

**WC301\***

Workers' Compensation and Injury Management Act 1981

## **Workers' Compensation and Injury Management Amendment Regulations 2011**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Workers' Compensation and Injury Management Amendment Regulations 2011*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Workers' Compensation and Injury Management Amendment Act 2011* section 6 comes into operation.

**3. Regulations amended**

These regulations amend the *Workers' Compensation and Injury Management Regulations 1982*.

**4. Regulation 6A amended**

In regulation 6A(1):

- (a) delete “57A(1)(b)(i),” and insert:

57A(1)(b)(i) and

- (b) delete “and 231(1)(b)(i)”.

**5. Regulation 7 amended**

At the end of regulation 7 insert:

- (3) The period commencing on the making of an application for conciliation of a dispute about the intention of an employer to discontinue or reduce weekly payments to a worker and ending when a certificate under section 182H or 182O is issued in respect of the dispute is to be disregarded for the following purposes —
  - (a) calculating the period of notice of the intention of the employer under section 61(1);

- (b) calculating the time within which the worker may apply for an order of an arbitrator under section 61(3).

Note: The heading to amended regulation 7 is to read:

**Discontinuance or reduction of weekly payments**

**6. Regulation 10 amended**

Delete regulation 10(2) and insert:

- (2) Where an employer, or an employer’s insurer, disputes the identity or entitlement, or both, of a worker, the employer or insurer —
  - (a) may apply under section 182E of the Act for resolution of the dispute by conciliation; and
  - (b) if the dispute is not resolved by conciliation, may apply under section 182ZT for determination of the dispute by arbitration.

**7. Regulation 10A deleted**

Delete regulation 10A.

**8. Regulation 12 amended**

In regulation 12(1) delete “the DRD” and insert:

WorkCover WA

**9. Regulation 17AB amended**

In regulation 17AB(2) delete “information to the arbitrator in writing —” and insert:

evidence in writing of the exceptional circumstances —

**10. Regulation 17B amended**

In regulation 17B delete “a dispute resolution authority” and insert:

the Registrar or an arbitrator

**11. Regulation 18B amended**

- (1) In regulation 18B delete the definition of *taxing officer*.
- (2) In regulation 18B insert in alphabetical order:

**commencement day** means the day of the coming into operation of the *Workers' Compensation and Injury Management Amendment Act 2011* section 6;

**dispute resolution authority**, in relation to the period commencing on 14 November 2005 and ending on the day before commencement day, has the meaning given in section 5 of the former provisions;

**former provisions** means the Act as enacted before the commencement day;

**taxing officer** means the Director, the Registrar, a conciliation officer or an arbitrator.

## 12. Regulation 18C amended

(1) In regulation 18C:

(a) delete "A person" and insert:

(1) A person

(b) delete "may apply under the *Workers' Compensation (DRD) Rules 2005*" and insert:

before commencement day may apply under the *Workers' Compensation and Injury Management Arbitration Rules 2011*

(2) At the end of regulation 18C insert:

(2) A person who has paid or is liable to pay, or who is entitled to receive or has received, costs as a result of an order for the payment of an unspecified amount of costs made by a dispute resolution authority on or after commencement day may apply under the *Workers' Compensation and Injury Management Conciliation Rules 2011* or the *Workers' Compensation and Injury Management Arbitration Rules 2011*, as relevant, for an assessment of the whole of, or any part of, those costs by a taxing officer.

## 13. Regulation 18D amended

In regulation 18D(2) delete "*Workers' Compensation (DRD) Rules 2005* Part 3." and insert:

*Workers' Compensation and Injury Management Conciliation Rules 2011* or the *Workers' Compensation*

*and Injury Management Arbitration Rules 2011 as relevant.*

**14. Regulation 18LA inserted**

At the end of Part 2A insert:

**18LA. Transitional provision**

(1) In this regulation —

*pending application* means an application for the assessment of costs by a taxing officer —

- (a) made under the *Workers' Compensation (DRD) Rules 2005* before commencement day; and
- (b) which has not been determined by a taxing officer before commencement day.

(2) A pending application is to be dealt with and determined under this Part as if it were an application made under the *Workers' Compensation and Injury Management Arbitration Rules 2011*.

**15. Regulation 19L amended**

Delete regulation 19L(1)(a) and insert:

- (a) a dispute that arises under section 93D(8) of the Act; or

**16. Regulation 19O amended**

In regulation 19O delete “*Workers' Compensation (DRD) Rules 2005*” and insert:

*Workers' Compensation and Injury Management Conciliation Rules 2011* or the *Workers' Compensation and Injury Management Arbitration Rules 2011*, as relevant,

**17. Regulation 27A amended**

In regulation 27A(c) delete “Dispute Resolution Directorate.” and insert:

Conciliation Service or the Arbitration Service.

**18. Regulation 43 deleted**

Delete regulation 43.

**19. Regulation 46 deleted**

Delete regulation 46.

**20. Appendix I amended**

(1) In Appendix I Form 2 delete “(iii) lung cancer,” and insert:

- (iii) lung cancer;
- (iv) diffuse pleural fibrosis,

(2) In Appendix I at the beginning of the form between Form 2 and Form 2C, immediately before the words “**Workers Compensation Claim Form**”, insert:

**Form 2B**

[r. 6AA]

*Workers’ Compensation and Injury Management Act 1981*

(Section 178(1)(b))

(3) In Appendix I Form 2C under “WORKERS DECLARATION” delete “Dispute Resolution Directorate,”.

(4) In Appendix I Form 3 in the heading delete “57B(1)(b), 61(1) and 231(1)(b))” and insert:

57B(1)(b) and 61(1))

(5) In Appendix I Form 3B delete the second and third dot points of the Note and insert:

- seek advice in relation to the dispute from WorkCover WA;
- if reasonable attempts have been made to resolve the dispute by negotiation with the employer and the insurer, apply to the Director under section 182E of the Act for resolution of a dispute by conciliation;

(6) In Appendix I Form 3C:

- (a) delete “Dispute Resolution” (first occurrence);
- (b) delete the second and third dot points of the Note and insert:

- seek advice in relation to the dispute from WorkCover WA;
- if reasonable attempts have been made to resolve the dispute by negotiation with the employer and the insurer, apply to the Director under section 182E of the Act for resolution of a dispute by conciliation;

(7) In Appendix I Form 3D delete the second and third dot points of the Note and insert:

- seek advice in relation to the dispute from WorkCover WA;
- if reasonable attempts have been made to resolve the dispute by negotiation with the employer, apply to the Director under section 182E of the Act for resolution of a dispute by conciliation;

(8) In Appendix I Form 3E:

- delete “Dispute Resolution” (first occurrence);
- delete the first and second dot points of the Note and insert:

- seek advice in relation to the dispute from WorkCover WA;
- if reasonable attempts have been made to resolve the dispute by negotiation with the employer, apply to the Director under section 182E of the Act for resolution of a dispute by conciliation;

(9) Delete Appendix I Form 7.

(10) In Appendix I Form 15F:

- delete “Commissioner.” and insert:

Registrar.

- delete “Dispute Resolution”.

(11) In Appendix I Form 29 delete “Dispute Resolution Directorate”.

(12) In Appendix I Form 31 under “**How to lodge this form**” delete “Director, Dispute Resolution Directorate” and insert:

Director

(13) In Appendix I in the Forms listed in the Table delete “Director Dispute Resolution” (each occurrence) and insert:

Director

**Table**

Form 15A	Form 15B
Form 15C	Form 22
Form 22A	Form 22B
Form 23	Form 23A
Form 23B	Form 26

Form 27	Form 28
Form 35	Form 36
Form 39	

**21. Appendix IV clause 5 amended**

- (1) In Appendix IV clause 5(2) delete “the Commissioner, an officer of the DRD” and insert:

the Director, the Registrar, an officer of the Conciliation Service or the Arbitration Service

- (2) In Appendix IV clause 5(3):

- (a) in paragraph (a) delete “the Commissioner, officers of the DRD” and insert:

the Director, the Registrar, officers of the Conciliation Service and the Arbitration Service

- (b) in paragraph (c), (d) and (e) after “Director” insert:

or Registrar

**22. Appendix V amended**

- (1) Before Appendix V item 1 insert:

1A. 57A(2A) Failing to claim under policy of insurance..... \$200.00

- (2) After Appendix V item 2 insert:

3A. 57A(8A) Failing to make weekly payment ..... \$400.00

3B. 57A(8) Failing to make weekly payment having received payment from insurer ..... \$400.00

- (3) After Appendix V item 5 insert:

6A. 57B(8) Failing to make weekly payment ..... \$400.00

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.

---