
WORKCOVER

WC301*

Workers' Compensation and Injury Management Act 1981

**Workers' Compensation and Injury
Management Amendment Regulations
(No. 3) 2005**

Made by the Lieutenant-Governor and Administrator in Executive Council.

1. Citation

These regulations are the *Workers' Compensation and Injury Management Amendment Regulations (No. 3) 2005*.

2. The regulations amended

The amendments in these regulations are to the *Workers' Compensation and Injury Management Regulations 1982**.

[* Reprint 4 as at 17 April 2003.

For amendments to 24 November 2005 see Western Australian Legislation Information Tables for 2004, Table 4, p. 465, and Gazette 21 January and 28 October 2005.]

3. Regulation 26 amended

- (1) Regulation 26 is amended by inserting in the appropriate alphabetical positions —

“

“fit and proper person”, in relation to an applicant or registered agent, means a person who satisfies WorkCover WA that he or she —

- (a) by reason of qualification or experience or both, has sufficient knowledge of the workers' compensation jurisdiction to represent a party effectively; and
- (b) is of good character;

“independent agent” means a person in a class of persons prescribed under regulation 27A(c);

”.

- (2) Regulation 26 is amended in the definition of “employer” by inserting after “an applicant or registered agent” —

“

, other than a person in a class of persons prescribed under regulation 27A(b) or (c)

”.

4. Regulation 27 replaced by regulations 27 and 27A

Regulation 27 is repealed and the following regulations are inserted instead —

“

27. Prescribed organisations (section 277(1)(e))

The following organisations are prescribed for the purposes of section 277(1)(e) of the Act —

- (a) the Asbestos Diseases Advisory Service of Australia;
- (b) UnionsWA;
- (c) the Chamber of Commerce and Industry of Western Australia.

27A. Prescribed classes of persons (section 277(1)(f))

The following classes of persons are prescribed for the purposes of section 277(1)(f) of the Act —

- (a) persons employed or engaged by a person or body that is engaged to provide claims management services to a self-insurer;
- (b) persons engaged by a self-insurer to provide claims management services to the self-insurer;

- (c) persons to whom section 277 of the Act does not otherwise apply and who act, or propose to act, as independent agents in the Dispute Resolution Directorate.

”.

5. Regulation 28 amended

- (1) Regulation 28(2) is amended by deleting “The application” and inserting instead —

“

Unless an application is made by a person in a class of persons prescribed under regulation 27A(b) or (c), it

”.

- (2) After regulation 28(2) the following subregulations are inserted —

“

- (2a) An application by an independent agent must be accompanied by —

- (a) a criminal record check in respect of the applicant issued not more than 3 months before the application is made;
- (b) if the criminal record check shows details of a conviction, a statement detailing the grounds on which the applicant believes that, having regard to the conduct required under the code of conduct, the conviction is of a kind that does not relate to whether or not the applicant is a fit and proper person to be registered;
- (c) a statement setting out the qualifications of the applicant, or any experience of the applicant, that demonstrates sufficient knowledge of the workers’ compensation jurisdiction to enable the applicant to represent a party effectively;
- (d) a statutory declaration verifying the particulars contained in the application and accompanying material.

- (2b) An application by a person in a class of persons prescribed under regulation 27A(a) or (b) must be accompanied by —

- (a) a statement identifying the self-insurers to whom the agent, or the employer of the agent, is engaged to provide claims management services; and
- (b) a statutory declaration verifying the particulars contained in the statement.

”.

- (3) Regulation 28(4) is repealed and the following subregulation is inserted instead —

“

- (4) A person has sufficient material resources to provide professional indemnity if —
- (a) the person is nominated by an employer who —
 - (i) maintains professional indemnity insurance for not less than \$1 million for any one claim; or
 - (ii) holds legal or equitable estates or interests of not less than \$1 million in real or personal property;
 - or
 - (b) the person holds legal or equitable estates or interests of not less than \$1 million in real or personal property.

”.

- (4) After regulation 28(5) the following subregulation is inserted —

“

- (6) In subregulation (2a)(a) —
- “criminal record check”** means a document issued by the Western Australian Police Service, Australian Federal Police or another body or agency approved by WorkCover WA that sets out the criminal convictions of an individual for offences under the law of Western Australia, the Commonwealth, another State or a Territory.

”.

6. Regulation 29 amended

- (1) Regulation 29(1) is repealed and the following subregulation is inserted instead —

“

- (1) WorkCover WA may refuse to register an applicant if —
- (a) the application is not duly made; or
 - (b) in the case of an application by an independent agent, the applicant is not a fit and proper person to be a registered agent.

”.

- (2) Regulation 29(3) is amended by deleting “Registration” and inserting instead —

“

In the case of a registered agent other than a person in a class of persons prescribed under regulation 27A(b) or (c), registration

”.

- (3) After regulation 29(3) the following subregulation is inserted —

“

- (4) In the case of a registered agent who is a person in a class of persons prescribed under regulation 27A(a) or (b), registration has effect to the extent that the person acts as a registered agent for —

- (a) a self-insurer identified in the agent’s application under regulation 28(2b); or
- (b) a self-insurer identified in a statement —
 - (i) provided to WorkCover WA after registration by the agent;
 - (ii) verified by statutory declaration of the agent; and
 - (iii) accepted by WorkCover WA.

”.

7. Regulation 30 amended

- (1) Regulation 30(3) is amended by deleting “It is” and inserting instead —

“

In the case of a registered agent other than a person in a class of persons prescribed under regulation 27A(b) or (c), it is

”.

- (2) After regulation 30(3) the following subregulation is inserted —

“

- (4) In the case of a registered agent who is a person in a class of persons prescribed under regulation 27A(a) or (b), it is a condition of registration that the person will not act as a registered agent other than for —

- (a) a self-insurer identified in the agent’s application under regulation 28(2b); or
- (b) a self-insurer identified in a statement —
 - (i) provided to WorkCover WA after registration by the agent;
 - (ii) verified by statutory declaration of the agent; and
 - (iii) accepted by WorkCover WA.

”.

8. Regulation 32 amended

Regulation 32(4) is repealed and the following subregulation is inserted instead —

“

- (4) WorkCover WA may refuse to renew the registration if —
- (a) the application is not duly made; or

- (b) in the case of an application by an independent agent, the applicant is not a fit and proper person to be a registered agent.

”.

9. Regulation 35 amended

Regulation 35(2)(b) is amended by deleting “employer of each” and inserting instead —

“ employer, if any, of the ”.

10. Regulation 37 amended

Regulation 37 is amended by inserting after “employer” —

“ , if any, ”.

11. Regulation 43 amended

- (1) Regulation 43(2) is amended as follows:

- (a) by deleting “The transition period” and inserting instead —

“

In the case of a person other than a person referred to in subregulation (2a), the transition period

”;

- (b) in paragraph (a) by deleting “on”.

- (2) After regulation 43(2) the following subregulation is inserted —

“

- (2a) In the case of a person who is an employee or officer of an organisation referred to in regulation 27(b) or (c), or a person in a class of persons prescribed under regulation 27A, the transition period is from commencement day until —

- (a) in the case of a person who does not make an application within 60 days after the commencement day for registration, the 60th day after the commencement day; and
- (b) in the case of a person who makes an application within 60 days after the commencement day for registration —
- (i) that person is registered under this Part; or
- (ii) the application is refused and the review period is completed,

whichever happens first.

”.

12. Appendix 1 amended

- (1) Appendix 1, form 23A is amended in the note relating to section 93EC by deleting “damages in respect of the disability” and inserting instead —

“ *damages in respect of the injury* ”.

- (2) Appendix 1, form 23B is amended in the note relating to section 93EC by deleting “damages in respect of the disability” and inserting instead —

“ *damages in respect of the injury* ”.

By Command of the Lieutenant-Governor and Administrator,

G. M. PIKE, Clerk of the Executive Council.