

Queensland



Subordinate Legislation 1997 No. 17

WorkCover Queensland Act 1996

**WORKCOVER QUEENSLAND REGULATION
1997**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *WorkCover Queensland Regulation 1997*.

Commencement

2. This regulation commences on 1 February 1997.

Definitions

3. In this regulation—

“**AMA guide**” means the ‘Guides to the Evaluation of Permanent Impairment’ published by the American Medical Association.

“**binaural tables**” means the binaural tables recommended and published for the time being by NAL.

“**hearing loss tables**” means the hearing loss tables recommended and published for the time being by NAL.

“**lower extremity**” see AMA guide.¹

“**modified barthel index**” means the guidelines and modified scoring of the barthel index stated in the article ‘Improving the Sensitivity of the Barthel Index for Stroke Rehabilitation’ by S Shah, F Vanclay and B Cooper published in the *Journal of Clinical Epidemiology*, 1989, vol 42 no 8, pp 703-709.

“**NAL**” means the National Acoustic Laboratories (Cwlth).

“**ophthalmologists guide**” means the publication ‘A Guide to Members of the Australian College of Ophthalmologists’ published for the time being by the Australian College of Ophthalmologists.

¹ Under the AMA guide, the lower extremity has 6 sections, namely, the foot, the hindfoot, the ankle, the leg, the knee and the hip.

“**presbycusis correction table**” means the presbycusis correction table recommended and published for the time being by NAL.

“**upper extremity**” see AMA guide.²

PART 2—EMPLOYER EXCESS

Excess period—Act, s 69

4.(1) The excess period is calculated having regard to—

- (a) the days worked under a worker’s contract of service with an employer when the injury was sustained; and
- (b) the period—
 - (i) if the worker’s total incapacity is ongoing—of 1 week from when the worker’s entitlement to weekly payment of compensation starts; or
 - (ii) if the worker’s total incapacity is interrupted—of the worker’s continuing incapacity because of the injury.

(2) If a worker is required to work for a stated number of days only, the excess period is up to the stated number of days, or 4 days, whichever is the lesser.

Examples of excess period—

1. A worker is employed 5 days a week (Monday to Friday). The worker sustains an injury on Tuesday and immediately stops work to attend for medical treatment. The treating doctor certifies total incapacity for work for 2 weeks. The excess period is 4 days (from Wednesday to Monday).

2. A worker is employed 2 days a week (Thursday and Saturday). The worker sustains an injury on Saturday and continues to work until the end of the day. The worker attends for medical treatment the following Monday and the treating doctor certifies total incapacity for work for 10 days. The excess period is 2 days (Thursday and Saturday).

² Under the AMA guide, the upper extremity has 4 parts, namely, the hand, the wrist, the elbow and the shoulder.

3. A worker is employed for 1 day only. The worker sustains an injury, attends for medical treatment and the treating doctor certifies total incapacity for 3 days. The excess period is 1 day.

PART 3—OTHER INSURANCES

Insurance of work experience students

5.(1) In this section—

“**corporation**” means the corporation sole of the Minister established under the *Education (General Provisions) Act 1989*.

“**educational establishment**” has the meaning given in the *Education (Work Experience) Act 1996*, section 5.

“**student**” has the meaning given in the *Education (Work Experience) Act 1996*, section 3.

“**work experience**” has the meaning given in the *Education (Work Experience) Act 1996*, section 4.

“**work experience place**” means a place where work experience is, or is to be, provided for a student.

(2) WorkCover may enter into a contract of insurance with an educational establishment or the corporation to insure the educational establishment or the corporation against liability for compensation for injury to a student arising out of work experience.

(3) For this section, when deciding whether an injury arises out of, or in the course of, work experience, chapter 1, part 4, division 6, subdivisions 2 and 3³ of the Act apply as if —

- (a) the student were a worker; and
- (b) work experience were the employment; and

³ Chapter 1 (Preliminary), part 4 (Basic concepts), division 6 (Injuries and impairment), subdivision 2 (Injury) and subdivision 3 (When injury arises out of, or in the course of, employment) of the Act

- (c) the work experience place were the place of employment; and
- (d) the corporation or the educational establishment were the employer.

(4) Insurance cover provided under a contract of insurance under this section is limited to compensation under chapter 3, parts 9 and 10⁴ of the Act.

(5) Also, the contract does not cover payment of damages for injury sustained by the student.

(6) WorkCover has a liability under a contract of insurance entered into under this section only if the premium assessed for the contract has been paid in full.

Insurance of industry placement students

6.(1) In this section—

“**college**” has the meaning given in the *Vocational Education and Training (Industry Placement) Act 1992*, section 4.

“**industry placement**” has the meaning given in the *Vocational Education and Training (Industry Placement) Act 1992*, section 8, but does not include a paid industry placement.

“**industry placement place**” means a place where industry placement is, or is to be, provided for a student.

“**student**” has the meaning given in the *Vocational Education and Training (Industry Placement) Act 1992*, section 4.

(2) WorkCover may enter into a contract of insurance with a college to insure the college against liability for compensation for injury to a student arising out of an industry placement.

⁴ Chapter 3 (Compensation), part 9 (Entitlement to compensation for permanent impairment) and part 10 (Compensation on workers’ death) of the Act

(3) For this section, when deciding whether an injury arises out of, or in the course of, industry placement, chapter 1, part 4, division 6, subdivisions 2 and 3⁵ of the Act apply as if —

- (a) the student were a worker; and
- (b) industry placement were the employment; and
- (c) the industry placement place were the place of employment; and
- (d) the college were the employer.

(4) Insurance cover provided under a contract of insurance under this section is limited to compensation under chapter 3, parts 9 and 10⁶ of the Act.

(5) Also, the contract does not cover payment of damages for injury sustained by the student.

(6) WorkCover has a liability under a contract of insurance entered into under this section only if the premium assessed for the contract has been paid in full.

PART 4—COMPENSATION

Division 1—Calculation of NWE

Calculation of NWE

7. Normal weekly earnings of a worker from employment are to be calculated under this division.

⁵ Chapter 1 (Preliminary), part 4 (Basic concepts), division 6 (Injuries and impairment), subdivision 2 (Injury) and subdivision 3 (When injury arises out of, or in the course of, employment) of the Act

⁶ Chapter 3 (Compensation), part 9 (Entitlement to compensation for permanent impairment) and part 10 (Compensation on worker's death) of the Act

What amounts may or may not be taken into account

8.(1) Amounts paid to the worker by way of overtime, higher duties, penalties and allowances (other than amounts mentioned in subsection (2)) that are of a regular nature, required by an employer and that would have continued if not for the injury may be taken into account.

(2) Amounts mentioned in the Act, schedule 3, definition “**wages**”, paragraphs (a) to (d) are not to be taken into account.

NWE if impracticable to calculate rate of worker’s remuneration

9.(1) This section applies if it is impracticable, at the date of injury to the worker, to calculate the rate of the worker’s remuneration because of—

- (a) the period of time for which a worker has been employed; or
- (b) the terms of the worker’s employment.

(2) Regard must be had to—

- (a) the normal weekly earnings during the 12 months immediately before the date of injury of a person in the same grade, employed in the same work, by the same employer, as that of the worker; or
- (b) if there is no such person—the normal weekly earnings of a person in the same grade, employed in the same class of employment, and in the same district as that of the worker.

NWE if worker worked for 2 or more employers

10.(1) This section applies if a worker has worked under concurrent contracts of service with 2 or more employers, under which the worker has worked at 1 time for 1 employer and at another time for another of the employers.

(2) The worker’s normal weekly earnings are to be calculated as if earnings under all the contracts were earnings in the employment of the employer for whom the worker was working when the injury was sustained.

NWE if WorkCover considers calculation unfair

11.(1) This section applies if WorkCover considers that the calculation of normal weekly earnings under this division would be unfair.

(2) The normal weekly earnings may be calculated in the way WorkCover considers to be fair, and the calculation under this subsection is taken to be the normal weekly earnings of the worker.

Division 2—Compensation application and other procedures**Application for compensation**

12. For section 159(3)(b)⁷ of the Act, a claimant must give WorkCover, to the extent that WorkCover reasonably requires—

- (a) proof of injury and its cause; and
- (b) proof of the nature, extent and duration of incapacity resulting from the injury; and
- (c) if the injury is, or results in, the death of a worker—proof of—
 - (i) the worker's death; and
 - (ii) the identity of the worker; and
 - (iii) the relationship to the worker and dependency of persons claiming to be the worker's dependants.

Doctor's certificate

13.(1) The doctor's certificate required by section 159(3)(a) of the Act to accompany an application for compensation must be in the approved form.

(2) However, if a worker sustains an injury in another State or country, WorkCover must accept from the doctor who attends the worker a manuscript certificate that is substantially to the effect of the approved form.

⁷ Section 159 (Applying for compensation) of the Act

(3) A doctor attending a worker who has sustained an injury must give WorkCover a detailed report on the worker's condition within 10 days after receiving Workcover's request to do so.

(4) The fee payable to the doctor for the report is an amount accepted by WorkCover to be reasonable, having regard to the relevant table of costs.

If doctor not available

14.(1) This section applies if a claimant does not lodge a medical certificate with an application for compensation because a doctor was not available to attend the claimant.

(2) The claimant must complete and lodge with WorkCover a declaration in the approved form.

(3) For a non-fatal injury, the declaration—

- (a) can be accepted by WorkCover only once for injury to a claimant in any 1 event; and
- (b) is acceptable proof of incapacity of a claimant for not more than 3 days.

Examination of claimant or worker—Act, ss 162 and 447

15.(1) For sections 162 and 447⁸ of the Act, a personal examination must be requested in writing to the claimant or worker.

(2) The request must specify—

- (a) the name of the doctor or other registered person, who is not employed by WorkCover under a contract of service, engaged to make the examination; and
- (b) if the doctor is a specialist—the field of specialty; and
- (c) the day, time and place when and where the examination is to be made.

⁸ Section 162 (Examination by registered person), and section 447 (Power of tribunal to examine worker) of the Act

(3) A doctor or other registered person who makes a personal examination of a claimant or worker must give WorkCover, within 10 days after the examination—

- (a) a written report on the examination; and
- (b) an itemised account for the examination.

(4) Fees payable to a doctor or other registered person for a personal examination of a claimant or worker—

- (a) are payable by WorkCover; and
- (b) are payable for—
 - (i) making the examination; and
 - (ii) giving a report to WorkCover; and
- (c) are the costs accepted by WorkCover to be reasonable, having regard to the relevant table of costs.

Payment for treatment arranged by employer other than self-insurer

16.(1) An employer, other than a self-insurer, may, with WorkCover's consent, make an arrangement or agreement, on behalf of WorkCover, with a doctor, hospital or institution to provide—

- (a) medical treatment; or
- (b) hospitalisation; or
- (c) medical aid;

to a worker who has sustained injury.

(2) WorkCover may ratify an arrangement or agreement made by an employer without WorkCover's consent if WorkCover is satisfied that—

- (a) the case was one of emergency; and
- (b) in the interests of the worker, it was necessary to take immediate action.

(3) WorkCover is liable to pay the reasonable expenses of medical treatment, hospitalisation or medical aid provided to the worker under the arrangement or agreement.

Maximum liability for cost of hospitalisation—Act, s 236

17. For section 236⁹ of the Act, the maximum amount that WorkCover is liable to pay for hospitalisation of a worker is \$10 000.

Special medical treatment, hospitalisation or medical aid

18.(1) This section applies if WorkCover considers that the injury sustained by a worker would require—

- (a) special medical treatment; or
- (b) special hospitalisation; or
- (c) special medical aid.

(2) WorkCover may make an arrangement or agreement with a doctor, hospital or institution to provide the worker with the special medical treatment, hospitalisation or medical aid.

(3) For special hospitalisation, WorkCover may make the arrangement or agreement only to the extent specified in section 234¹⁰ of the Act.

(4) WorkCover is liable to pay the cost of the special medical treatment, hospitalisation or medical aid provided to the worker under the arrangement or agreement.

(5) However, the maximum amount that WorkCover is liable to pay for special hospitalisation is \$10 000.

Division 3—Entitlement to compensation for permanent impairment**Table of injuries**

19.(1) The table of injuries is set out in schedule 2.

(2) The table of injuries, parts 1, 2, 4 and 6 must be read in conjunction with the relevant provisions of the AMA guide.

⁹ Section 236 (Maximum liability for cost of hospitalisation) of the Act

¹⁰ Section 234 (Extent of liability for period of hospitalisation) of the Act

(3) The methods that must be used in assessing the degree of permanent impairment resulting from an injury mentioned in part 1, 2, 4 or 6 are the methods stated in the AMA guide.

(4) However, not every injury a worker may sustain is mentioned in the table of injuries and, if a worker sustains permanent impairment from an injury that is not mentioned in the table of injuries (other than in part 3 or 5), the AMA guide must be used for assessing the degree of permanent impairment resulting from the injury.

(5) The table of injuries, part 3 must be read in conjunction with the ophthalmologists guide (for vision injuries) and the hearing loss tables (for hearing injuries).

(6) The methods that must be used in assessing the degree of permanent impairment resulting from an injury mentioned in the table of injuries, part 3 are the methods stated in the ophthalmologists guide or hearing loss tables.

(7) If there is an inconsistency between the table of injuries and the AMA guide, the ophthalmologists guide or the hearing loss tables, the table of injuries prevails to the extent of the inconsistency.

(8) For subsection (2), a provision of the AMA guide is a relevant provision of the guide for a part of the table of injuries if it is mentioned in the part as a relevant provision for the part.

Assessing degree of permanent impairment from multiple injuries using the table of injuries

20.(1) This section applies if a worker sustains permanent impairment from multiple injuries sustained in 1 event.

(2) The degree of permanent impairment for each injury is assessed separately and lump sum compensation is decided accordingly.

Example—

A worker sustains a fractured pelvis and a fractured wrist in the same event. The degree of permanent impairment resulting from each injury is assessed separately in the usual way under the table of injuries.

(3) However, for multiple injuries to a single limb, the degree of permanent impairment sustained by the worker in relation to the limb is

assessed by using the combined values chart in the AMA guide, unless the guide specifies otherwise.

Example—

A worker sustains injuries to the worker's right wrist and right elbow and a crush injury to the worker's left hand. The degree of permanent impairment resulting from the injuries to the right arm is assessed by using the combined values chart in the AMA guide. The degree of permanent impairment resulting from the injury to the left hand is assessed in the usual way under the table of injuries.

(4) Also, if a worker sustains multiple injuries of a kind mentioned in the table of injuries, part 4 in 1 event, the degree of permanent impairment sustained by the worker in relation to the injuries is assessed by using the combined values chart in the AMA guide.

Assessment for industrial deafness—Act, s 197

21.(1) This section sets out the way the degree of permanent impairment for industrial deafness must be assessed for section 197¹¹ of the Act.

(2) The worker must undergo an audiometric test for hearing conducted by an audiologist.

(3) The test must be preceded by a period of quiet of at least 8 hours.

(4) For air conduction testing, the test must comply with Australian Standard AS1269 'SAA Hearing Conservation Code', rules 5.6.3.2. and 5.6.3.4(c).

(5) The worker's hearing levels must be determined separately for the left and right ears at audiometric test frequencies 500, 1 000, 1 500, 2 000, 3 000 and 4 000 Hz with an audiometer complying with Australian Standard AS2586.

(6) The percentage loss of hearing is to be calculated by using the binaural tables and adjusted, if required, under the presbycusis correction table.

¹¹ Section 197 (Assessment of permanent impairment) of the Act

Calculation of WRI—Act, s 201

22.(1) For section 201¹² of the Act, a worker’s WRI is the percentage calculated using the following formula—

$$\frac{\text{LSPI} \times 100}{\text{MSC}}$$

MSC

(2) In this section—

“**LSPI**” means the lump sum compensation payable under the table of injuries for the degree of permanent impairment for the injury.

“**MSC**” means maximum statutory compensation under chapter 3, part 6¹³ of the Act.

Example—

If a worker loses a thumb, the lump sum compensation payable under the table of injuries is \$29 695. The maximum statutory compensation is \$103 100. So, the worker’s WRI is $(29\ 695 \times 100) \div 103\ 100 = 28.8\%$.

Additional lump sum compensation for certain workers—Act, s 210

23. The additional lump sum compensation payable for certain workers is set out in schedule 3.

Additional lump sum compensation for gratuitous care—Act, s 211

24.(1) The additional lump sum compensation payable for gratuitous care is set out in schedule 4.

(2) For section 211(5)¹⁴ of the Act, the assessment report of an occupational therapist must state whether, in the relationship between the worker and the other person, the day-to-day care—

- (a) was provided to the worker before the worker sustained the impairment; and
- (b) would ordinarily be provided in the worker’s home; and

¹² Section 201 (Calculation of WRI) of the Act

¹³ Chapter 3 (Compensation), part 6 (Maximum statutory compensation) of the Act

¹⁴ Section 211 (Additional lump sum compensation for gratuitous care) of the Act

(c) is likely to continue to be provided in the worker's home.

(3) The method of assessing a worker's level of dependency is the method stated in the modified barthel index.

(4) In deciding the amount of the worker's entitlement to additional compensation, WorkCover must have regard to the information in the report.

PART 5—REHABILITATION

Division 1—Caring allowance

Further information required in occupational therapist's report—Act, s 241

25.(1) An occupational therapist's assessment report must contain the information mentioned in section 24(2).

(2) In paying the caring allowance, WorkCover must have regard to the information in the report.

Extent of liability for caring allowance—Act, s 242

26.(1) WorkCover must decide the number of hours of care required for a worker having regard to the occupational therapist's report and the graduated scale in schedule 5.

(2) The method of assessing a worker's level of dependency is the method stated in the modified barthel index.

(3) The amount of the caring allowance—

(a) must be decided having regard to the number of hours of care required; and

(b) must be paid at an hourly rate equal to the carer pension rate divided by 35.

(4) In subsection (3)(b)—

“carer pension rate” means the weekly amount of the maximum single carer pension rate payable from time to time under a Commonwealth law but does not include an amount for allowances, for example, rent assistance or family payment.

Division 2—Workplace rehabilitation policy and procedures

Reporting requirement for review of workplace rehabilitation policy and procedures

27. For section 244(4)¹⁵ of the Act, an employer must, within 30 days after completing a review of the employer’s workplace rehabilitation policy and procedures, give WorkCover written evidence, in the approved form, that the review has been completed.

Division 3—Standard for rehabilitation

Who this division applies to

28. This division applies to anyone who is required, under chapter 4, parts 3 and 4¹⁶ of the Act, to provide or manage the rehabilitation of workers.

Definition for div 3

29. In this division—

“rehabilitation plan” means a written plan outlining the rehabilitation objectives and the steps required to achieve the objectives.

¹⁵ Section 244 (Employer’s obligation to have workplace rehabilitation policy and procedures) of the Act

¹⁶ Chapter 4 (Injury management), part 3 (Responsibility for rehabilitation) and part 4 (Employer’s obligation for rehabilitation) of the Act

Standard for rehabilitation

30. For section 245¹⁷ of the Act, the standard of rehabilitation must be in accordance with this division.

Doctor's approval

31. Approval of a worker's treating doctor must be obtained and documented for all rehabilitation plans, including amendments to plans.

Worker's file

32. A file must be kept for each worker undertaking rehabilitation and must contain copies of all relevant documentation, correspondence and accounts.

Rehabilitation plan

33.(1) A rehabilitation plan must be developed for each worker undertaking rehabilitation.

- (2)** The plan must be consistent with the worker's needs.
- (3)** The plan must be developed in consultation with the worker.
- (4)** The plan must at least contain the following matters—
 - (a)** clear and appropriate objectives with ways of achieving the objectives;
 - (b)** details of rehabilitation required to meet the objectives;
 - (c)** projected costs and time frames of rehabilitation;
 - (d)** review mechanisms and dates for review;
 - (e)** progress to date.

¹⁷ Section 245 (Employer's obligation to assist or provide rehabilitation) of the Act

Case notes

34.(1) Accurate and objective case notes must be kept for each worker undertaking rehabilitation.

(2) Case notes must contain details of—

- (a) all communications between the worker, the rehabilitation coordinator and other relevant parties; and
- (b) actions and decisions; and
- (c) reasons for actions and decisions.

Early worker contact

35. A worker who sustains an injury and who requires rehabilitation must be contacted about rehabilitation as soon as practicable after the injury is sustained or is reported.

Rehabilitation

36.(1) Rehabilitation must be goal directed with timely and appropriate service provision having regard to—

- (a) the worker's injury; and
- (b) the objectives of the rehabilitation plan; and
- (c) the worker's rate of recovery.

(2) Strategies used in rehabilitation must be evaluated by the rehabilitation coordinator as the case progresses to monitor their effectiveness.

(3) Rehabilitation must focus on return to work.

(4) However, if the worker's injury is so severe that a return to work is precluded, rehabilitation must focus on maximising the worker's independent functioning.

(5) Duties assigned to a worker for a suitable duties program must be meaningful and have regard to the objective of the worker's rehabilitation.

(6) The rehabilitation coordinator must ensure rehabilitation for a worker is coordinated with and understood by line managers, supervisors and co-workers.

(7) A worker must be treated with appropriate respect and equity.

Confidentiality

37.(1) Information obtained during rehabilitation must be treated with sensitivity and confidentiality by all parties.

(2) If it is necessary to obtain or release information associated with the worker's rehabilitation, the worker's authority to obtain or release the information must be obtained.

(3) The worker's authority is not required for the release of information to WorkCover.

PART 6—DAMAGES

Notice of claim for damages—Act, s 280

38.(1) A notice of claim must be made in the approved form and include the following particulars—

- (a) full particulars of the claimant, including—
 - (i) full name and any other known names; and
 - (ii) if the claimant is not the worker—the worker's full name; and
 - (iii) residential address; and
 - (iv) date of birth; and
 - (v) gender; and
 - (vi) usual occupation and, if that differs from the nature of employment at the time of the event, the nature of the employment at the time of the event; and

- (vii) the name and address of every employer of the worker at the time of the event;
- (b) full particulars of the event, including—
 - (i) the date, time and place of the event; and
 - (ii) a description of the facts, as the claimant understands or recalls them to be, of the circumstances surrounding the event; and
 - (iii) names and addresses of all witnesses to the event, and their relationship, if any, to the worker; and
 - (iv) name and address of any person on behalf of the claimant's employer to whom the claimant reported the event and their employment details; and
 - (v) full particulars of the negligence alleged against the claimant's employer and any other party on which the claim is based; and
 - (vi) whether, and to what extent, liability expressed as a percentage is admitted for the injury and, if another party is involved, the liability expressed as a percentage that the claimant holds the other party responsible; and
 - (vii) if another party is involved—details of the notice given to the party;
- (c) full particulars of the nature and extent of—
 - (i) all injuries alleged to have been sustained by the claimant because of the event; and
 - (ii) the degree of permanent impairment that the claimant alleges has resulted from the injuries; and
 - (iii) the amount of damages sought under each head of damage claimed by the claimant and the method of calculating each amount; and
 - (iv) how the claimant is presently affected by the injuries;
- (d) the name and address of each hospital at which the claimant has been treated for the injury, and the name and address of each doctor by whom the claimant has been treated for the injury;

- (e) the name and address of each provider of treatment or rehabilitation services who has made an assessment of, or provided treatment or rehabilitation services for, permanent impairment arising from the injury;
- (f) all personal injuries, illnesses and impairments of a medical, psychiatric or psychological nature sustained by the claimant either before or after the event that may affect the extent of the permanent impairment resulting from the injury to which the claim relates, or may affect the amount of damages in another way;
- (g) all personal injuries, illnesses and impairments of a medical, psychiatric or psychological nature sustained by the claimant either before or after the event for which the claimant has claimed damages, compensation or benefits, the name and address of any person against whom a claim for damages or compensation was made and, if an insurer was involved, the name and address of the insurer;
- (h) the name and address of each hospital at which the claimant has been treated for an injury, illness or impairment mentioned in paragraph (f) or (g), and the name and address of each doctor by whom the claimant has been treated for the injury, illness or impairment;
- (i) all steps taken by the worker to mitigate their loss;
- (j) if the claimant claims damages for diminished income earning capacity—particulars of the claimant’s employment during the 3 years immediately before and since the event including—
 - (i) the name and address of each of the claimant’s employers; and
 - (ii) the period of employment by each employer; and
 - (iii) the capacity in which the claimant was employed by each employer; and
 - (iv) the claimant’s gross and net (after tax) earnings for each period of employment; and

- (v) the periods during which the claimant was in receipt of payments from the Department of Social Security (Cwlth); and
- (vi) the periods during which the claimant received no income, and the reasons why the claimant was not receiving any income.

(2) A notice of claim relating to an injury causing death must contain the following additional particulars (if relevant)—

- (a) if the claimant is the deceased worker's spouse—
 - (i) the date of marriage or the date on which the de facto relationship started; and
 - (ii) the place of marriage or the residential address where the de facto relationship started; and
 - (iii) the claimant's net (after tax) weekly income before and after the worker's death; and
 - (iv) the age to which the claimant intended to work and the basis of the claimant's future employment i.e. whether full time or part time; and
 - (v) details of any health problems that the claimant currently has; and
 - (vi) the amount of average weekly financial benefit derived by the claimant from the deceased worker before the worker's death and the method of calculating the amount; and
 - (vii) the expected date of birth of a posthumous child; and
 - (viii) details of remarriage or start of a marriage-like relationship;
- (b) if the claimant is not the deceased worker's spouse—
 - (i) the claimant's relationship to the deceased worker; and
 - (ii) the claimant's net (after tax) weekly earnings; and
 - (iii) the age to which the claimant would have been dependent on the deceased worker and the basis of the dependency; and
 - (iv) details of any health problems that the claimant currently has; and

- (v) the amount of average weekly financial benefit derived by the claimant from the deceased worker before the worker's death and the method of calculating the amount.

PART 7—COSTS

Division 1—Proceeding before industrial magistrate

Costs—proceeding before industrial magistrate

39.(1) The costs of a proceeding before an industrial magistrate are in the discretion of the magistrate.

(2) However, if the magistrate allows costs—

- (a) for costs in relation to counsel's or solicitor's fees—
- (i) the costs are to be under the *Magistrates Courts Rules 1960*, schedule 5, scale E; or
 - (ii) if, because of—
 - (A) the work involved; or
 - (B) the importance, difficulty or complexity of the matter to which the proceedings relate;
 the industrial magistrate considers the amount of costs provided for under subparagraph (i) are inadequate remuneration, the magistrate may allow costs (in total or in relation to any item) in an amount up to 1.5 times the amount provided for under subparagraph (i) (in total or in relation to that item); and
- (b) for costs in relation to witnesses' fees and expenses—the costs are to be under the *Magistrates Courts Rules 1960*, schedule 4; and
- (c) for costs in relation to bailiff's fees—the costs are to be under the *Magistrates Courts Rules 1960*, schedule 3.

(3) Subsection (4) applies if—

- (a) WorkCover is required to pay costs in a hearing in relation to a witness who is a doctor or otherwise is of a professional description; and
- (b) the amount of fees and expenses payable in relation to the witness by the party that called the witness is more than the amount of costs allowed by the industrial magistrate.

(4) WorkCover may, on the application of the party that called the witness, pay an additional amount on account of the costs that WorkCover accepts as reasonable, having regard to the subject matter of the hearing.

Division 2—Claim for damages

Who this division applies to

40. This division applies to—

- (a) a worker who has a certificate injury; or
- (b) a dependant.

Definition for div 2

41. In this division—

“net damages” means damages recovered less compensation paid by WorkCover.

Costs before proceeding started

42.(1) This section prescribes the legal professional costs of a claim before a proceeding is started.

(2) If a claimant recovers at least \$150 000 net damages, the costs are—

- (a) if the claim is settled—
 - (i) without holding a compulsory conference—120% of the amount in schedule 1, column A; or

- (ii) after a compulsory conference is held—the amounts in schedule 1, columns A and B; and
- (b) for investigation of liability by an expert—the amount in schedule 1, column C; and
- (c) for an application to the court—the amount in schedule 1, column D.

(3) If a claimant recovers net damages of \$50 000 or more but less than \$150 000, the costs are 85% of the amount under subsection (2).

(4) If a claimant recovers less than \$50 000 net damages, the costs are 85% of the amount calculated under subsection (2) multiplied by the proportion that the net damages bear to \$50 000.

Example of subsection (4)—

If the net damages recovered are \$30 000, the costs are (85% of the amount calculated under subsection (2)) $\times \frac{3}{5}$.

(5) However, if a court in the proceeding awards the payment of solicitor-client costs, the costs recoverable under subsections (2), (3) and (4) are multiplied by 120%.

Costs after proceeding started

43.(1) This section prescribes the legal professional costs of a claim after a proceeding is started.

- (2) The costs are chargeable under the relevant court scale of costs.
- (3) However, the costs under subsection (2) do not include—
 - (a) the cost of work performed before the proceeding is started; or
 - (b) the cost of work performed before the proceeding is started that is performed again after the proceeding is started.

Outlays

44.(1) In addition to legal professional costs, the following outlays incurred by the claimant are allowed—

- (a) 1 hospital report fee for each hospital that provided treatment for the worker's injury;

- (b) 1 report fee for each doctor in general practice who provided treatment for the worker's injury;
 - (c) 1 medical specialist's report fee for each medical discipline reasonably relevant and necessary for the understanding of the worker's injury;
 - (d) 1 report fee of an expert investigating liability, of not more than \$1 000, less any proportion of the fee agreed to be paid by WorkCover;
 - (e) Australian Taxation Office or tax agents' fees for supplying copies of income tax returns;
 - (f) fees charged by the claimant's previous employers for giving information necessary for the claimant to complete the notice of claim, but not more than \$50 for each employer;
 - (g) fees charged by a mediator in an amount previously agreed to by WorkCover;
 - (h) filing fees or other necessary charges incurred in relation to an application to the court before a proceeding is started;
 - (i) reasonable fees for sundry items properly incurred, other than photocopying costs.
- (2) The fees—
- (a) are allowable only for reports disclosed before the start of proceedings; and
 - (b) for subsection (1)(a) to (c)—are payable according to the recommended Australian Medical Association scale of fees.

PART 8—SAVING OF REPEALED ACT PROVISIONS

Continuation of certain provisions of repealed Act

45.(1) In this section—

“relevant provisions” means the *Workers' Compensation Act 1990*—

- section 5(1), definitions “**non-policy compensation arrangement**”, “**policy**” and “**uninsured worker**”
- section 10
- sections 45 to 48
- section 52
- sections 55 to 58.

“**uncommenced provisions**” of the Act means chapter 2 (other than sections 69 and 70) of the Act.¹⁸

(2) This section is made under section 557(7)¹⁹ of the Act for the continuation of the relevant provisions for the purpose of the transition to the operation of the uncommenced provisions of the Act.²⁰

(3) The relevant provisions continue in force.

(4) This section expires on 30 June 1997.

Continuation of certain provisions of repealed regulation

46.(1) In this section—

“**relevant provisions**” means the *Workers’ Compensation Regulation 1992*—

- section 4, definitions “**actual expenditure on account of wages**” and “**schedule of rates**”
- parts 2, 4 and 5 (other than sections 33, 34 and 37)
- section 41(2)
- schedule 1.

(2) The relevant provisions continue in force.

¹⁸ The uncommenced provisions will commence on 1 July 1997.

¹⁹ Under section 557(9)(b) of the Act, a regulation for section 557(7) expires 9 months after the date of assent of the Act unless it has previously expired.

²⁰ Other provisions of the repealed Act are also continued in force by section 557 of the Act.

(3) A person must not contravene a relevant provision.

Maximum penalty—20 penalty units.

(4) This section expires on 30 June 1997.

PART 9—AMENDMENTS OF OTHER REGULATIONS

Consequential amendments in sch 6

47. Schedule 6 amends the regulations it mentions.

SCHEDULE 1
LEGAL PROFESSIONAL COSTS

section 42

| Column A Pre-proceeding notification and negotiation | Column B Compulsory conference | Column C Investigation by expert | Column D Pre-proceedings court applications |
|--|---|---|---|
| \$2 000 | \$135 for the first hour or part of an hour \$105 for each additional hour or part of an hour | \$270 | \$400 |

SCHEDULE 2

TABLE OF INJURIES

section 19

PART 1—UPPER EXTREMITY INJURIES

Division 1—Preliminary

Application of pt 1

- 1.(1)** This part deals with upper extremity injuries.
- (2)** The maximum lump sum compensation payable for an upper extremity injury is \$82 480.
- (3)** To decide a worker's entitlement from injury, division 2 shows—
 - (a)** the maximum degree of permanent impairment that may result from the injury; and
 - (b)** the maximum lump sum compensation payable for the injury; and
 - (c)** the maximum WRI.

How to use this part of the table

- 2.(1)** Division 2 lists certain upper extremity injuries.
- (2)** Injuries are stated in column 2, the maximum degree of permanent impairment resulting from the injury is stated in column 3, the maximum lump sum compensation for the injury is stated in column 4, and the maximum WRI is stated in column 5.
- (3)** The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the upper extremity.

SCHEDULE 2 (continued)

(4) Some injuries mentioned in division 2 are marked with an asterisk (*).

(5) These injuries may result in the same degree of maximum permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.

(6) For more information on how to use the table of injuries, see sections 19 and 20 of the regulation.

Interaction between this part and the AMA guide

3.(1) The degree of permanent impairment resulting from an injury to an upper extremity is expressed in division 2 as a degree of permanent impairment of the upper extremity.

(2) Even though an injury is not precisely described under division 2, a similar injury often will be.

(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment must always be more than the less severe injury, but not as much as the more severe injury.

(4) If an injury to an upper extremity results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.

(5) However, the processes that may be used under the AMA guide cannot result in an injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.

(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the upper extremity.

(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the upper extremity for this part.

(8) For section 19 of the regulation, the relevant provision of the AMA guide is chapter 3.

SCHEDULE 2 (continued)

Formulas to be used for deciding lump sum compensation for permanent impairment

4.(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple injuries to the upper extremity—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

(2) However, for a single injury (other than an injury involving sensory loss) to the index, ring or little finger, the following formula must be used—

$$\frac{\text{DPI} \times \text{LSC}}{\text{MDPI}}$$

(3) Also, for multiple injuries where at least 1 injury (other than sensory loss) is to the index, ring or little finger, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsection (1) and (2).

(4) In this section—

“**DPI**” means the degree of permanent impairment of the upper extremity assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

“**LSC**” means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 4 of the table of injuries.

“**MDPI**” means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 3 of the table of injuries.

“**MLSC**” means the maximum lump sum compensation specified in section 1(2).

SCHEDULE 2 (continued)

Division 2—Upper extremity injuries

| Column 1 Code No. | Column 2 Injury | Column 3 Maximum degree of permanent impairment | Column 4 Maximum lump sum compensation \$ | Column 5 Maximum WRI % |
|----------------------|--|---|---|---------------------------------|
| 1100 | FINGERS AND HAND | | | |
| 1101 | Loss of thumb | 36 | 29 695 | 28.8 |
| 1102 | Loss of joint of thumb | 18 | 14 850 | 14.4 |
| 1103 | Sensory loss to palmar surface of thumb | 18 | 14 850 | 14.4 |
| 1104 | Sensory loss on either side of thumb | 8 | 6 600 | 6.4 |
| 1105 | *Loss of index finger | 18 | 16 795 | 16.29 |
| 1106 | *Loss of 2 joints of index finger | 13 | 12 600 | 12.22 |
| 1107 | *Loss of distal joint to index finger | 8 | 8 400 | 8.14 |
| 1108 | Sensory loss to palmar surface of index finger | 8 | 6 600 | 6.4 |
| 1109 | Sensory loss on either side of index finger | 5 | 4 125 | 4 |
| 1110 | Loss of middle finger | 18 | 14 850 | 14.4 |
| 1111 | Loss of 2 joints of middle finger | 13 | 10 725 | 10.4 |
| 1112 | Loss of distal joint of middle finger | 8 | 6 600 | 6.4 |
| 1113 | Sensory loss to palmar surface of middle finger | 8 | 6 600 | 6.4 |
| 1114 | Sensory loss on either side of middle finger | 5 | 4 125 | 4 |
| 1115 | *Loss of ring finger | 8 | 8 400 | 8.14 |
| 1116 | *Loss of 2 joints of ring finger | 6 | 8 400 | 8.14 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|--|----|--------|------|
| 1117 | *Loss of distal joint of ring finger | 5 | 5 045 | 4.89 |
| 1118 | Sensory loss on either side of ring finger | 3 | 2 475 | 2.4 |
| 1119 | Sensory loss to palmar surface of ring finger | 5 | 4 125 | 4 |
| 1120 | Sensory loss on either side of ring finger | 3 | 2 475 | 2.4 |
| 1121 | *Loss of little finger | 8 | 8 400 | 8.14 |
| 1122 | *Loss of 2 joints of little finger | 6 | 8 400 | 8.14 |
| 1123 | *Loss of distal joint of little finger | 5 | 5 045 | 4.89 |
| 1124 | Sensory loss to palmar surface of little finger | 5 | 4 125 | 4 |
| 1125 | Sensory loss on either side of little finger | 3 | 2 475 | 2.4 |
| 1126 | Loss of hand or arm below the elbow | 90 | 74 235 | 72 |
| 1127 | Aggravation of Dupuytren's contracture | 0 | 0 | 0 |
| 1128 | Crush injury to hand with multiple fractures (healed with no deformities) but resulting in mild loss of motion of all fingers with extensive scarring and soft tissue damage | 40 | 32 995 | 32 |
| 1200 | WRIST | | | |
| 1201 | De Quervains disease, whether operated or non-operated | 0 | 0 | 0 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|--|----|--------|------|
| 1202 | Ganglion, whether operated or non-operated, with or without residual subjective symptoms or signs e.g. swelling or tenderness | 0 | 0 | 0 |
| 1203 | Carpal tunnel syndrome, non-operated, with no residual subjective symptoms or signs | 0 | 0 | 0 |
| 1204 | Carpal tunnel syndrome, whether operated or non-operated with residual subjective symptoms or signs such as dysaesthesia or muscle wasting | 2 | 1 650 | 1.6 |
| 1205 | Fractured scaphoid, non-operated and healed with no residual subjective symptoms or signs | 0 | 0 | 0 |
| 1206 | Fractured scaphoid, operated | 5 | 4 125 | 4 |
| 1207 | Fractured scaphoid, worst possible outcome i.e. fusion of the wrist joint | 60 | 49 490 | 48 |
| 1208 | Fracture of radius or ulna or carpus bones with moderate limitation of wrist movements and mild limitation of elbow movements | 16 | 13 200 | 12.8 |
| 1300 | ELBOW | | | |
| 1301 | Medial or lateral epicondylitis of elbow, non-operated with no residual subjective symptoms or signs | 0 | 0 | 0 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|--|-----|--------|------|
| 1302 | Medial or lateral epicondylitis of elbow, whether operated or non-operated with residual subjective symptoms or signs e.g. pain and tenderness | 2 | 1 650 | 1.6 |
| 1303 | Injury to elbow region resulting in moderate loss of all movements | 31 | 25 570 | 24.8 |
| 1400 | SHOULDER AND ARM | | | |
| 1401 | Injury to shoulder region resulting in mild loss of all movements | 6 | 4 950 | 4.8 |
| 1402 | Injury to shoulder region resulting in moderate loss of all movements | 16 | 13 200 | 12.8 |
| 1403 | Total loss of function of shoulder joint | 60 | 49 490 | 48 |
| 1404 | Loss of an arm | 100 | 82 480 | 80 |

PART 2—LOWER EXTREMITY INJURIES*Division 1—Preliminary***Application of pt 2**

1.(1) This part deals with lower extremity injuries.

(2) The maximum lump sum compensation payable for a lower extremity injury is \$77 325.

(3) To decide a worker's entitlement from injury, division 2 shows—

SCHEDULE 2 (continued)

- (a) the maximum degree of permanent impairment that may result from the injury; and
- (b) the maximum lump sum compensation payable for the injury; and
- (c) the maximum WRI.

How to use this part of the table

2.(1) Division 2 lists certain lower extremity injuries.

(2) Injuries are stated in column 2, the maximum degree of permanent impairment resulting from the injury is stated in column 3, the maximum lump sum compensation for the injury is stated in column 4, and the maximum WRI is stated in column 5.

(3) The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the lower extremity.

(4) Some injuries mentioned in division 2 are marked with an asterisk (*).

(5) These injuries may result in the same degree of maximum permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.

(6) For more information on how to use the table of injuries, see sections 19 and 20 of the regulation.

Interaction between this part and the AMA guide

3.(1) The degree of permanent impairment resulting from an injury to a lower extremity is expressed in division 2 as a degree of permanent impairment of the lower extremity.

(2) Even though an injury is not precisely described under division 2, a similar injury often will be.

(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment

SCHEDULE 2 (continued)

must always be more than the less severe injury, but not as much as the more severe injury.

(4) If an injury to a lower extremity results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.

(5) However, the processes that may be used under the AMA guide cannot result in an injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.

(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the lower extremity.

(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the lower extremity for this part.

(8) For section 19 of the regulation, the relevant provision of the AMA guide is chapter 3.

Formulas to be used for deciding lump sum compensation for permanent impairment

4.(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple injuries to the lower extremity—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

(2) However, for a single injury to a toe, the following formula must be used—

$$\frac{\text{DPI} \times \text{LSC}}{\text{MDPI}}$$

(3) Also, for multiple injuries where at least 1 injury (but not all injuries) is to the toes, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsection (1) and (2).

SCHEDULE 2 (continued)

(4) Also, for multiple toe injuries, the formula in subsection (2) must be used, but the value of LSC is as specified in division 2.

(5) In this section—

“**DPI**” means the degree of permanent impairment of the lower extremity assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

“**LSC**” means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 4 of the table of injuries.

“**MDPI**” means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 3 of the table of injuries.

“**MLSC**” means the maximum lump sum compensation specified in section 1(2).

Division 2—Lower extremity injuries

| Column 1 Code No. | Column 2 Injury | Column 3 Maximum degree of permanent impairment | Column 4 Maximum lump sum compensation \$ | Column 5 Maximum WRI % |
|----------------------|---|---|---|---------------------------------|
| 2100 | TOES AND FOOT | | | |
| 2101 | *Loss of any toe (other than great toe) | 2 | 8 400 | 8.14 |
| 2102 | *Loss of great toe | 12 | 16 795 | 16.29 |
| 2103 | *Loss of joint of great toe . . | 5 | 8 400 | 8.14 |
| 2104 | Fracture of any metatarsal, worst possible outcome e.g. pain or loss of weight transfer | 10 | 7 735 | 7.5 |
| 2105 | Mid-foot amputation | 45 | 34 800 | 33.75 |
| 2106 | Loss of a foot | 63 | 48 715 | 47.25 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|---|----|--------|-------|
| 2107 | *Loss of two toes (other than great toe) of a foot | 4 | 10 310 | 10 |
| 2108 | *Loss of three toes (other than great toe) of a foot | 6 | 12 115 | 11.75 |
| 2109 | *Loss of four toes (other than great toe) of a foot | 8 | 13 920 | 13.5 |
| 2110 | *Loss of great toe and one other toe of a foot | 14 | 20 620 | 20 |
| 2111 | *Loss of great toe and two other toes of a foot | 16 | 25 775 | 25 |
| 2112 | *Loss of great toe and three other toes of a foot | 18 | 30 930 | 30 |
| 2113 | *Loss of joint of great toe and one other toe of a foot | 7 | 10 310 | 10 |
| 2114 | *Loss of joint of great toe and two other toes of a foot | 9 | 12 115 | 11.75 |
| 2115 | *Loss of joint of great toe and three other toes of a foot | 11 | 13 920 | 13.5 |
| 2116 | *Loss of joint of great toe and four other toes of a foot | 13 | 15 725 | 15.25 |
| 2117 | *Loss of all toes of a foot | 20 | 34 800 | 33.75 |
| 2200 | ANKLE | | | |
| 2201 | Ankylosis of ankle in neutral position | 10 | 7 735 | 7.5 |
| 2202 | Unstable ankle with ligamentous insufficiency, whether operated or non-operated | 15 | 11 600 | 11.25 |
| 2203 | Total loss of function of ankle joint with ankylosis in unfavourable position, worst possible outcome | 62 | 47 945 | 46.5 |
| 2204 | Fracture to os calcis, worst possible outcome | 25 | 19 335 | 18.75 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|--|----|--------|------|
| 2205 | Fracture of tibia and fibula resulting in shortening of the leg, gait difficulty, muscle wasting in the calf and moderate permanent stiffness of the knee and ankle joints . | 50 | 38 665 | 37.5 |
| 2300 | KNEE | | | |
| 2301 | Chondromalacia patellae, non-operated | 0 | 0 | 0 |
| 2302 | Chondromalacia patellae, operated | 2 | 1 550 | 1.5 |
| 2303 | Patellar subluxation or dislocation with residual instability | 7 | 5 415 | 5.25 |
| 2304 | Patellar fracture, whether operated or non-operated . . . | 12 | 9 280 | 9 |
| 2305 | Patellectomy | 22 | 17 015 | 16.5 |
| 2306 | Single meniscectomy | 7 | 5 415 | 5.25 |
| 2307 | Mild aggravation of pre-existing degenerative disease in knee with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 0 | 0 | 0 |
| 2308 | Moderate to severe aggravation or acceleration of pre-existing disease in knee with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 7 | 5 415 | 5.25 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|---|-----|--------|-------|
| 2309 | Injury to knee region resulting in moderate loss of all movements | 20 | 15 465 | 15 |
| 2310 | Unstable knee (cruciate or collateral ligament insufficiency), whether operated or non-operated . . . | 25 | 19 335 | 18.75 |
| 2311 | Unstable knee (cruciate and collateral ligament insufficiency), whether operated or non-operated . . . | 37 | 28 615 | 27.75 |
| 2312 | Total knee replacement . . . | 50 | 38 665 | 37.5 |
| 2313 | Below knee amputation . . . | 80 | 61 860 | 60 |
| 2314 | Above knee amputation . . . | 100 | 77 325 | 75 |
| 2400 | HIP JOINT AND LEG | | | |
| 2401 | Mild aggravation of pre-existing degenerative disease in hip joint with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 0 | 0 | 0 |
| 2402 | Moderate to severe aggravation or acceleration of pre-existing disease in hip joint with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 7 | 5 415 | 5.25 |
| 2403 | Injury to hip region resulting in mild loss of all movements | 12 | 9 280 | 9 |
| 2404 | Injury to hip region resulting in moderate loss of all movements | 25 | 19 335 | 18.75 |

SCHEDULE 2 (continued)

| | | | | |
|------|--|-----|--------|-------|
| 2405 | Healed fracture to femur with moderate angulation or deformity | 45 | 34 800 | 33.75 |
| 2406 | Fracture to femoral neck . . . | 50 | 38 665 | 37.5 |
| 2407 | Total hip replacement | 45 | 34 800 | 33.75 |
| 2408 | Loss of a leg | 100 | 77 325 | 75 |

PART 3—SPECIAL PROVISION INJURIES*Division 1—Preliminary***Application of pt 3**

1.(1) This part deals with vision and hearing injuries and injury involving loss of a breast.

(2) The maximum lump sum compensation payable for a vision injury under this part is \$103 100.

(3) The maximum lump sum compensation payable for a hearing injury under this part is \$41 995.

(4) The maximum lump sum compensation payable for loss of a breast under this part is \$30 930.

How to use this part of the table

2.(1) Division 2 lists certain vision and hearing injuries and injury involving loss of a breast.

(2) Vision and hearing injuries and injury involving loss of a breast are stated in column 2, the maximum lump sum compensation for the injury is stated in column 3, and the maximum WRI is stated in column 4.

(3) Some injuries mentioned in division 2 are marked with an asterisk (*).

SCHEDULE 2 (continued)

(4) For historical reasons, the maximum lump sum compensation payable for these injuries may be higher relative to other injuries mentioned in this division.

(5) For more information on how to use the table of injuries, see section 19 of the regulation.

Interaction between this part and the assessment guides

3.(1) The lump sum compensation payable for a vision or hearing injury mentioned in division 2 is the maximum lump sum compensation payable for the injury.

(2) If a vision or hearing injury results in permanent impairment of vision or hearing and the injury is not mentioned in division 2, the degree of permanent impairment resulting from the injury must be assessed under the relevant assessment guide.

(3) The degree of permanent impairment must be expressed as a degree of total vision or hearing loss—

- (a) for each eye or ear; or
- (b) if the injury is to both eyes or both ears—of both eyes or both ears.

(4) In this section—

“**relevant assessment guide**” means—

- (a) for a vision injury—the ophthalmologists guide; or
- (b) for a hearing injury—the hearing loss tables.

Formula to be used for deciding lump sum compensation for permanent impairment

4.(1) The following formula must be used to work out the amount of lump sum compensation payable for a vision or hearing injury—

$$\underline{\text{DPI}} \times \underline{\text{LSC}}$$

SCHEDULE 2 (continued)

(2) However, for multiple injuries involving at least 1 of an injury to vision, hearing or a breast, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsection (1).

(3) In this section—

“DPI” means—

- (a) for hearing loss from industrial deafness—the assessed degree of permanent impairment resulting from the injury less 5%;²¹ and
- (b) for another injury under this part—the assessed degree of permanent impairment resulting from the injury.

“LSC” means the lump sum compensation payable under this part for the injury.

Division 2—Special provision injuries

| Column 1 Code No. | Column 2 Injury | Column 3 Maximum lump sum compensation \$ | Column 4 Maximum WRI % |
|----------------------|--|--|---------------------------------|
| 3100 | VISION | | |
| 3101 | *Loss of vision in 1 eye (corrected vision) | 33 590 | 32.58 |
| 3102 | *Total loss of vision in 1 eye resulting from loss of an eyeball | 37 790 | 36.65 |
| 3103 | Total loss of vision | 103 100 | 100 |
| 3104 | Total loss of vision of 1 eye with serious diminution of vision in the other eye (less than 10% vision remaining) | 87 635 | 85 |

²¹ For more information about the 5% reduction, see section 152 (Entitlements for industrial deafness) of the Act.

SCHEDULE 2 (continued)

3200 HEARING

| | | | |
|------|------------------------------------|---------|-------|
| 3201 | Loss of hearing in 1 ear | 20 62 0 | 20 |
| 3202 | *Binaural hearing loss | 41 995 | 40.73 |

3300 INJURY TO BREAST

| | | | |
|------|---------------------------|--------|----|
| 3301 | *Loss of breast | 30 930 | 30 |
|------|---------------------------|--------|----|

PART 4—OTHER INJURIES*Division 1—Preliminary***Application of pt 4**

1.(1) This part deals with the following injuries (“**system injuries**”)—

- (a) injuries to the musculo-skeletal system;
- (b) injuries to the nervous system;
- (c) injuries to the respiratory system;
- (d) injuries to the cardiovascular system;
- (e) injuries to the alimentary system;
- (f) injuries to the urinary or reproductive system;
- (g) injuries to the skin.

(2) The maximum lump sum compensation payable for an injury under this part is \$103 100.

(3) To decide a workers entitlement from injury, division 2 shows—

- (a) the maximum degree of permanent impairment that may result from the injury; and

SCHEDULE 2 (continued)

- (b) the maximum lump sum compensation payable for the injury;
and
- (c) the maximum WRI.

How to use this part of the table

2.(1) Division 2 lists certain system injuries.

(2) Injuries are stated in column 2, the maximum degree of permanent impairment resulting from the injury is stated in column 3, the maximum lump sum compensation for the injury is stated in column 4, and the maximum WRI is stated in column 5.

(3) The maximum degree of permanent impairment resulting from an injury is stated as a degree of permanent impairment of the whole person.

(4) Some injuries mentioned in division 2 are marked with an asterisk (*).

(5) These injuries may result in the same degree of permanent impairment as other injuries mentioned in the division, but, for historical reasons, give rise to different amounts of maximum lump sum compensation.

(6) For more information on how to use the table of injuries, see sections 19 and 20 of the regulation.

Interaction between this part and the AMA guide

3.(1) The degree of permanent impairment resulting from a system injury is expressed in division 2 as a degree of permanent impairment of the whole person.

(2) Even though an injury is not precisely described under division 2, a similar injury often will be.

(3) If the injury is more severe than a particular similar injury, but less severe than another similar injury, the degree of permanent impairment must always be more than the less severe injury, but not as much as the more severe injury.

SCHEDULE 2 (continued)

(4) If a system injury results in permanent impairment and the injury is not mentioned in division 2, the degree of permanent impairment must be assessed under the AMA guide.

(5) However, the processes that may be used under the AMA guide cannot result in a system injury giving rise to a greater degree of permanent impairment from the injury than that specified under division 2.

(6) The degree of permanent impairment resulting from the injury assessed under the AMA guide must be expressed as a degree of permanent impairment of the whole person.

(7) The degree of permanent impairment so expressed is taken to be the degree of permanent impairment of the whole person for this part.

(8) For section 19 of the regulation, the relevant provisions of the AMA guide are—

- (a) for injuries to the cervicothoracic, thoracolumbar or lumbosacral spine—chapter 3; and
- (b) for injuries to the pelvis—chapter 3; and
- (c) for injuries to the brain and cranial nerves—chapters 4 and 9; and
- (d) for spinal cord injuries—chapters 3 and 4; and
- (e) for respiratory system injuries—chapter 5; and
- (f) for cardiovascular system injuries—chapter 6; and
- (g) for alimentary system injuries—chapter 10; and
- (h) for urinary or reproductive system injuries—chapter 11; and
- (i) for skin injuries—chapter 13.

Formulas to be used for deciding lump sum compensation for permanent impairment

4.(1) The following formula must be used to work out the amount of lump sum compensation payable for single or multiple system injuries—

$$\frac{\text{DPI} \times \text{MLSC}}{100}$$

$$100$$

SCHEDULE 2 (continued)

(2) However, for loss of smell, taste or speech, a cervical cord injury (with or without fracture) or complete paraplegia, the following formula must be used—

$$\frac{\text{DPI} \times \text{LSC}}{\text{MDPI}}$$

(3) Also, for multiple injuries involving at least 1 injury that is loss of smell, taste or speech, a cervical cord injury or paraplegia, the amount of lump sum compensation payable for the injuries is the sum of the amounts worked out for each injury under subsection (1) and (2).

(4) In this section—

“**DPI**” means the degree of permanent impairment of the whole person assessed by a registered person as resulting from the injury or, for multiple injuries, the injuries.

“**LSC**” means the lump sum compensation payable for the maximum degree of permanent impairment for the injury set out in column 4 of the table of injuries.

“**MDPI**” means the maximum degree of permanent impairment resulting from the injury or another relevant injury set out in column 3 of the table of injuries.

“**MLSC**” means the maximum lump sum compensation specified in section 1(2).

SCHEDULE 2 (continued)

Division 2—System injuries

| Column 1 Code No. | Column 2 Injury | Column 3 Maximum degree of permanent impairment | Column 4 Maximum lump sum compensation \$ | Column 5 Maximum WRI % |
|----------------------|--|---|---|---------------------------------|
| 4100 | MUSCULO-SKELETAL SYSTEM | | | |
| | Cervicothoracic spine | | | |
| 4101 | Hyperextension musculo- ligamentous injury to cervical spine region with subjective symptoms, but no significant clinical findings | 0 | 0 | 0 |
| 4102 | Mild aggravation of pre-existing degenerative disease in cervical spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 0 | 0 | 0 |
| 4103 | Moderate to severe aggravation or acceleration of pre-existing degenerative disease in cervical spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 5 | 5 155 | 5 |

SCHEDULE 2 (continued)

| | | | | |
|------|--|----|--------|----|
| 4104 | Compression fracture of a vertebral body(s) or posterior element fracture (spinous or transverse process) without dislocation, healed with no complications, but local subjective symptoms, referred pain and mild restriction of neck movements | 5 | 5 155 | 5 |
| 4105 | Prolapsed intervertebral disc in cervical spine with referred pain, non-operated with resolution of subjective symptoms, and no loss of range of movements | 10 | 10 310 | 10 |
| 4106 | Prolapsed intervertebral disc in cervical spine with referred pain, treated surgically by discectomy and fusion with resolution of referred pain. Persisting neck pain with moderate loss of range of movements | 15 | 15 465 | 15 |
| 4107 | Vertebral fractures or dislocations to cervical spine, treated surgically by fusion with no residual neurological compromise, but severe loss of range of movements | 25 | 25 775 | 25 |

SCHEDULE 2 (continued)

Thoracolumbar spine

| | | | | |
|------|---|----|--------|----|
| 4108 | Mild aggravation of pre-existing degenerative disease in thoracic spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 0 | 0 | 0 |
| 4109 | Moderate to severe aggravation or acceleration of pre-existing degenerative disease in thoracic spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 5 | 5 155 | 5 |
| 4110 | Minor compression fracture of vertebral body(s) in thoracic spine, healed with subjective symptoms, but no physical signs | 5 | 5 155 | 5 |
| 4111 | Major compression fracture of vertebral body(s) in thoracic spine, healed with subjective symptoms, but no physical signs | 10 | 10 310 | 10 |

Lumbosacral spine

| | | | | |
|------|---|---|---|---|
| 4112 | Musculo-ligamentous injury to lumbosacral spine region with subjective symptoms, but no significant clinical findings | 0 | 0 | 0 |
|------|---|---|---|---|

SCHEDULE 2 (continued)

| | | | | |
|------|---|----|--------|----|
| 4113 | Mild aggravation of pre-existing degenerative disease in lumbosacral spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 0 | 0 | 0 |
| 4114 | Moderate to severe aggravation or acceleration of pre-existing disease in lumbosacral spine with subjective symptoms, but no significant clinical findings other than degenerative changes on X-ray | 5 | 5 155 | 5 |
| 4115 | Moderate to severe aggravation of pre-existing spondylolisthesis, treated surgically by discectomy or fusion with resolution of symptoms | 10 | 10 310 | 10 |
| 4116 | Minor compression fracture of vertebral body(s) in lumbar region, healed with subjective symptoms, but no physical signs | 5 | 5 155 | 5 |
| 4117 | Major compression fracture of vertebral body(s) in lumbar region, healed with subjective symptoms, but no physical signs | 10 | 10 310 | 10 |

SCHEDULE 2 (continued)

| | | | | |
|------|---|----|--------|----|
| 4118 | Prolapsed intervertebral disc in lumbosacral spine with referred pain, non-operated with resolution of referred pain and back pain. No loss of range of movements | 10 | 10 310 | 10 |
| 4119 | Prolapsed intervertebral disc in lumbosacral spine with referred pain, treated surgically by discectomy or fusion with resolution of referred pain, but persisting low back pain. Mild loss of range of movements | 15 | 15 465 | 15 |
| 4120 | Prolapsed intervertebral disc in lumbosacral spine with referred pain, treated surgically by discectomy or fusion, but with persisting referred pain and low back pain. Moderate loss of range of movements | 25 | 25 775 | 25 |

Pelvis

| | | | | |
|------|--|---|-------|---|
| 4121 | Healed fracture to pelvis without displacement in any region (other than acetabulum, coccyx and sacrum) with subjective symptoms, but no significant signs | 0 | 0 | 0 |
| 4122 | Healed fracture to pelvis with displacement in any region (other than acetabulum, coccyx and sacrum) with subjective symptoms, but no significant signs | 5 | 5 155 | 5 |

SCHEDULE 2 (continued)

| | | | | |
|---------------------------------|---|----|--------|-------|
| 4123 | Fracture to coccyx, whether operated or non-operated . . . | 5 | 5 155 | 5 |
| 4124 | Healed fracture(s) to pelvis in any region (other than acetabulum, coccyx and sacrum) with displacement and deformity and subjective symptoms and signs | 10 | 10 310 | 10 |
| 4125 | Fracture to sacrum with or without involvement of the sacro-iliac joint with subjective symptoms and signs | 10 | 10 310 | 10 |
| 4126 | Fracture or dislocation of symphysis or sacro-iliac joint | 10 | 10 310 | 10 |
| 4127 | Fracture into acetabulum with displacement and deformity and residual subjective symptoms and signs in hip joint | 50 | 51 550 | 50 |
| 4200 NERVOUS SYSTEM | | | | |
| Brain and cranial nerves | | | | |
| 4201 | Mild vertigo with subjective symptoms, but no significant signs | 0 | 0 | 0 |
| 4202 | Severe vertigo with subjective symptoms and signs and totally dependent | 70 | 72 170 | 70 |
| 4203 | *Loss of smell | 3 | 12 600 | 12.22 |
| 4204 | *Loss of smell and taste . . . | 6 | 20 995 | 20.36 |
| 4205 | *Loss of speech | 35 | 58 790 | 57.02 |
| 4206 | Fracture to the mid third of the face with permanent nerve involvement | 24 | 24 745 | 24 |

SCHEDULE 2 (continued)

| | | | | |
|------|--|-----|---------|-----|
| 4207 | Chronic organic brain syndrome i.e. diffuse brain damage following head injuries, cerebral anoxia, inhalation of toxic substances etc., worst possible outcome | 100 | 103 100 | 100 |
|------|--|-----|---------|-----|

Spinal cord injuries

| | | | | |
|------|--|-----|---------|-----|
| 4208 | *Cervical cord injury with or without fracture | 75 | 92 790 | 90 |
| 4209 | Thoracic cord injury with or without fracture | 60 | 61 860 | 60 |
| 4210 | Cauda equina syndrome with or without fracture | 60 | 61 860 | 60 |
| 4211 | *Complete paraplegia | 75 | 92 790 | 90 |
| 4212 | Totally dependent quadriplegia | 100 | 103 100 | 100 |

4300 R E S P I R A T O R Y SYSTEM

| | | | | |
|------|---|---|---|---|
| 4301 | Healed fractured rib(s) with subjective symptoms, but no significant signs | 0 | 0 | 0 |
| 4302 | Healed pulmonary contusion with subjective symptoms, but no significant signs | 0 | 0 | 0 |

SCHEDULE 2 (continued)

| | | | | |
|------|---|-----|---------|-----|
| 4303 | Toxic inhalation injury, hypersensitivity pneumonitis, p n e u m o c o n i o s e s , occupational asthma, C.O.A.D. (bronchitis or emphysema), R.A.D.S. (Reactive airways dysfunction syndrome), pulmonary embolus, all on optimal medical management— | | | |
| | • no respiratory subjective symptoms or significant signs | 0 | 0 | 0 |
| | • mild respiratory subjective symptoms or minor signs | 25 | 25 775 | 25 |
| | • moderate respiratory subjective symptoms or moderate signs | 50 | 51 550 | 50 |
| | • severe respiratory subjective symptoms or significant signs | 100 | 103 100 | 100 |
| 4304 | Mesothelioma or lung cancer | 100 | 103 100 | 100 |

4400 CARDIOVASCULAR SYSTEM

Coronary artery disease

| | | | | |
|------|--|----|--------|----|
| 4401 | A history of angina with demonstrated constitutional coronary artery disease, on optimal medical treatment . . | 0 | 0 | 0 |
| 4402 | A history of myocardial infarction, with no post infarction angina, on optimal medical treatment | 15 | 15 465 | 15 |

SCHEDULE 2 (continued)

| | | | | |
|-------------|---|-----|---------|-----|
| 4403 | A history of myocardial infarction with persisting post infarction angina, on optimal medical treatment | 50 | 51 550 | 50 |
| 4404 | A history of myocardial infarction with persisting post infarction angina and subjective symptoms and signs of congestive heart failure, on optimal medical treatment | 100 | 103 100 | 100 |
| 4500 | ALIMENTARY SYSTEM | | | |
| 4501 | Musculo-ligamentous injury to abdominal wall | 0 | 0 | 0 |
| 4502 | Splenectomy | 5 | 5 155 | 5 |
| 4503 | Subjective symptoms (e.g. local pain or dysaesthesia) following hernia repair(s), but no significant signs | 0 | 0 | 0 |
| 4504 | Subjective symptoms and signs (e.g. pain or dysaesthesia, tenderness) following hernia repair(s) . . | 2 | 2 065 | 2 |
| 4505 | Primary or recurrent hernia when surgery is an absolute contraindication | 10 | 10 310 | 10 |
| 4506 | Viral hepatitis— | | | |
| | • mild | 25 | 25 775 | 25 |
| | • moderate | 50 | 51 550 | 50 |
| | • severe | 100 | 103 100 | 100 |

SCHEDULE 2 (continued)

**4600 URINARY AND
REPRODUCTIVE
SYSTEMS**

| | | | | |
|------|---|-----|---------|-----|
| 4601 | Loss of 1 kidney | 10 | 10 310 | 10 |
| 4602 | Urinary incontinence | 60 | 61 860 | 60 |
| 4603 | Loss of both kidneys or only functioning kidney | 100 | 103 100 | 100 |
| 4604 | Loss of fertility | 15 | 15 465 | 15 |
| 4605 | Impotence | 15 | 15 465 | 15 |
| 4606 | Loss of sexual function (both impotence and infertility) . . . | 30 | 30 930 | 30 |
| 4607 | Loss of genital organs | 50 | 51 550 | 50 |

4700 SKIN

| | | | | |
|------|--|----|--------|----|
| 4701 | Contact irritant dermatitis. Removal from exposure to irritant results in resolution of signs and subjective symptoms with no ongoing treatment required | 0 | 0 | 0 |
| 4702 | Aggravation of constitutional dermatitis, resolved by removal from exposure to irritant | 0 | 0 | 0 |
| 4703 | Moderate solar induced skin disease that is non-malignant | 0 | 0 | 0 |
| 4704 | Chronic contact dermatitis. Signs and subjective symptoms persist intermittently on removal from exposure to the primary irritant. Intermittent treatment required | 10 | 10 310 | 10 |

SCHEDULE 2 (continued)

| | | | | |
|------|---|----|--------|----|
| 4705 | Chronic contact dermatitis. Signs and subjective symptoms persist almost continuously on removal from exposure to the primary irritant. Intermittent to constant treatment required . | 20 | 20 620 | 20 |
| 4706 | Solar induced skin disease that is malignant | 25 | 25 775 | 25 |
| 4707 | Persistent neurodermatitis secondary to occupational contact irritant dermatitis. Signs and subjective symptoms persist continuously on removal from exposure to the primary irritant and are exacerbated by exposure to secondary irritants. Constant treatment required | 30 | 30 930 | 30 |

PART 5—PRESCRIBED DISFIGUREMENT*Division 1—Preliminary***Application of pt 5**

1.(1) This part deals with prescribed disfigurement.

(2) The maximum lump sum compensation payable for prescribed disfigurement is \$51 550.

(3) To decide a workers entitlement from injury, division 2 shows—

SCHEDULE 2 (continued)

- (a) the maximum degree of permanent impairment that may result from the injury; and
- (b) the maximum lump sum compensation payable for the injury; and
- (c) the maximum WRI.

How to use this part of the table

2.(1) Division 2 lists prescribed disfigurements.

(2) Prescribed disfigurements resulting from injury are stated in column 2, the maximum percentage of permanent impairment resulting from the disfigurement is stated in column 3,²² the maximum lump sum compensation for the disfigurement is stated in column 4, and the maximum WRI is stated in column 5.

²² The actual percentage of permanent impairment resulting from the prescribed disfigurement must be assessed having regard to the severity of the prescribed disfigurement—see section 155(3) (Entitlements of worker who sustains prescribed disfigurement) of the Act.

SCHEDULE 2 (continued)

Division 2—Prescribed disfigurement

| Column 1 Code No. | Column 2 Injury | Column 3 Maximum degree of permanent impairment | Column 4 Maximum lump sum compensation \$ | Column 5 Maximum WRI % |
|----------------------|--|---|---|---------------------------------|
| 5100 | PRESCRIBED DISFIGUREMENT | | | |
| 5101 | Mild almost invisible linear scarring following surgery or trauma in lines of election to any part(s) of the body with minimal discolouration, normal texture and elevation | 0 | 0 | 0 |
| 5102 | Moderate linear scarring following surgery or trauma crossing lines of election to any part(s) of the body with minimal discolouration, normal texture and elevation | 2 | 1 035 | 1 |
| 5103 | Moderate to severe linear scarring following surgery or trauma in or crossing lines of election to any part(s) of the body. Discoloured, indurated, atrophic or hypertrophic . . . | 10 | 5 155 | 5 |
| 5104 | Area scarring to any part(s) of the body following surgery or trauma. Atrophic or hypertrophic, markedly discoloured | 20 | 10 310 | 10 |
| 5105 | Depressed cheek, nasal or frontal bones following trauma | 35 | 18 045 | 17.5 |

SCHEDULE 2 (continued)

| | | | | |
|------|---|-----|--------|----|
| 5106 | Loss of or severe deformity of outer ear | 40 | 20 620 | 20 |
| 5107 | Severe, bilateral gross facial deformity following burns or other trauma | 50 | 25 775 | 25 |
| 5108 | Loss of entire nose | 50 | 25 775 | 25 |
| 5109 | Gross scarring following burns to multiple body areas. Some areas healing spontaneously and some requiring grafting. Gross scarring at the burn and donor sites. Outcome resulting in fragile, dry, cracking skin at graft sites necessitating the need for wearing of special garments. Severe cases resulting in loss of sweat glands and lack of sweating leading to the necessity to be in a continuous air conditioned environment . . . | 100 | 51 550 | 50 |

PART 6—PSYCHIATRIC OR PSYCHOLOGICAL INJURIES

Application of pt 6

1.(1) This part deals with psychiatric or psychological injuries.

(2) The maximum lump sum compensation payable for a psychiatric or psychological injury is \$103 100.

(3) However, most injuries will entitle an injured worker to a lesser amount.

SCHEDULE 2 (continued)

Interaction between this part and the AMA guide

2.(1) Permanent impairment resulting from a psychiatric or psychological injury must be assessed under the AMA guide.

(2) Permanent impairment resulting from an injury must be expressed as a degree of permanent impairment of the whole person.

(3) The degree of permanent impairment so expressed is taken to be the maximum degree of permanent impairment for this part.

(4) For section 19 of the regulation, the relevant provision of the AMA guide is chapter 14.

Formula to be used for deciding lump sum compensation for permanent impairment

3.(1) The following formula must be used to work out the amount of lump sum compensation payable for psychiatric or psychological injuries—

$$\underline{\mathbf{DPI \times MLSC}}$$

100

(2) In this section—

“**DPI**” means the degree of permanent impairment assessed by a registered person as resulting from the injury.

“**MLSC**” means the maximum lump sum compensation specified in section 1(2).

SCHEDULE 3

GRADUATED SCALE OF ADDITIONAL COMPENSATION FOR CERTAIN WORKERS

section 23

Graduated scale

1.(1) This schedule contains the graduated scale for additional compensation for a worker who sustains an injury that results in a WRI of 50% or more.

(2) The maximum amount of lump sum compensation payable under this schedule is \$103 100.

How to use the graduated scale

2.(1) The WRI calculated under section 201²³ of the Act is shown in column 2.

(2) A worker who sustains a WRI shown in column 2 is entitled to additional lump sum compensation in the amount shown for the corresponding entry in column 3.

²³ Section 201 (Calculation of WRI) of the Act

SCHEDULE 3 (continued)

GRADUATED SCALE

| Column 1 Code number | Column 2 WRI % | Column 3 Additional lump sum compensation |
|---------------------------------|-------------------------------|--|
| 8100 | 50 | 3 970 |
| 8101 | 51 | 7 935 |
| 8102 | 52 | 11 900 |
| 8103 | 53 | 15 865 |
| 8104 | 54 | 19 830 |
| 8105 | 55 | 23 795 |
| 8106 | 56 | 27 760 |
| 8107 | 57 | 31 725 |
| 8108 | 58 | 35 690 |
| 8109 | 59 | 39 655 |
| 8110 | 60 | 43 620 |
| 8111 | 61 | 47 585 |
| 8112 | 62 | 51 550 |
| 8113 | 63 | 55 520 |
| 8114 | 64 | 59 485 |
| 8115 | 65 | 63 450 |
| 8116 | 66 | 67 415 |
| 8117 | 67 | 71 380 |
| 8118 | 68 | 75 345 |
| 8119 | 69 | 79 310 |
| 8120 | 70 | 83 275 |

SCHEDULE 3 (continued)

| Column 1 Code number | Column 2 WRI % | Column 3 Additional lump sum compensation |
|---------------------------------|-------------------------------|--|
| 8121 | 71 | 87 240 |
| 8122 | 72 | 91 205 |
| 8123 | 73 | 95 170 |
| 8124 | 74 | 99 135 |
| 8125 | 75–100 | 103 100 |

SCHEDULE 4

GRADUATED SCALE FOR ADDITIONAL COMPENSATION FOR GRATUITOUS CARE

section 24

Graduated scale

1.(1) This schedule contains the graduated scale for additional compensation for gratuitous care.

(2) The maximum amount of lump sum compensation payable under this schedule is \$150 000.

How to use this graduated scale

2.(1) The WRI calculated under section 201²⁴ of the Act is shown in column 2.

(2) The range of dependency assessed under the modified barthel index is shown in column 3.

(3) In column 3—

- moderate is a modified barthel index total score of 50-74
- severe is a modified barthel index total score of 25-49
- total is a modified barthel index total score of 0-24.

(4) The worker's additional lump sum compensation entitlement is shown for the corresponding entry in column 4.

²⁴ Section 201 (Calculation of WRI) of the Act

SCHEDULE 4 (continued)

GRADUATED SCALE

| Column 1 Code number | Column 2 WRI % | Column 3 Range of dependency (modified barthel index) | Column 4 Additional lump sum compensation \$ |
|---------------------------------|-------------------------------|--|---|
| 9100 | 50–59 | Moderate | 10 000 |
| 9101 | | Severe | 20 000 |
| 9102 | | Total | 30 000 |
| 9103 | 60–69 | Moderate | 25 000 |
| 9104 | | Severe | 45 000 |
| 9105 | | Total | 60 000 |
| 9106 | 70–79 | Moderate | 35 000 |
| 9107 | | Severe | 65 000 |
| 9108 | | Total | 90 000 |
| 9109 | 80–89 | Moderate | 40 000 |
| 9110 | | Severe | 80 000 |
| 9111 | | Total | 120 000 |
| 9112 | 90–94 | Moderate | 45 000 |
| 9113 | | Severe | 90 000 |
| 9114 | | Total | 140 000 |
| 9115 | 95–100 | Moderate | 50 000 |
| 9116 | | Severe | 100 000 |
| 9117 | | Total | 150 000 |

SCHEDULE 5

GRADUATED SCALE OF CARE REQUIRED FOR PAYMENT OF CARING ALLOWANCE

section 26

Graduated scale

1. This schedule contains the graduated scale for the payment of caring allowance.

How to use this graduated scale

2.(1) The range of dependency assessed under the modified barthel index is shown in column 1.

(2) In column 1—

- minimal is a modified barthel index total score of 91-99
- mild is a modified barthel index total score of 75-90
- moderate is a modified barthel index total score of 50-74
- severe is a modified barthel index total score of 25-49
- total is a modified barthel index total score of 0-24.

(3) The maximum number of hours of care required in a week is shown for the corresponding entry in column 2.

SCHEDULE 5 (continued)

GRADUATED SCALE

| Column 1 Range of dependency (modified barthel index) | Column 2 Maximum hours of care required in a week |
|--|--|
| Minimal | <10 |
| Mild | 13.0 |
| Moderate | 20.0 |
| Severe | 23.5 |
| Total | 27.0 |

SCHEDULE 6**CONSEQUENTIAL AMENDMENTS**

section 47

**ARTICLES OF THE GOVERNMENT OFFICERS
SUPERANNUATION SCHEME****1. Section 9(1)—***omit, insert—*

‘**9.(1)** This section applies while a member is receiving compensation under the *WorkCover Queensland Act 1996* instead of salary paid by an employer.’.

ELECTRICITY REGULATION 1994**1. Section 300, ‘from *Workers*’ to ‘suffered’—***omit, insert—*

‘*WorkCover Queensland Act 1996* for an injury sustained’.

2. Section 313(b)—*omit, insert—*

‘the employee is paid for the absence under the *WorkCover Queensland Act 1996* for an injury sustained by the employee; or’.

GLADSTONE POWER STATION (LONG SERVICE LEAVE) REGULATION 1994

1. Section 5(a)—

omit, insert—

- ‘(a) when the employee receives compensation under the *WorkCover Queensland Act 1996* for an injury sustained by the employee; or’.

HEALTH SERVICES REGULATION 1992

1. Section 3, definition “workers’ compensation patient”—

omit, insert—

- ‘**“workers’ compensation patient”** means a patient who is a third party patient who is receiving, or is entitled to receive, compensation under the *WorkCover Queensland Act 1996* or a similar or equivalent law of another State or Territory.’.

ENDNOTES

1. Made by the Governor in Council on 30 January 1997.
2. Notified in the gazette on 31 January 1997.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Training and Industrial Relations.