

# Workplace Injury Rehabilitation and Compensation Regulations

## Exposure Draft

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Victoria

## **Workplace Injury Rehabilitation and Compensation Regulations**

### **Exposure Draft**

### **Part 1—Preliminary**

#### **1 Objective**

The objective of these Regulations is to prescribe matters necessary or permitted to be prescribed to give effect to the **Accident Compensation Act 1985** and the **Workplace Injury Rehabilitation and Compensation Act 2013**.

#### **2 Authorising provision**

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

#### **3 Commencement**

These Regulations come into operation on 26 May 2024.

#### **4 Revocations**

The following Regulations are **revoked**—

- (a) the Workplace Injury Rehabilitation and Compensation Regulations 2014<sup>1</sup>;
- (b) the Workplace Injury Rehabilitation and Compensation Amendment (Self-Insurer Contributions) Regulations 2020<sup>2</sup>.

## **Part 2—General**

### **5 Form of search warrant**

For the purposes of section 558 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed form is the form set out in Schedule 1.

### **6 Inquiries into and investigations of fraud etc.**

For the purposes of section 586 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, an inquiry or investigation must be conducted—

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

### **7 Certificates relating to amounts paid or payable by the Authority**

(1) For the purposes of section 590 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, a certificate may include any of the following that relate to amounts paid or payable by the Authority under that Act—

- (a) the nature of the amount;
  - (b) if the amount is or relates to a weekly payment, the period in relation to which the weekly payment was paid or is payable;
  - (c) the invoice number, if any;
  - (d) the date on which any invoice was issued;
  - (e) the date on which any invoice was received;
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- (f) the date on which the professional service, if any, was provided;
  - (g) the nature of the professional service provided, if any;
  - (h) the name of the payee;
  - (i) the date on which any cheque was drawn;
  - (j) the drawer name on any cheque;
  - (k) the drawer's ADI;
  - (l) the date on which any cheque was issued;
  - (m) the date on which any payment was made;
  - (n) the date on which any amount was directly debited;
  - (o) the name of the claimant, if any;
  - (p) the name of the provider of the professional service, if any;
  - (q) the provider number of any provider;
  - (r) the address of any provider;
  - (s) the WorkCover claim number, if any;
  - (t) the name of the worker, if any;
  - (u) the date of birth of any worker;
  - (v) the date on which any injury occurred.
- (2) In this regulation, *provider number*, in relation to the provider of a professional service, means—
- (a) the identification number, if any, allocated to the practice of the provider for the purposes of the Health Insurance Act 1973 of the Commonwealth; or
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- (b) if there is no such identification number, the identification number allocated by the Authority to—
  - (i) the provider; or
  - (ii) the practice of the provider.

## Part 3—Compensation

### 8 Full-time worker

For the purposes of the definition of *full-time worker* in section 3 of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed number of hours is 35 hours each week.

### 9 Pre-injury average weekly earnings

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

### 10 Amounts not remuneration—timber contractors

- (1) For the purposes of clause 6(3) of Schedule 1 to the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed percentage is 25 per cent in the circumstances set out in subregulation (2).
  - (2) For the purposes of subregulation (1), the circumstances are that—
    - (a) the amount payable under the timber contract includes an amount or amounts for the materials or equipment required for the timber contractor to perform the work under the contract; and
    - (b) the timber contractor—
      - (i) purchases, or has purchased, materials or equipment required to perform the work; or
      - (ii) provides their own materials or equipment for that purpose.
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## **11 Amounts not remuneration—contractors**

- (1) For the purposes of clause 9(5)(c)(i) of Schedule 1 to the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed percentage is, for a contract specified in Column 1 of the Table in Schedule 2, in the circumstances set out in subregulation (2), the corresponding percentage specified in Column 2 of that Table.
- (2) For the purposes of subregulation (1), the circumstances are that—
  - (a) the amount paid or payable under the contract includes an amount or amounts for the materials or equipment required to provide services under the contract; and
  - (b) the contractor—
    - (i) purchases, or has purchased, materials or equipment required to provide the services; or
    - (ii) provides their own materials or equipment for that purpose.

## **12 Payments to worker resident overseas**

- (1) For the purposes of section 97(3) of the **Accident Compensation Act 1985** and section 175(4) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed manner is the manner required by subregulation (2).
  - (2) For the purposes of subregulation (1), the worker must—
    - (a) complete a statement of identity in a form approved by the Authority; and
    - (b) submit to an examination by a medical practitioner; and
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- (c) obtain from the medical practitioner a certificate completed in a form approved by the Authority; and
  - (d) submit the completed statement and the completed certificate to the Authority or self-insurer.
- (3) The Authority must publish any form approved from time to time for the purposes of subregulation (2)(a) or (c) on its website.
  - (4) For the purposes of section 97(3) of the **Accident Compensation Act 1985** and section 175(4) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed intervals are intervals of 3 months.

**Note**

See the definition of *medical practitioner* in section 3 of the **Workplace Injury Rehabilitation and Compensation Act 2013**. Regarding the meaning of words and expressions in the **Accident Compensation Act 1985**, see section 5(2) of the **Accident Compensation Act 1985**.

### **13 Reimbursement**

For the purposes of section 114D(5) of the **Accident Compensation Act 1985** and section 179(7) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the prescribed period is the period of 30 days after the day on which the Authority is notified that the employer has made a weekly payment referred to in section 114D(3) of the **Accident Compensation Act 1985** or section 179(5) of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

**Note**

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

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## Part 4—Self insurance

### 14 Contributions by self-insurers until 31 December 2024

Until 31 December 2024, the amount of contributions payable by a self-insurer into the WorkCover Authority Fund under section 388 of the **Workplace Injury Rehabilitation and Compensation Act 2013** must be determined by the Authority in accordance with the following formula—

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

where—

- A** is the sum of the costs incurred during the preceding quarter that are referred to in section 513(5)(c) and (g) of the **Workplace Injury Rehabilitation and Compensation Act 2013** and the costs incurred by the Authority during the preceding quarter in the administration of Division 2 of Part 6 of that Act;
  - B** is the relevant remuneration, calculated as if the self-insurer were an employer liable to pay premiums under the **Workplace Injury Rehabilitation and Compensation Act 2013**, that was paid or payable by the self-insurer during the preceding financial year;
  - C** is the sum of the total relevant remuneration paid or payable by all employers liable to pay premiums under the **Workplace Injury Rehabilitation and Compensation Act 2013** and the total relevant remuneration calculated in accordance with **B** for all
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self-insurers during the preceding financial year;

**D** is the sum of—

(a) the costs incurred during the preceding quarter that are referred to in the following—

(i) section 513(5)(c) of the **Workplace Injury Rehabilitation and Compensation Act 2013**;

(ii) section 513(5)(d) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, other than costs—

(A) directly related to the administration, operation, management and maintenance of the Authority's central computer network that is used by authorised agents; or

(B) related to compliance audits for the collection and recovery of premiums payable under the **Workplace Injury Rehabilitation and Compensation Act 2013**; or

(C) related to actuarial services provided to the Authority that are not actuarial services provided for the purposes of section 403 of the **Workplace Injury**

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**Rehabilitation and  
Compensation Act 2013;**

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

**15 Contributions by self-insurers from 1 January 2025**

On and after 1 January 2025, the amount of contributions payable by a self-insurer into the WorkCover Authority Fund under section 388 of the **Workplace Injury Rehabilitation and Compensation Act 2013** must be determined by the Authority, at the start of each calendar year, as 25 per cent of the amount that is calculated in accordance with the following formula—

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$$\frac{A}{B} \times C$$

where—

**A** is the sum of—

- (a) the costs incurred during the preceding financial year that are referred to in the following—
    - (i) section 513(5)(c) of the **Workplace Injury Rehabilitation and Compensation Act 2013**;
    - (ii) section 513(5)(d) of the **Workplace Injury Rehabilitation and Compensation Act 2013**, other than costs—
      - (A) directly related to the administration, operation, management and maintenance of the Authority's central computer network that is used by authorised agents; or
      - (B) related to compliance audits for the collection and recovery of premiums payable under the **Workplace Injury Rehabilitation and Compensation Act 2013**; or
      - (C) related to actuarial services provided to the Authority that are not actuarial services provided for the purposes of section 403 of the
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**Workplace Injury  
Rehabilitation and  
Compensation Act 2013; or**

- (D) related to services provided by the Authority that self-insurers or their workers are ineligible to access;
  - (iii) section 513(5)(f) of the **Workplace Injury Rehabilitation and Compensation Act 2013**;
  - (iv) section 513(5)(g) of the **Workplace Injury Rehabilitation and Compensation Act 2013**;
  - (v) section 513(5)(l) of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
  - (b) the costs incurred by the Authority during the preceding financial year in the administration of Division 2 of Part 6 of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
  - (c) the costs incurred by the Authority during the preceding financial year in meeting any liability incurred under section 403 of the **Workplace Injury Rehabilitation and Compensation Act 2013**; and
  - (d) any costs referred to in paragraph (a), (b) or (c) that were incurred by the Authority during any earlier financial year but which were not included in a previous determination made under
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section 388 of the **Workplace Injury  
Rehabilitation and Compensation  
Act 2013**;

- B** is the sum of the total relevant remuneration paid or payable by all employers liable to pay premiums under the **Workplace Injury Rehabilitation and Compensation Act 2013** and the total relevant remuneration calculated in accordance with **C** for all self-insurers during the preceding financial year;
- C** is the relevant remuneration, calculated as if the self-insurer were an employer liable to pay premiums under the **Workplace Injury Rehabilitation and Compensation Act 2013**, that was paid or payable by the self-insurer during the preceding financial year.

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## Schedule 1—Search warrant

Regulation 5

### Workplace Injury Rehabilitation and Compensation Act 2013

Section 558

*EXECUTION COPY/SERVICE COPY*

COURT REF.

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**Premises where search will be conducted:**

Street name and number

Suburb/Town

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**AUTHORITY**

**Being satisfied**, by the evidence [on oath] [or] [by affirmation] [or] [by affidavit] of the Victorian WorkCover Authority, that there is reasonable ground for suspecting that there are on the premises mentioned above books which are relevant [in determining whether any of the provisions of the **Workplace Injury Rehabilitation and Compensation Act 2013**, the **Accident Compensation Act 1985** or the **Workers Compensation Act 1958** are being or have been contravened] [or] [to the assessment of a premium];

**This warrant authorises** any police officer, together with—

[Names]

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



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Schedule 1—Search warrant

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

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

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

Issued at:

place by:

signature

on:

date

name

at:

time

**Magistrate**

**RESULT OF SEARCH**

**A. EXECUTION**

**Warrant executed**

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

OR

**This warrant is returned unexecuted because—**

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**B. SERVICE**

Copy warrant served on—

(owner/occupier/person in charge of premises)

of

OR description of person on whom served—

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**C. PROPERTY DAMAGE**

**Owner/occupier/person in charge of premises to sign**

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

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

OR

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

Property damaged:	Reasons (if known):
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Signed:

(owner/occupier/person in charge of premises)

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**WARNING TO PERSONS ON PREMISES**

(on Service Copy only)

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

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

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

**D. BOOKS SEIZED** (number each item):

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

**E. DELIVERY OF BOOKS SEIZED**

I delivered these books to—

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

**F. SIGNATURE OF POLICE OFFICER**

Dated: / /

Signed:

Name, rank and No.

Station and address

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**NOTE TO PERSONS EXECUTING WARRANT**

If, under this warrant, a person takes possession of, or secures against interference, any books, that person or any person to whose possession they are delivered under this warrant—

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

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**RETENTION OF ORIGINAL BOOKS FOR CRIMINAL PROCEEDINGS**

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

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

**H. ORDER FOR RETENTION FOR CRIMINAL PROCEEDINGS**

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

Name of proposed defendant(s)

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**I order** that the Victorian WorkCover Authority is authorised to retain possession of the abovementioned books until the criminal proceedings referred to above are concluded.

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

<b>Made at:</b>	<input type="text"/>	place	by:	<input type="text"/>
			signature	<input type="text"/>
<b>on:</b>	<input type="text"/>	date		<input type="text"/>
<b>at:</b>	<input type="text"/>	time	name	<input type="text"/>
				<b>Magistrate</b>

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Schedule 2—Amounts not remuneration—contractors

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**Schedule 2—Amounts not remuneration—  
contractors**

Regulation 11

**Table**

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

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## **Endnotes**

<sup>1</sup> Reg. 4(a): S.R. No. 41/2014 as amended by S.R. No. 43/2020.

<sup>2</sup> Reg. 4(b): S.R. No. 43/2020.