Inc.
Cleve District Hospital Inc.
Clovelly Park Community Health Centre.
Cooper Pedy Hospital Inc.
Cowell District Hospital Inc.
Crystal Brook District Hospital Inc.
Cummins and District Memorial Hospital Inc.
Dale Street Women's Community Health Centre.
Drug & Alcohol Services Council.
Eastern Community Health Centre.
Elizabeth Women's Community Health Centre.
Elliston Hospital Inc.
Eudunda Hospital Inc.
Flinders Medical Centre.
Forensic Psychiatry.
Gladstone and District Community Health and Welfare Centre.
Great Northern War Memorial Hospital Inc.
Gumeracha District Soldiers' Memorial Hospital Inc.
Health Development Foundation.
Hutchinson Hospital.
Independent Living Centre.
Intellectual Disability Services Council.
Julia Farr Centre.
Kangaroo Island General Hospital Inc.
Kapunda Hospital Inc.
Karoonda & District Soldiers' Memorial Hospital Inc.
Keith Community Health and Welfare Centre.
Kimba District Hospital Inc.
Kingston Soldiers' Memorial Hospital Inc.
Lameroo District Hospital Inc.
Laura & District Hospital Inc.
Leigh Creek Hospital Inc.
Lock Community Health & Welfare Centre.
Lower Murray District Hospital Inc.
Loxton Hospital Complex Inc.
Lyll McEwin Health Service.
Maitland Hospital Inc.
Management Assessment Panel.

Mannum District Hospital.
Manufacturing Advisory Council.
Marree Hospital.
Meningie & Districts Memorial Hospital Inc.
Mental Health Review Tribunal.
Millicent & District Hospital Inc.
Minda Inc.
Minlaton District Hospital.
Modbury Hospital.
Mount Gambier Hospital Inc.
Mount Pleasant District Hospital Inc.
Mt Barker District Soldiers' Memorial Hospital Inc.
Mt Gambier Community Health Service.
Murat Bay District Hospital Inc.
Naracoorte Hospital & Health Service Inc.
Noarlunga Health Services Incorporated.
Northcote Centre.
Northern Yorke Peninsula Regional Health Service Inc.
Orroroo and District Hospital Inc.
Parks Community Health Service.
Penola War Memorial Hospital Inc.
Peterborough Soldiers' Memorial Hospital Inc.
Pika Wiya Health Service.
Pinnaroo Soldiers' Memorial Hospital Inc.
Police Complaints Authority.
Port Lincoln Health and Hospital Services Incorporated.
Port Augusta Hospital.
Port Pirie Regional Health Service Inc.
Port Adelaide Community Health Service.
Port Broughton District Hospital.
Pregnancy Advisory Centre.
Public Health Service Division.
Quorn & District Memorial Hospital Inc.
Renmark & Paringa District Hospital Inc.
Riverland Regional Health Service.
Riverton District Soldiers' Memorial Hospital Inc.
Royal Society for the Blind.
Royal District Nursing Society of SA Inc.
Royal Adelaide Hospital.
S.A. Mental Health Service.
S.A. Dental Service.
S.A. St. John Ambulance Service Inc.
Salisbury Community Health Service.
Sexual Offenders Treatment & Assessment Program.
Snowtown Memorial Hospital Inc.
South Australian Community Health Research Unit.
South Coast District Hospital Inc.
Southern Yorke Peninsula Hospital Inc.
Southern Women's Health & Community Centre
Southern Domiciliary Care & Rehabilitation Service.
Southern Districts War Memorial Hospital Inc.
St John Council of S.A.
St Margaret's Hospital Inc.
Strathalbyn & District Soldiers' Memorial Hospital and Health Services.
Streaky Bay Hospital Inc.
Tanunda War Memorial Hospital.
Tarcoola District Hospital.
Tea Tree Gully Community Health Service.
The Balaklava Soldiers' Memorial District Hospital Inc.
The Guardianship Board.
The Jamestown Hospital Inc.

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The Murray Bridge Soldiers' Memorial Hospital Inc.
The North West Nurse Education Centre.
The Queen Elizabeth Hospital.
The Second Story.
The Whyalla Hospital & Health Service Inc.
Tumby Bay Hospital Inc.
Waikerie Hospital and Health Services Inc.
Western Domiciliary Care & Rehabilitation Service.

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Regulation No. 271 of 1987, reg. 5)

5. Notwithstanding regulation 4, a certificate in the form prescribed by schedule 1 to the principal regulations before the commencement of regulation 4 may continue to be used for the purposes of the *Workers Rehabilitation and Compensation Act 1986*, after the commencement of regulation 4.

(Transitional provision from Regulation No. 193 of 1992, reg. 4)

4. Notwithstanding regulation 3, a certificate in the form prescribed by schedule 1 to the principal regulations before the commencement of these regulations may continue to be used for the purposes of the *Workers Rehabilitation and Compensation Act 1986* after the commencement of these regulations.

(Transitional provision from Regulation No. 41 of 1996, reg. 4)

4. A certificate in the form prescribed by schedule 1 to the principal regulations immediately before the commencement of these regulations may continue to be used for the purposes of the *Workers Rehabilitation and Compensation Act 1986* until 31 May 1996.

Legislative History

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

Regulation 3:	definition of "award" inserted by 68, 1990, reg. 3(a) definition of "building work" substituted by 2, 1991, reg. 2 definition of "cleaning work" inserted by 216, 1988, reg. 3 definition of "commercial motor vehicle" inserted by 32, 1992, reg. 3 definition of "industrial agreement" inserted by 68, 1990, reg. 3(b) definition of "outworker" inserted by 68, 1990, reg. 3(b) definition of "prime bank rate" inserted by 216, 1988, reg. 3 definition of "wall or floor tiling" inserted by 126, 1992, reg. 3
Regulation 4(1):	varied by 271, 1987, reg. 3(a); 216, 1988, reg. 4(a)-(c); 2, 1991, reg. 3(a); 46, 1991, reg. 2(a); 32, 1992, reg. 4(a)-(c); 126, 1992, reg. 4
Regulation 4(1aa):	inserted by 2, 1991, reg. 3(b); varied by 46, 1991, reg. 2(b)
Regulation 4(1a):	inserted by 271, 1987, reg. 3(b)
Regulation 4(1b):	inserted by 216, 1988, reg. 4(d); varied by 263, 1990, reg. 2(a)
Regulation 4(1ba):	inserted by 263, 1990, reg. 2(b); substituted by 125, 1992, reg. 3; varied by 36, 1996, reg. 3
Regulation 4(1c):	inserted by 68, 1990, reg. 4
Regulation 4(1d):	inserted by 146, 1993, reg. 3
Regulation 4(2a):	inserted by 230, 1990, reg. 2
Regulation 4(4) and (5):	inserted by 158, 1991, reg. 2
Regulation 4(6) and (7):	inserted by 32, 1992, reg. 4(d)
Regulation 4(8):	inserted by 31, 1994, reg. 3
Regulation 4A:	inserted by 232, 1991, reg. 2
Regulation 6(1):	varied by 2, 1991, reg. 4
Regulation 6(2):	inserted by 216, 1988, reg. 5
Regulation 7A:	inserted by 162, 1992, reg. 2; redesignated as reg. 7A(1) by 177, 1993, reg. 3
Regulation 7A(2):	inserted by 177, 1993, reg. 3
Regulation 7A(3):	inserted by 177, 1993, reg. 3; varied by 112, 1994, reg. 3
Regulation 7A(4) and (5):	inserted by 106, 1994, reg. 3
Regulation 7A(6) and (7):	inserted by 232, 1995, reg. 3

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Regulation 7A(8) and (9):	inserted by 175, 1996, reg. 3
Regulation 8:	substituted by 85, 1991, reg. 2; redesignated as reg. 8(1) by 36, 1996, reg. 4
Regulation 8(2) and (3):	inserted by 36, 1996, reg. 4
Regulation 10(1)(c) and (d):	revoked by 116, 1994, reg. 3
Regulation 13:	inserted by 216, 1988, reg. 6
Regulation 13A:	inserted by 25, 1995, reg. 3
Regulation 14:	inserted by 168, 1989, reg. 3
Regulation 15 and 16:	inserted by 159, 1991, reg. 2
Schedule 1:	substituted by 271, 1987, reg. 4; 193, 1992, reg. 3; 41, 1996, reg. 3
Schedule 2:	substituted by 41, 1996, reg. 3
Schedule 3	
Part 1:	substituted by 85, 1991, reg. 3
Part 2	
Clause 1:	varied by 36, 1996, reg. 5
Schedule 4	
Clause 6(b):	revoked by 36, 1996, reg. 6(a)
Clause 7:	substituted by 36, 1996, reg. 6(b)
Clauses 8 and 9:	revoked by 36, 1996, reg. 6(b)
Clause 10(1):	substituted by 36, 1996, reg. 6(c)
Clause 10(3):	inserted by 36, 1996, reg. 6(d)
Clause 12(1):	substituted by 253, 1993, reg. 3(a)
Clause 12(2):	varied by 36, 1996, reg. 6(e)
Clause 12(3) and (4):	inserted by 253, 1993, reg. 3(b)
Clause 12(4a):	inserted by 36, 1996, reg. 6(f)
Clause 12(5):	inserted by 253, 1993, reg. 3(b) definition of "financial institution" varied by 143, 1999, reg. 3 (Sched. cl. 27)
	definition of "prescribed sum" inserted by 36, 1996, reg. 6(g)
Clause 13:	varied by 25, 1995, reg. 4
Clause 14:	varied by 36, 1996, reg. 6(h)
Clause 15A:	inserted by 68, 1990, reg. 5
Clause 17:	inserted by 36, 1996, reg. 6(i)
Schedule 6:	inserted by 162, 1992, reg. 3; varied by 36, 1996, reg. 7