

Queensland



Explanatory Notes for SL 1997 No. 17

WorkCover Queensland Act 1996

WORKCOVER QUEENSLAND REGULATION 1997

GENERAL OUTLINE

Objective of the legislation

The objective of this subordinate legislation is to enable the operation of the *WorkCover Queensland Act 1996* mainly with respect to—

- (a) calculation of the employer excess period and normal weekly earnings for the payment of weekly compensation;
- (b) costs to apply for common law pre-proceedings processes;
- (c) the tables of injuries;
- (d) additional lump sum compensation.

Reasons for the legislation

On 5 December 1996, the *WorkCover Queensland Act 1996* was passed by the Queensland Parliament with Royal Assent being granted on 12 December 1996. On 1 February 1997, the majority of the provisions in this Act will commence which will make most of the *Workers' Compensation Regulation 1992* no longer appropriate to operationalise the Act. Therefore, it is imperative that the new regulation is in place by this date.

This regulation will replace the previous regulation and allow operation of the *WorkCover Queensland Act 1996*. The legislative changes contained in this Act, which were based on the majority of recommendations from the wide ranging public and independent *Inquiry into Workers' Compensation and Related Matters in Queensland* conducted by Mr Jim Kennedy, were designed to address the financial, regulatory and operational difficulties identified by the Inquiry.

Achieving the objective

The first commencement date for the Act is 1 February 1997 when WorkCover Queensland will be established and provisions relating to definition of injury, statutory and common law claims management, rehabilitation, enforcement provisions and medical assessment tribunals will be enacted.

This regulation contains provisions necessary to operationalise a number of these provisions including—

- (a) compensation provisions including—
 - (i) the method of calculating the employer excess period and normal weekly earnings;
 - (ii) the tables of injuries;
 - (iii) graduated scales for determining additional lump sum compensation;
- (b) a table of costs for common law pre-proceedings processes;
- (c) rehabilitation standards and reporting requirements for employers;
- (d) saving provisions that retain the current method of calculating an employer's premium until 30 June 1997.

The second commencement date for the Act is 1 July 1997. The provisions that will commence on this date relate to insurance arrangements including the definition of worker, experience premium rating, self-insurance and self rating and the new review and appeal processes. Amendments to this regulation will be drafted to operationalise these provisions prior to this date.

Consistency with authorising law objectives

This regulation is consistent with the reforms introduced by the *WorkCover Queensland Act 1996* which were aimed at addressing the financial, regulatory and operational difficulties with workers' compensation in Queensland.

Alternatives to the legislation

If this regulation is not made, a number of the Act provisions which commence on 1 February 1997 will not be able to be operationalised. This will create difficulties especially for—

- (a) paying weekly compensation based on the calculation of normal weekly earnings;
- (b) calculating the excess period payable by employers;
- (c) paying costs for common law pre-proceedings processes;
- (d) paying lump sums from the table of injuries;
- (e) paying additional lump sums including those for gratuitous care.

Benefits and costs

Mr Kennedy, in determining the reforms recommended by the inquiry, provided details of costs and benefits for his recommendations intended to return the fund to a solvent position within 3 years. In investigating the issues and options available when developing his recommendations, Mr Kennedy clearly states in his report that all viable options were considered. The report provides rationalisation for discarding certain options which were not considered appropriate for the equitable and efficient administration of workers' compensation insurance in Queensland.

The recommendations which the Act implemented were actuarially costed to return the scheme to full funding some time after June 2006 which was based on the optimistic assumption that common law claims experience will stabilise at 1 January 1996 levels. As this regulation operationalises the reforms to be introduced on 1 February 1997, the provisions it contains will assist the fund to return to a solvent position.

Consistency with fundamental legislative principles

Advice from the Office of the Parliamentary Counsel is that the draft regulation does not breach any fundamental legislative principles.

Consultation

Extensive consultation was undertaken by Mr Kennedy during the *Inquiry into Workers' Compensation and Related Matters in Queensland*. Ongoing consultation was undertaken with major stakeholders during the drafting of the *WorkCover Queensland Act 1996*, including those matters which are contained in this regulation.

Public consultation—

- (a) was undertaken by the inquiry through the request for written submissions (229 received), public hearings held statewide and meetings with major stakeholder groups;
- (b) was ongoing during the drafting of the *WorkCover Queensland Act 1996* and included the matters that are contained in this regulation.

Regulatory impact statement

No regulatory impact statement (RIS) has been prepared for this regulation.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Short title

Clause 1 sets out the short title of the regulation.

Commencement

Clause 2 gives the commencement date for the regulation which is consistent with the commencement date for most provisions of the *WorkCover Queensland Act 1996*.

Definitions

Clause 3 replaces the *Workers' Compensation Regulation 1992*, section 4. It defines terms used in this regulation. The clause has been changed to—

- (a) remove superfluous definitions due to terms now defined in the *WorkCover Queensland Act 1996*; and
- (b) incorporate definitions for tools being introduced for assessment of injury and a worker's entitlement for—
 - (i) industrial deafness—“**binaural tables**” and “**presbycusis correction table**”; and
 - (ii) a caring allowance and the payment of additional lump sum compensation for gratuitous care—“**modified barthel index**”.

PART 2—EMPLOYER EXCESS

Excess period

Clause 4 clarifies and replaces the term “**ordinary working days**” contained in the definition of “**prescribed period**” in the *Workers’ Compensation Act 1990*, section 123A.

The excess period will now reflect the worker’s contract of service with the employer that applied when the injury was sustained. The period is based on 1 calendar week from when the worker’s entitlement to compensation arises. This means that the employer excess will be a payment that equals what the worker’s entitlement to compensation would be in the first week only of incapacity—up to a maximum of 4 days depending on the worker’s incapacity. In addition to the excess, the employer is responsible for paying the worker for any hours which may be lost on the day of injury.

This clause also provides for a situation where a worker’s initial incapacity is less than the required excess period and the worker returns to work but is unable to continue working due to the ongoing incapacity of the original injury. In these situations, the excess period continues until the required excess period has been met. For example, a 5 day a week worker, whose initial incapacity is for 2 days, returns to work but due to ongoing incapacity obtains medical certification for a further 5 days. The employer excess period for the initial incapacity period is for 2 days with a further 2 day excess payable for the subsequent period.

The provision limits the employer excess period to reflect the number of days the worker works under the contract of service in 1 week.

It is the intent when calculating the excess payable by the employer that the rate the worker is paid under their contract of service be taken into account. This is to provide for shift and roster workers who do not work a standard 5 day week. For these workers, days not worked (e.g. rostered days off), whether included in the worker’s rate of pay or not, are to be counted in the calculation of the excess period. The following are examples of the excess period and amount of excess that would be payable for such workers.

Example 1—

A worker works 4 10 hour days per week from Monday to Thursday at \$100 per day—i.e. \$400 per week, but does not work on Friday. If the worker is injured on a Thursday and has a medical certificate for 7 days, the excess period would be for Friday, Monday, Tuesday and Wednesday—i.e. maximum of 4 days. The worker would be paid for the excess by the employer for Monday, Tuesday and Wednesday at \$100 per day —i.e. a total of \$300. If the worker returned to work on the Thursday and earned their usual \$100 for the day, the worker would have received \$400 for the week—i.e. the same as if they were at work.

Example 2—

A worker works 4 10 hour days per week from Monday to Thursday at \$80 per day and is also paid the daily rate for their day off on Fridays—i.e. \$400 per week. If the worker is injured on a Thursday and has a medical certificate for 7 days, the excess period would be for Friday, Monday, Tuesday and Wednesday—i.e. maximum of 4 days. The worker would be paid for the excess by the employer for Friday, Monday, Tuesday and Wednesday at \$80 per day—i.e. a total of \$320. If the worker returned to work on the Thursday and earned their usual \$80 for the day, the worker would have received \$400 for the week—i.e. the same as if they were at work.

Example 3—

A worker works 3 12 hour days from Monday to Wednesday then 4 hours on Thursday but does not work on Friday. The worker is paid for the hours worked each day at a rate of \$10 per hour. If the worker is injured on a Wednesday and has a medical certificate for 7 days, the excess period would be for Thursday, Friday, Monday and Tuesday—i.e. maximum of 4 days. The worker would be paid for the excess by the employer for—

- (a) Thursday—4 hours—i.e. \$40
- (b) Friday—nil
- (c) Monday—12 hours—i.e. \$120
- (d) Tuesday—12 hours—i.e. \$120

—i.e. a total of \$280.

If the worker returned to work on the Wednesday and earned their usual \$120 for that day, the worker would have received \$400 for the week—i.e. the same as if they were at work.

PART 3—OTHER INSURANCES

Insurance of work experience students

Clause 5 replaces the *Workers' Compensation Regulation 1992*, section 33. The *Workers' Compensation Amendment Regulation 1996*, commences on 28 January 1997. The amendment replaces the *Workers' Compensation Regulation 1992*, sections 33 and 34 to correspond with the proclamation of the *Education (Work Experience) Act 1996*.

This clause has been further amended to align the entitlement of students undergoing work experience with the provisions of the *WorkCover Queensland Act 1996*. The compensation entitlements for these students has not changed—i.e. lump sum compensation for permanent impairment and death.

Insurance of industry placement students

Clause 6 replaces the *Workers' Compensation Amendment Regulation 1996*, section 34. This provision has been further changed to align the entitlement of students undergoing industry placement with the provisions of the *WorkCover Queensland Act 1996*. The compensation entitlements for these students has not changed—i.e. lump sum compensation for permanent impairment and death.

PART 4—COMPENSATION

Division 1—Calculation of NWE

Calculation of NWE

Clause 7 specifies that normal weekly earnings (NWE) are to be calculated under this division. NWE are used to determine the amount of weekly compensation payable to a worker.

It replaces “average weekly earnings” under the *Workers’ Compensation Act 1990*, section 5(1) which did not accurately reflect variations in employment conditions and was not sufficiently linked to the conditions of employment outlined under the award or industrial agreement. Calculation of average weekly earnings generally took into account all overtime, penalties and allowances and did not take into account variations in employment conditions—e.g. peaks and troughs in work flow in industry or seasonal variations.

What amounts may or may not be taken into account

Clause 8 replaces the *Workers’ Compensation Act 1990*, section 11(a). It specifies the payments to a worker that are to be taken into consideration when calculating NWE. The clause also outlines that the amounts specified in the *WorkCover Queensland Act 1996*, schedule 3 under the definition “wages” are not to be taken into consideration when calculating NWE. These amounts are—

- (a) allowances payable in relation to any travelling, car, removal, meal, education, living in the country or away from home, entertainment, clothing, tools and vehicle expenses;
- (b) contribution by an employer to a scheme for superannuation benefits for a worker, other than contribution made from money payable to the worker;
- (c) lump sum payments on termination of a worker’s services for superannuation, accrued holidays, long service leave or any other purpose;
- (d) amount paid to a worker in relation to the employer excess.

NWE if impractical to calculate rate of worker’s remuneration

Clause 9 replaces the *Workers’ Compensation Act 1990*, section 11(b) and specifies how to calculate NWE if, due to the shortness of a worker’s employment or the terms of a worker’s employment, it is impracticable to calculate the rate of the worker’s weekly benefit. To ensure equity in the calculation, the clause is intended to base NWE for workers in this situation on the NWE of a worker in a comparable position at the workplace and in the district in which the worker lives.

NWE if worker worked for 2 or more employers

Clause 10 replaces the *Workers' Compensation Act 1990*, section 11(c) and specifies that when workers have 2 or more employers at the time of injury, the calculation of normal weekly earnings will include earnings from all employers as if they were earnings from the employer in whose employment the injury was sustained.

NWE if WorkCover considers calculation unfair

Clause 11 replaces the *Workers' Compensation Act 1990*, section 11(d) and outlines that if WorkCover considers the NWE as calculated for a worker are unfair, then WorkCover may calculate NWE in a way considered to be fair.

Example—

A casual worker who has commenced employment for their first time in their life—e.g. school leaver, and sustains an injury on the third day of their employment. The injury entitles the worker to compensation for an extended period of time. WorkCover will consider the conditions under the contract of service and the relevant industrial instrument to strike a reasonable rate of weekly compensation.

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

Clause 12 replaces the *Workers' Compensation Regulation 1992*, section 18 and has not changed except for being updated according to current drafting practice. The clause outlines that an application for compensation must be made in the approved form and the information that is required from the claimant.

Doctor's certificate

Clause 13 replaces the *Workers' Compensation Regulation 1992*, section 19 and has not changed except for being updated according to current drafting practice. The clause outlines the requirements in relation to medical certificates and reports issued by doctors for the purpose of workers' compensation.

If doctor not available

Clause 14 replaces the *Workers' Compensation Regulation 1992*, section 20 and has not changed except for being updated according to current drafting practice. The clause outlines that where a claimant cannot seek medical attention due to exceptional circumstances, a declaration may be accepted, which covers their incapacity for work for a maximum of 3 days only.

Examination by registered person

Clause 15 replaces the *Workers' Compensation Regulation 1992*, section 21 and has not changed except for being updated according to current drafting practice. The clause specifies the requirements upon WorkCover and registered persons when a claimant or worker is requested to undergo a personal medical examination and the report and fees applicable for the examination.

Payment for treatment arranged by employer other than self-insurer

Clause 16 replaces the *Workers' Compensation Regulation 1992*, section 22 and has not changed except for being updated according to current drafting practice. The clause outlines WorkCover's responsibility when an employer makes a payment on account of (or arranges) for medical treatment, hospitalisation or a medical aid for an injured worker.

Maximum liability for cost of hospitalisation

Clause 17 replaces the *Workers' Compensation Act 1990*, section 149 and specifies that the maximum amount payable for hospitalisation by WorkCover is \$10 000. This has been increased from \$5 000 due to increases in hospitalisation charges over the last 5 years and recognition that complications may occur in surgery e.g. infections, injury worse than initially expected.

Special medical treatment etc.

Clause 18 replaces section 23 of the *Workers' Compensation Regulation 1992* and has been updated according to current drafting practice. The clause outlines the requirements for the payment of the provision of special medical treatment, special hospitalisation and special medical aids. The maximum for special hospitalisation has been increased from \$5 000 to \$10 000 due to increases in hospitalisation charges over the last 5 years and recognition that complications may occur in surgery e.g. infections, injury worse than initially expected.

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

Clause 19 replaces the *Workers' Compensation Regulation 1992*, section 43 and has not changed except for being updated according to current drafting practice. The clause outlines the method by which assessments of permanent impairment are to be made.

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

Clause 20 replaces the *Workers' Compensation Regulation 1992*, section 44 and has not changed except for being updated according to current drafting practice. It outlines the method of calculating permanent impairment and lump sum compensation for multiple injuries.

Assessment for industrial deafness

Clause 21 outlines the procedure for the assessment of the degree of permanent impairment for industrial deafness. The worker must undergo a audiometric test by an audiologist and comply with certain standards and the percentage loss of hearing is to be calculated by using the binaural tables. This process is designed to ensure consistency of assessments and equity of lump sum payments to injured workers. It is a standard procedure used by audiologists.

Calculation of WRI

Clause 22 clarifies the calculation of work related impairment (WRI) outlined in the Act by providing a formula to be used when calculating a worker's WRI.

Additional lump sum compensation for certain workers

Clause 23 replaces the *Workers' Compensation Regulation 1992*, section 45 and outlines that the amount of additional lump sum for workers who have a WRI of 50% or more is prescribed in a graduated scale in schedule 3 of the regulation.

Additional lump sum compensation for gratuitous care

Clause 24 outlines the requirements for additional lump sum compensation for gratuitous care. It also outlines the matters to be included in the occupational therapist's report and that the method of assessing the worker's level of dependancy is to be aligned with that stated in the modified barthel index. The modified barthel index is a recognised standard used by occupational therapists for assessing the level of dependancy for fundamental activities of daily living. When determining a worker's entitlement to additional lump sum compensation for gratuitous care WorkCover must have regard to the occupational therapist's report.

PART 5—REHABILITATION***Division 1—Caring allowance***

A caring allowance may be paid to a person (usually the spouse, parent, child, friend of the worker) for voluntary care provided to a worker while the worker is on compensation if the worker is dependant on day to day care for the fundamental activities of daily living (sections 241 & 242 of the Act).

Further information required in occupational therapist's report

Clause 25 specifies, in relation to caring allowance, the information that must be contained in the report of the occupational therapist and the regard that WorkCover must have for that information. This is the same as the information required for the gratuitous care lump sum and provides a consistent and equitable method of assessing a worker's dependency as a result of injury.

Extent of liability for caring allowance

Clause 26 outlines how WorkCover is to determine the amount of caring allowance. The number of hours of care required is determined in accordance with the modified barthel index. This is consistent with the method of determining gratuitous care lump sum.

The amount of caring allowance is based on the determined number of hours of care required multiplied by the hourly rate derived from the weekly Carer Pension as specified by the Department of Social Security. To determine the hourly rate the Carer Pension is to be divided by 35. This is the number of hours per week set in the National Data Set for compensation statistics (established by Worksafe Australia) to define a full-time worker. The Carer Pension is utilised as this is considered reasonable, taking into account that the care is not provided by a professional.

Division 2—Workplace rehabilitation policy and procedures**Reporting requirement for review of workplace rehabilitation policy and procedures**

Clause 27 outlines the requirements for employers when providing written evidence that they have reviewed their workplace rehabilitation policy and procedures. Under the Act, employers with 30 or more workers are required to have workplace rehabilitation policy and procedures in place and to review them at least every 3 years. This clause ensures that the employer's policy and procedures are kept current and are of a reasonable standard and that the employer is complying with the requirements under the Act.

Division 3—Standard for rehabilitation

Who this division applies to

Clause 28 specifies to whom this division applies. The standard for rehabilitation applies to those who provide or manage a worker's rehabilitation—e.g. WorkCover, self-insurers, self-raters, employers.

Definition for div 3

Clause 29 defines the term rehabilitation plan which is used throughout this division. A rehabilitation plan would usually be a plan to achieve a return to work for a worker or, if this is not possible, to assist a worker to maximise independent functioning following a severe injury.

Standard for rehabilitation

Clause 30 specifies that rehabilitation must be of the standard as outlined in this division. This ensures that workers receive a reasonable standard of rehabilitation and that employers and others are aware of the standard required. Periodic audits of those providing rehabilitation will be conducted by WorkCover to ensure that all employers, including self-insurers, are meeting the required standard.

Doctor's approval

Clause 31 specifies that the worker's doctor must give approval to the rehabilitation plan prior to the implementation of rehabilitation strategies and this approval must be documented. This is to ensure that the worker's doctor is aware of the plan and that the worker's rehabilitation is medically appropriate.

Worker's file

Clause 32 specifies that a file must be kept for each worker undertaking rehabilitation. It specifies the minimum contents of such files so that the appropriate documentation is kept. It also ensures that the documentation is kept together in one place for auditing and accountability purposes.

Rehabilitation plan

Clause 33 specifies the requirements of the rehabilitation plan. This ensures that a worker's rehabilitation is focussed on clear objectives that have been developed with the worker to optimise the outcome. The plan does not need to be a separate document, but may form part of the case notes.

Case notes

Clause 34 specifies the requirements for case notes to enable adequate documentation of a worker's rehabilitation as a tool to monitor the progress and assess the effectiveness of the rehabilitation strategies implemented.

Early worker contact

Clause 35 specifies that a worker is to be contacted as early as possible after the injury to initiate rehabilitation. This clause applies to those workers who require rehabilitation. Early intervention is one of the key principles to successful rehabilitation.

Rehabilitation

Clause 36 specifies additional requirements to ensure the effectiveness of rehabilitation of workers with appropriate involvement of others at the workplace and natural justice for the worker.

Confidentiality

Clause 37 specifies confidentiality requirements for information gathered during rehabilitation of a worker. This is designed to ensure that information regarding the worker's injury and rehabilitation is maintained on a confidential basis and not released inappropriately.

PART 6—DAMAGES

Notice of claim for damages

Clause 38 specifies the actual information the claimant must provide in the notice of claim. The information provided will allow WorkCover or a self-insurer to investigate the allegations of negligence and extent of damages allegedly suffered by the claimant with a view to resolving the claim as soon as possible.

PART 7—COSTS

Division 1—Proceeding before industrial magistrate

Costs-proceeding before industrial magistrate

Clause 39 replaces the *Workers' Compensation Regulation 1992*, section 31 and has not changed except for being updated according to current drafting practice. The clause outlines that costs for a proceeding before an industrial magistrate are in the magistrate's discretion—however, certain costs are to be under specific schedules of the *Magistrate's Courts Rules 1960*.

Division 2—Claim for damages

Who this division applies to

Clause 40 specifies that this division in relation to legal professional costs only applies to workers with a certificate injury and dependants of a deceased worker. The provisions for costs for workers with a non-certificate injury are contained in the *WorkCover Queensland Act 1996*.

Definition for div 2

Clause 41 clarifies the meaning of net damages.

Costs before proceeding started

Clause 42 outlines the various legal professional costs which either WorkCover or a self-insurer will pay for work performed by the claimant's legal professional during the pre-proceedings stages of a claim. The costs vary for different settlement bands and are broadly based on the various court jurisdictions.

The clause also provides an incentive for the legal professional representing the claimant to settle a claim early by allowing 120% for costs of the pre-proceeding notification and negotiation amount if the claim is settled prior to compulsory conference.

Where proceedings are commenced and if a court awards payment of costs on a solicitor-client basis, this clause specifies that the amount to be paid for pre-proceedings work performed will be 120% of the amounts recoverable in this clause. The awarding of costs by a court on a solicitor-client basis is as a penalty and therefore, the amount for the respective stages of the claim prior to proceedings being started are greater than would normally be recovered.

Costs after proceeding started

Clause 43 clarifies that once a proceeding is started the legal costs from this point in time onwards are determined in accordance with the relevant court scales. However, the costs prescribed in this division will still apply for the respective stages before court proceedings are started even though the claim may be resolved after court proceedings are commenced. The cost of the work performed for the pre-proceedings stages can not be recovered twice if that work is repeated after proceedings are instituted.

Outlays

Clause 44 sets out the various additional costs for outlays (e.g. reports and sundry items) which will be paid by WorkCover or a self-insurer. This clause allows for the payment of outlays provided they can be justified as

necessary and reasonable for the claim. Fees are only allowed if the reports are provided to WorkCover or a self-insurer during the pre-proceedings stage as all parties are required under the Act to exchange reports.

PART 8—SAVINGS OF REPEALED ACT PROVISIONS

Continuation of certain provisions of repealed Act

Clause 45 allows for certain provisions required for the assessment of an employer's premium under the *Workers' Compensation Act 1990* that are outlined in the clause ("relevant provisions") to be retained until 1 July 1997 i.e. until the new insurance provisions ("uncommenced provisions") of the *WorkCover Queensland Act 1996* are commenced. The "relevant provisions" are required for the effective administration of workers' compensation insurance arrangements between 1 February and 30 June 1997.

Continuation of certain provisions of repealed regulation

Clause 46 allows for certain provisions of the *Workers' Compensation Regulation 1992* outlined in the clause relating to the assessment of an employer's premium including the schedule of rates, appeals to an industrial magistrate and other insurance arrangements ("relevant provisions") to be retained until 1 July 1997. The provisions are required for the effective administration of workers' compensation insurance arrangements including insurance for special groups and appeals mechanisms between 1 February and 30 June 1997.

Further amendments of the regulation will be necessary prior to the commencement of the provisions of the *WorkCover Queensland Act 1996* relating to insurance arrangements and reviews/appeals on 1 July 1997.

This clause also includes a penalty of 20 penalty units to reflect the general penalty provision under section 196 of the *Workers' Compensation Act 1990* which previously covered these "relevant provisions".

PART 9—AMENDMENTS OF OTHER REGULATIONS

Consequential amendments in sch 6

Clause 47 states that schedule 6 contains amendments to other subordinate legislation which are necessary due to changes made in this regulation.

SCHEDULE 1

LEGAL PROFESSIONAL COSTS

This schedule outlines the legal professional costs to apply to pre-proceedings processes for damages claims as contained in part 6.

SCHEDULE 2

TABLE OF INJURIES

This schedule replaces the *Workers' Compensation Regulation 1992*, schedule 2. It contains the table of injuries which is used to determine the lump sum compensation applicable for certain injuries which result in permanent impairment. The schedule has been changed—

- (a) to vary all lump sum values according to those applicable for the financial year 1996/97 due to the variation in the value of QOTE;
- (b) to add a column in division 2 of parts 1 to 5 specifying the maximum work related impairment (WRI) for each injury on the table in order to clarify the calculation of WRI;

- (c) to specify the lump sums applicable for multiple injuries involving injuries with deemed lump sum values (marked with an *) in parts 1 to 4 to ensure equity between injury values;
- (d) update the industrial deafness threshold/deductible in part 3;
- (e) according to current drafting practice.

SCHEDULE 3

GRADUATED SCALE OF ADDITIONAL COMPENSATION FOR CERTAIN WORKERS

This schedule replaces the *Workers' Compensation Regulation 1992*, schedule 3. It provides a graduated scale of additional lump sum compensation values related to the level of work related impairment. The schedule has been changed—

- (a) to reflect the new term work related impairment instead of whole person impairment;
- (b) to specify that the scale applies to all workers who sustain an injury that results in a work related impairment of 50% or more where previously it only applied to workers who sustained spinal injuries or organic brain syndrome with whole person impairment of 50% or more;
- (c) to add a column of code numbers for administrative purposes;
- (d) to vary all lump sum values according to those applicable for the financial year 1996/97 due to the variation in the value of QOTE; and
- (e) according to current drafting practice.

SCHEDULE 4**GRADUATED SCALE FOR COMPENSATION FOR
ADDITIONAL COMPENSATION FOR GRATUITOUS
CARE**

This schedule provides the graduated scale for the additional gratuitous care lump sum. The level of lump sum is determined from the level of work related impairment (obtained from the table of injuries) and the level of dependency (obtained from an assessment using the modified barthel index).

SCHEDULE 5**GRADUATED SCALE OF CARE REQUIRED FOR
PAYMENT OF CARING ALLOWANCE**

This schedule provides the graduated scale for the caring allowance. The number of hours for which the allowance may be paid is determined from the level of dependency that is obtained from an assessment using the modified barthel index.

SCHEDULE 6**CONSEQUENTIAL AMENDMENTS**

This schedule contains complementary amendments to other subordinate legislation required due to changes made in this regulation. The amendments replace references to the *Workers' Compensation Act 1990* with the *WorkCover Queensland Act 1996*, as well as updating the sections where necessary according to current drafting practice.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Training and Industrial Relations.