



Australian Capital Territory

Workers Compensation Amendment Regulation 2011 (No 1)

Subordinate Law SL2011-27

The Australian Capital Territory Executive makes the following regulation under the *Workers Compensation Act 1951*.

Dated 15 August 2011.

KATY GALLAGHER
Minister

SIMON CORBELL
Minister



Australian Capital Territory

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made under the

Workers Compensation Act 1951

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1 Name of regulation

This regulation is the *Workers Compensation Amendment Regulation 2011 (No 1)*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This regulation amends the *Workers Compensation Regulation 2002*.

4 Section 68 (1) (g), (h) and (i)

substitute

- (g) a written agreement by the insurer to provide information, and pay any fee determined, for a compliance audit or financial audit required by the Minister under part 10A;
- (h) a written statement by the insurer that the insurer will—
 - (i) comply with the Act and this regulation; and
 - (ii) comply with the conditions of approval imposed under division 9.2; and
 - (iii) comply with any protocol approved under section 101.

5 Section 69 (b) (ii)

substitute

- (ii) be able to meet the insurer's obligations under the Act; and

6 Section 72 (1) (c)

substitute

- (c) the insurer's continuing ability to meet its obligations under the Act.

7 New section 73A

insert

73A Insurer to provide information and pay costs of audit

It is a condition of an insurer's approval that the insurer, for a compliance audit or financial audit under part 10A—

- (a) complies with the reasonable requirements of the person conducting the audit; and
- (b) allows the person conducting the audit access to the information reasonably required to conduct the audit; and
- (c) pays any fee for the audit that is not more than the determined fee.

Note The Minister may approve a protocol about how a person who is subject to an audit must participate in the audit (see s 101 (2) (b) and (c)).

8 Section 79 (c)

substitute

- (c) ability to meet the insurer's obligations under the Act.

9 Section 86 (1) (h)

substitute

- (h) a written agreement by the employer to provide information, and pay any fee determined, for a compliance audit or financial audit required by the Minister under part 10A;

10 Section 86 (1) (l)

substitute

- (l) a written statement by the employer that the employer will—
 - (i) comply with the Act and this regulation; and
 - (ii) comply with the conditions of exemption imposed under division 10.3; and
 - (iii) comply with any protocol approved under section 101;

11 New section 90A

insert

90A Self-insurer to provide information and pay costs of audit

It is a condition of an exemption that the employer, for a compliance audit or financial audit under part 10A—

- (a) complies with the reasonable requirements of the person conducting the audit; and
- (b) allows the person conducting the audit access to the information reasonably required to conduct the audit; and
- (c) pays any fee for the audit that is not more than the determined fee.

Note The Minister may approve a protocol about how a person who is subject to an audit must participate in the audit (see s 101 (2) (b) and (c)).

12 New part 10A

insert

Part 10A Compliance and financial audits

95A Compliance audits

- (1) The Minister may direct a compliance auditor to conduct a compliance audit of—
- (a) an approved insurer or an insurer that has applied to be an approved insurer; or
 - (b) a self-insurer or an employer that has applied to be a self-insurer.

Note A fee may be determined under the Act, s 221 for this provision.

- (2) The compliance auditor must—
- (a) conduct the compliance audit in accordance with any protocol approved by the Minister for the audit; and
 - (b) provide a written report to the Minister and the person audited, within the time set by the Minister.

Note The person audited must comply with the requirements of the person conducting the audit (see s 73A and s 90A).

- (3) In this section:

compliance audit means an audit of—

- (a) compliance with the Act and this regulation; and
- (b) for an approved insurer or an insurer that has applied to be an approved insurer—compliance with the conditions of approval under division 9.2; and

- (c) for a self insurer or an employer that has applied to be a self-insurer—compliance with the conditions of exemption under division 10.3; and
- (d) compliance with a relevant protocol approved under section 101.

compliance auditor means a person appointed under section 95C to conduct a compliance audit.

95B Financial audits

- (1) The Minister may direct a financial auditor to conduct a financial audit of—
 - (a) an approved insurer or an insurer that has applied to be an approved insurer; or
 - (b) a self-insurer or an employer that has applied to be a self-insurer.

Note A fee may be determined under the Act, s 221 for this provision.

- (2) The financial auditor must—
 - (a) conduct the financial audit in accordance with any protocol approved by the Minister for the audit; and
 - (b) provide a written report to the Minister and the person audited, within the time set by the Minister.

Note The person audited must comply with the requirements of the person conducting the audit (see s 73A and s 90A).

- (3) In this section:

financial audit means an audit of—

- (a) financial and prudential soundness; and
- (b) the ability to meet current and expected liabilities under the Act.

financial auditor means a person appointed under section 95C to conduct a financial audit.

95C Appointment of auditors

- (1) The director-general may—
 - (a) appoint a suitably qualified person as a *compliance auditor* to conduct compliance audits under section 95A; and
 - (b) appoint an auditor as a *financial auditor* to conduct financial audits under section 95B.
- (2) A compliance auditor or financial auditor must not be appointed for longer than 3 years.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

13 Section 100 (1) (d)

substitute

- (d) any other document (other than approved forms) mentioned in the Act.

14 Section 100A*substitute***101 Approved protocols for insurers**

- (1) If a person is required or authorised to do something under the Act or this regulation, the Minister may approve a protocol about how the person must do the thing.
- (2) Without limiting subsection (1), the Minister may, in writing, approve a protocol about—
 - (a) how payments by an approved insurer or self-insurer to the DI fund required under the Act or this regulation must be made; and
 - (b) how a person subject to a compliance audit under section 95A (Compliance audits) must participate in the audit; and
 - (c) how a person subject to a financial audit under section 95B (Financial audits) must participate in the audit; and
 - (d) how any of the following required under the Act or this regulation must be given:
 - (i) information in relation to a compulsory insurance policy;
 - (ii) information in relation to payments by an approved insurer or self-insurer to the DI fund, including information required to be given by an insurer to an employer under section 62A (Required information from employer in policy).
- (3) An approved protocol is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

15 Dictionary, note 3

insert

- auditor

Endnotes

1 Notification

Notified under the Legislation Act on 1 September 2011.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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