
WORKCOVER

WC301

Workers' Compensation and Injury Management Act 1981

**Workers' Compensation and Injury
Management Amendment Regulations
(No. 2) 2020**

SL 2020/188

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Workers' Compensation and Injury Management Amendment Regulations (No. 2) 2020*.

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) regulation 15 — on 16 November 2020;
- (c) the rest of the regulations — on the day on which the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* section 4 comes into operation.

3. Regulations amended

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

4. Regulation 2AAA inserted

After regulation 2 insert:

2AAA. Terms used

In these regulations —

CPI means the all groups consumer price index for Perth published by the Australian Statistician;

December WPI, for a financial year, means the WPI for the last December quarter before the financial year;

March CPI, for a financial year, means the CPI for the last March quarter before the financial year;

WPI means the wage price index for ordinary time hourly rates of pay excluding bonuses (all sectors) (original) for Western Australia published by the Australian Statistician.

5. Regulation 2A amended

Delete regulation 2A(2) and insert:

- (2) The amount is varied by the percentage by which the December WPI varies from the previous December WPI.

6. Regulation 6G inserted

After regulation 6F insert:

6G. Giving notices under Act s. 57A and s. 57B and r. 25

- (1) A notice under section 57A or 57B of the Act or regulation 25 may be given to a worker or an employer by emailing the notice to an email address nominated by the worker or employer (whichever is relevant).
- (2) A worker or employer is taken to have nominated an email address as described in subregulation (1) if the email address is included in the worker's claim for compensation.

7. Regulation 11A amended

In regulation 11A(2) in the description of the variable "W" delete "(as defined in regulation 17AF(1))".

8. Regulation 17AAA deleted

Delete regulation 17AAA.

9. **Regulation 17AA amended**
Delete regulation 17AA(2).
10. **Regulation 17AE amended**
 - (1) In regulation 17AE(1)(b) delete “in accordance with section 5A of the Act,”.
 - (2) Delete regulation 17AE(2).
11. **Regulation 17AF amended**
Delete regulation 17AF(1).
12. **Regulation 17AG amended**
Delete regulation 17AG(1).
13. **Regulation 17A amended**
 - (1) In regulation 17A(1)(b) delete “in accordance with section 5A of the Act,”.
 - (2) Delete regulation 17A(2).
14. **Regulation 23 deleted**
Delete regulation 23.
15. **Regulation 25 replaced**
Delete regulation 25 and insert:
 25. **Notice relating to common law claims**
 - (1) In this regulation —
approved form means a form approved by the chief executive officer.
 - (2) This regulation applies in relation to a claim by a worker for compensation by way of weekly payments.
 - (3) If an insurer notifies the worker under section 57A of the Act that liability is accepted in relation to the claim, the insurer must at the same time notify the worker, in the approved form, of the effect of the provisions of Part IV Division 2 Subdivision 3.
Penalty for this subregulation: a fine of \$1 000.
 - (4) If a self-insurer accepts liability in relation to the claim, the self-insurer must on or before making the 1st weekly payment notify the worker, in the approved form, of the effect of the provisions of Part IV Division 2 Subdivision 3.
Penalty for this subregulation: a fine of \$1 000.

16. Parts 9 and 10 inserted

After regulation 60 insert:

Part 9 — Variation of certain amounts**61. Amount C (Act s. 5A(1A))**

For the purposes of paragraph (c) of the definition of *Amount C* in section 5A(1A) of the Act, the amount for a financial year is worked out by multiplying by 2 the average of the amounts that the Australian Statistician published as the all employees average weekly total earnings in Western Australia for pay periods ending in the months of May and November preceding the financial year.

Note for this regulation:

Under section 5A(5) of the Act a variation that would reduce the amount has no effect.

62. Prescribed amount (Act s. 5A(1A))

For the purposes of paragraph (c) of the definition of *prescribed amount* in section 5A(1A) of the Act, the amount for a financial year is worked out by varying the prescribed amount for the previous financial year by the percentage by which the December WPI varies from the previous December WPI.

Note for this regulation:

Under section 5A(5) of the Act a variation that would reduce the amount has no effect.

63. Board and lodging value (Act Sch. 1 cl. 15)

- (1) This regulation has effect for the purposes of assessing the value of board or board and lodging under Schedule 1 clause 15 of the Act for a financial year commencing on or after 1 July 2021.
- (2) For the purposes of section 5A(1)(c) of the Act, the amount, which the sum assessed for the board or board and lodging is not to exceed, is the amount per day worked out by varying the amount per day for the previous financial year by the percentage by which the March CPI varies from the previous March CPI.

Notes for this regulation:

1. The amount for the financial year commencing on 1 July 2020 is \$157 per day.
2. Under section 5A(5) of the Act a variation that would reduce the amount has no effect.

64. Wheeled chair or similar appliance expenses (Act Sch. 1 cl. 17(4))

- (1) This regulation has effect for the purposes of assessing the reasonable expenses incurred or likely to be incurred in respect of the purchase or supply of a wheeled chair or similar appliance under Schedule 1 clause 17(4) of the Act for a financial year commencing on or after 1 July 2021.
- (2) For the purposes of section 5A(1)(c) of the Act, the amount, which the sum payable for those expenses is not to exceed, is the amount worked out by varying the amount for the previous financial year by the percentage by which the March CPI varies from the previous March CPI.

Notes for this regulation:

1. The amount for the financial year commencing on 1 July 2020 is \$12 180.
2. Under section 5A(5) of the Act a variation that would reduce the amount has no effect.

65. Meals and lodging cost (Act Sch. 1 cl. 19(1))

- (1) This regulation has effect for the purposes of assessing the reasonable costs incurred for meals and lodging under Schedule 1 clause 19(1) of the Act for a financial year commencing on or after 1 July 2021.
- (2) For the purposes of section 5A(1)(c) of the Act, the amount, which the amount payable for those costs is not to exceed, is the amount per day worked out by varying the amount per day for the previous financial year by the percentage by which the March CPI varies from the previous March CPI.

Notes for this regulation:

1. The amount for the financial year commencing on 1 July 2020 is \$121 per day.
2. Under section 5A(5) of the Act a variation that would reduce the amount has no effect.

66. Rounding

An amount worked out under this Part must be rounded to the nearest whole dollar with an amount that is 50 cents more than a whole dollar being rounded up to the next whole dollar.

Part 10 — Prescribed diseases: presumption of work-related injury

67. COVID-19: prescribed disease and prescribed employment (Act s. 49F)

- (1) In this regulation —
health professional means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in a health profession;
NATA means the National Association of Testing Authorities.
- (2) For the purposes of section 49F(1)(a) of the Act, COVID-19 is specified as a prescribed disease.
- (3) For the purposes of section 49F(1)(b) of the Act, the following kinds of employment are specified as prescribed employment for COVID-19 —
 - (a) employment as a health professional;
 - (b) employment, of any kind, in a hospital, medical practice, clinic or facility where persons attend for health related screening, testing or treatment;
 - (c) employment as an ambulance officer.
- (4) For the purposes of section 49F(3) of the Act, a worker who suffers an injury by contracting COVID-19 is taken to have suffered the injury —
 - (a) if paragraph (b) does not apply — on the day on which the worker is diagnosed as having COVID-19 by a medical practitioner on the basis of a test result described in subregulation (6); or
 - (b) if the worker dies as a result of contracting COVID-19 before they are diagnosed as described in paragraph (a) — on the day on which the worker dies.
- (5) Section 49F(3) of the Act does not apply to a worker who suffers an injury by contracting COVID-19 if —
 - (a) the day on which the worker is taken, under subregulation (4), to have suffered the injury is before 16 February 2020; or
 - (b) the worker is not in prescribed employment for COVID-19 on the day on which the worker is taken, under subregulation (4), to have suffered the injury.

- (6) For the purposes of subregulation (4)(a), the test results are as follows —
- (a) detection of SARS-CoV-2 using a SARS-CoV-2 specific nucleic acid test by a NATA accredited laboratory;
 - (b) isolation of SARS-CoV-2 in a cell culture, with confirmation using a SARS-CoV-2 specific nucleic acid test, by a NATA accredited laboratory;
 - (c) confirmation of SARS-CoV-2 specific antibodies by a NATA accredited laboratory.

17. Appendix I amended

- (1) In Appendix I Form 34 delete the part of the Form headed “**Termination day**” and insert:

WARNING

An election cannot be withdrawn after the Director registers it and a subsequent election cannot be made in respect of the same injury or injuries (see section 93L(6) of the Act).
Registration of an election may affect your entitlement to statutory compensation under the *Workers' Compensation and Injury Management Act 1981*.

You should seek appropriate independent advice before lodging this form.

- (2) Delete Appendix I Forms 35 and 36.

R. NEILSON, Clerk of the Executive Council.
