

Authorised Version No. 001
**Workplace Injury Rehabilitation and
Compensation Regulations 2014**

S.R. No. 41/2014

Authorised Version incorporating amendments as at
1 July 2014

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PART 1—PRELIMINARY

1 Objective

The objective of these Regulations is to prescribe—

- (a) amounts not to be taken as remuneration for certain classes of contractors; and
- (b) the formula for calculating contributions payable to the Authority by self-insurers; and
- (c) certain other matters or things required or permitted to be prescribed or necessary to be prescribed to give effect to the **Accident Compensation Act 1985** and the **Workplace Injury Rehabilitation and Compensation Act 2013**.

2 Authorising provision

These Regulations are made under section 620 of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

3 Commencement

These Regulations come into operation on 1 July 2014.

4 Revocation

The Regulations listed in Schedule 1 are **revoked**.

PART 2—GENERAL

5 Prescribed particulars as evidence

- (1) For the purposes of section 590 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed particulars are those of the following particulars that are relevant to the matters to which the certificate relates—
- (a) the nature of the amount;
 - (b) if the amount is or relates to a weekly payment, the period in relation to which the weekly payment was paid or is payable;
 - (c) the invoice number, if any;
 - (d) the date of any invoice;
 - (e) the date on which any invoice was received;
 - (f) the date the professional service, if any, was provided;
 - (g) the nature of the professional service provided, if any;
 - (h) the name of the payee;
 - (i) the date any cheque was drawn;
 - (j) the drawer name on any cheque;
 - (k) the drawer's bank;
 - (l) the date any cheque was issued;
 - (m) the name of the claimant, if any;
 - (n) the name of the provider, if any;
 - (o) the provider number of any provider;
 - (p) the address of any provider;
 - (q) the WorkCover claim number, if any;
 - (r) the name of the worker, if any;
 - (s) the date of birth of any worker;

(t) the date of any injury.

(2) In this regulation, *provider number* means—

- (a) the identification number, if any, allocated to the relevant practice of the relevant provider by Medicare Australia for the purposes of the Health Insurance Act 1973 of the Commonwealth; and
- (b) if paragraph (a) does not apply, the identification number allocated by the Authority to—
 - (i) the relevant provider; or
 - (ii) the relevant practice of the relevant provider.

6 Form of warrant

For the purposes of section 558 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed form of warrant is the form set out in Schedule 2.

7 Inquiry into and investigation of fraud

Inquiries and investigations under section 586 of the **Workplace Injury Rehabilitation and Compensation Act 2013** must be conducted—

- (a) with care; and
- (b) objectively; and
- (c) with regard for the legal rights of the person or persons whose activities are being inquired into or investigated.

PART 3—COMPENSATION

8 Full-time worker

For the purposes of the definition of *full-time worker* in section 3 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed number of hours if there is no applicable award is 35 hours each week.

9 Prescribed number of hours

For the purposes of items 3, 5, 6 and 8 of Schedule 1A to the **Accident Compensation Act 1985** or items 3, 5, 6 and 8 of Schedule 2 to the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed number of hours is 38 hours each week.

10 Amounts not remuneration—timber contractors

- (1) For the purposes of clause 6(3) of Schedule 1 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, this regulation prescribes the percentage of the amount payable under a timber contract by the principal to the timber contractor that is not deemed to be remuneration for the purposes of that Act.
- (2) This regulation applies if—
 - (a) the amount payable under the contract includes amounts in relation to the materials and equipment required for the timber contractor to perform the work under the contract; and
 - (b) the timber contractor—
 - (i) purchases, or has purchased, materials and equipment required for performing the work; or
 - (ii) provides his or her own materials and equipment for that purpose.

- (3) The applicable prescribed percentage of the amount payable under a timber contract is 25 per cent.

11 Amounts not remuneration—contractors

- (1) For the purposes of clause 9(5)(c)(i) of Schedule 1 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, this regulation prescribes the percentage of the amount paid or payable under certain contractual arrangements by the principal to the contractor, in relation to services provided by an individual who is deemed to be a worker under clause 9(5)(a) of Schedule 1 of that Act, that is not deemed to be remuneration for the purposes of that Act.
- (2) This regulation applies if—
- (a) the amount paid or payable under the contract includes amounts in relation to the materials and equipment required for provision of services under the contract; and
 - (b) the contractor—
 - (i) purchases, or has purchased, materials and equipment required for the provision of services; or
 - (ii) provides materials and equipment for that purpose.
- (3) In relation to a contract specified in Column 1 of the Table in Schedule 3, the applicable prescribed percentage of the amount paid or payable under the contract is the percentage specified for that item in Column 2 of the Table.

12 Payments to worker resident overseas

For the purposes of section 97(3) of the **Accident Compensation Act 1985** or section 175(4) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, a worker must, at quarterly intervals—

- (a) make a statement of identity in accordance with Form 1 in Schedule 4; and
- (b) submit to an examination by a medical practitioner and obtain from that medical practitioner a certificate in accordance with Form 2 in Schedule 4; and
- (c) submit the statement and certificate to the Authority or self-insurer.

Note

In relation to anything done in a place outside Australia for the purposes of the **Accident Compensation Act 1985** or the **Workplace Injury Rehabilitation and Compensation Act 2013**, a *medical practitioner* means a medical practitioner who is lawfully qualified in that place to do that thing and who is approved for the purposes of the Act by the Authority or a self-insurer (see definition of *medical practitioner* in section 3 of the Act).

13 Reimbursement

The prescribed period for the purposes of section 114D(5) of the **Accident Compensation Act 1985** or section 179(7) of the **Workplace Injury Rehabilitation and Compensation Act 2013** is 30 days after the date on which the Authority receives notification that the employer has made a weekly payment referred to in section 179(5) of that Act.

Note

The Authority is made aware of the worker's entitlement to weekly payments by receiving a certificate of capacity and a declaration about employment or other work under section 111 of the **Accident Compensation Act 1985** or section 167 of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

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S.R. No. 41/2014
Part 3—Compensation

PART 4—SELF INSURANCE

14 Contributions by self-insurers

- (1) The amount of contributions into the WorkCover Authority Fund payable by a self-insurer under section 388(2) of the **Workplace Injury Rehabilitation and Compensation Act 2013** must be determined in accordance with the following formula—

$$\left[\left\{ \frac{B}{C} \times D \right\} - \left\{ A \times \frac{B}{C} \right\} \right] \times 0.6 + \left\{ A \times \frac{B}{C} \right\}$$

- (2) In subregulation (1)—

A is the sum of the costs incurred by the Authority during the preceding quarter referred to in section 513(5)(b) and (f) of the **Workplace Injury Rehabilitation and Compensation Act 2013** and the costs incurred by the Authority during the preceding quarter in the administration of Division 2 of Part 6 of that Act;

B is the relevant remuneration calculated as if the self-insurer were an employer liable to pay the premium for WorkCover insurance cover under the **Workplace Injury Rehabilitation and Compensation Act 2013** paid or payable by the self-insurer during the preceding financial year;

C is the sum of the total relevant remuneration paid or payable by all employers liable to pay the premium for WorkCover insurance cover under the **Workplace Injury Rehabilitation and Compensation Act 2013** and the total relevant remuneration calculated in accordance with **B** in relation to all self-insurers during the preceding financial year;

D is the sum of—

- (a) the total of those costs incurred by the Authority in the preceding quarter referred to in—
 - (i) section 513(5)(b) of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (ii) section 513(5)(c) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, other than costs—
 - (A) directly related to the administration, operation, management and maintenance of the Authority's central computer network used by authorised agents; and
 - (B) related to compliance audits in relation to the collection and recovery of premium payable under the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (C) related to actuarial services provided to the Authority other than under section 403 of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and

-
- (iii) section 513(5)(e) of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (iv) section 513(5)(f) of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (v) section 513(5)(k) of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
- (b) costs incurred by the Authority in the preceding quarter in the administration of Division 2 of Part 6 of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
 - (c) costs incurred by the Authority in meeting any liability incurred under section 403 of the **Workplace Injury Rehabilitation and Compensation Act 2013**.
-

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SCHEDULES

SCHEDULE 1

Regulation 4

REVOCATIONS

<i>S.R. No.</i>	<i>Name</i>
11/2012	Accident Compensation Regulations 2012

SCHEDULE 2

Regulation 6

SEARCH WARRANT

Workplace Injury Rehabilitation and Compensation Act 2013

Section 558

EXECUTION COPY/SERVICE COPY

COURT REF.

Premises where search will be conducted:

Street name and number

Suburb/Town

AUTHORITY

Being satisfied, by the evidence [on oath] [and] [by affidavit] of the Victorian WorkCover Authority, that there is reasonable ground for suspecting that there are on the premises mentioned above books which are relevant in determining whether any of the provisions of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the **Accident Compensation Act 1985** or the **Accident Compensation (WorkCover Insurance) Act 1993** are being or have been contravened;

This Warrant authorises any member of the police force, together with—

[Names]

- (a) to enter the premises mentioned above (using such force as is necessary for the purpose); and
- (b) to search the premises and to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises; and
- (c) to take possession of, or secure against interference, any books that appear to be relevant to the purpose specified above; and

Sch. 2

- (d) to deliver any books, possession of which is so taken, into the possession of the Victorian WorkCover Authority, or—

being a person authorised by the Victorian WorkCover Authority to receive them.

This Warrant is issued under section 558 of the Workplace Injury Rehabilitation and Compensation Act 2013.

Issued at:

place by:

signature

on:

date

name

at:

time

Magistrate

RESULT OF SEARCH

A. EXECUTION

Warrant executed

at a.m./p.m. on / /

OR

This Warrant is returned unexecuted because—

B. SERVICE

Copy Warrant served on—

(owner/occupier/person in charge of premises)

of

OR, description of person on whom served

C. PROPERTY DAMAGE

Owner/occupier/person in charge of premises to sign

I acknowledge that no damage has been caused to property in the execution of this Warrant

[Where owner/occupier/person in charge of premises is absent, or declines to sign, complete "Property damaged" and "Reasons" boxes (including "Nil Damage" where applicable)]

OR

The following damage was caused to property in the execution of this Warrant:

Property damaged:	Reasons (if known):
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Signed:

(owner/occupier/person in charge of premises)

Sch. 2

WARNING TO PERSONS ON PREMISES

(on Service Copy only)

It is an offence under section 558(8) of the Workplace Injury Rehabilitation and Compensation Act 2013, punishable by fine, for a person to obstruct or hinder a person employed or acting in the execution or under the authority of this warrant or aiding or assisting in the execution of this warrant.

It is an offence under section 558(9) of the Workplace Injury Rehabilitation and Compensation Act 2013, punishable by fine or imprisonment, for a person to refuse to permit a search or seizure authorised by this warrant.

It is an offence under section 558(10) of the Workplace Injury Rehabilitation and Compensation Act 2013, punishable by fine or imprisonment, for a person to assault or attempt to assault a person employed or acting in the execution or under the authority of this warrant or aiding or assisting in the execution of this warrant.

D. BOOKS SEIZED (number each item):

If insufficient space, attach additional pages. No. of pages attached:

E. DELIVERY OF BOOKS SEIZED

I delivered these books to—

at a.m./p.m. on / /

F. SIGNATURE OF POLICE MEMBER

Dated: / / **Signed:**

Name, rank and No.

Station and address

NOTE TO PERSONS EXECUTING WARRANT

Where, pursuant to this Warrant, a person takes possession of, or secures against interference, any books, that person or any person to whose possession they are delivered pursuant to this Warrant—

- may make copies of, or take extracts from, the books;
- may retain possession of the books for such period as is necessary to enable them to be inspected, and copies of, or extracts from, them to be made or taken, by or on behalf of the Victorian WorkCover Authority;
- during that period must permit a person who would be entitled to inspect any one or more of those books if they were not in the possession of the first-named person to inspect at all reasonable times such of those books as that person would be so entitled to inspect;
- may retain the original books, or some of them, for a longer period only where the Magistrate who issued this Warrant makes an order under subsection (6) of section 558 of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

RETENTION OF ORIGINAL BOOKS FOR CRIMINAL PROCEEDINGS

G. BOOKS TO BE RETAINED FOR CRIMINAL PROCEEDINGS (number each item)

If insufficient space, attach additional pages. No. of pages attached:

H. ORDER FOR RETENTION FOR CRIMINAL PROCEEDINGS

Being satisfied, on application by the Victorian WorkCover Authority, that there is reasonable ground to believe that the physical properties of the abovementioned books, or of the contents of the books, are material evidence in proposed criminal proceedings against—

Name of proposed defendant(s)

--

Workplace Injury Rehabilitation and Compensation Regulations 2014
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I order that the Victorian WorkCover Authority is authorised to retain possession of the books described in Section G above until the criminal proceedings referred to above are concluded.

This Order is made under section 558(6) of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

Made at:

place by:

signature

on:

date

name

at:

time

Magistrate

SCHEDULE 3

Regulation 11

AMOUNTS NOT REMUNERATION

Table

<i>Column 1</i> <i>Contract</i>	<i>Column 2</i> <i>Percentage</i>
Contract for architects	5 %
Contract for draftspersons	5 %
Contract for engineers	5 %
Contract for bricklayers	30 %
Contract for building supervisors who provide their own vehicles and are required to supervise and inspect more than 6 different building sites each 7 day period	25 %
Contract for carpenters	25 %
Contract for carpet layers	25 %
Contract for computer programmers	5 %
Contract for driving instructors who provide their own vehicles	30 %
Contract for fencing contractors	25 %
Contract for painters	15 %
Contract for resilient floor layers	37 %
Contract for roof tilers or slaters	25 %
Contract for plasterers	20 %
Contract for cabinet makers	25 %
Contract for electricians	25 %
Contract for plumbers	25 %

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SCHEDULE 4

FORMS

FORM 1

Regulation 12(a)

**STATEMENT OF IDENTITY BY WORKER RESIDING
OUTSIDE AUSTRALIA**

I, _____, state that I am the same person as formerly of _____
and that I continue to have the incapacity in respect of _____
which weekly payments are made, as certified by the attached medical
certificate provided in accordance with regulation 12 of the Workplace Injury
Rehabilitation and Compensation Regulations 2014.

My description is as follows:

Age:

Height:

Hair:

Eyes:

Signed:

Stated at:

Dated:

Before me:

(Signature and description of adult person before whom statement is made)

FORM 2

Regulation 12(b)

MEDICAL CERTIFICATE

Details of medical practitioner:

Name: Telephone Number:

Address: Date:

I certify that on / / , I examined

(Given name) (Family name)

of

He/she was suffering from
I consider that, by reason of this condition, he/she has no current work
capacity and is likely to continue indefinitely to have no current work
capacity.

Signature

(Qualification)

ENDNOTES

1. General Information

The Workplace Injury Rehabilitation and Compensation Regulations 2014, S.R. No. 41/2014 were made on 27 May 2014 by the Governor in Council under section 620 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, No. 67/2013 and came into operation on 1 July 2014: regulation 3.

The Workplace Injury Rehabilitation and Compensation Regulations 2014 will sunset 10 years after the day of making on 27 May 2024 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

There are no amendments made to the Workplace Injury Rehabilitation and Compensation Regulations 2014 by statutory rules, subordinate instruments and Acts.

Endnotes

3. Explanatory Details

No entries at date of publication.