

Health and Other Services (Compensation) Amendment Regulations 2002 (No. 1) 2002 No. 228

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 228

Health and Other Services (Compensation) Amendment Regulations 2002 (No. 1)

Issued by authority of the Minister for Health and Ageing

The *Health and Other Services (Compensation) Act 1995* (the Act) provides for the recovery of monies to the Commonwealth that have been paid by way of Medicare or Residential care payments for claimants of a judgement or settlement in relation to the injuries they incurred.

Section 47 of the Act provides that the Governor-General may make regulations for the purposes of the Act. Paragraph 4(2)(e) of the Act also states that for the purposes of the Act, compensation does not include a payment of a kind, or in circumstances, prescribed by the regulations made for the purpose of this paragraph.

The purpose of the Regulations is to amend the Health and Other Services (Compensation) Regulations to provide for the exclusion of certain payments from the definition of compensation under the Act.

The payments proposed to be excluded are those made under specified Commonwealth, State or Territory legislation where the circumstances are such that there would be no Commonwealth funded Medicare or residential care payments that would need to be recovered in any event. This would remove administrative obligations or costs from solicitors, individual claimants, State or Territory organisations and the Health Insurance Commission in processing inquiries.

In this instance, there is only one category of payment proposed to be excluded under the general provisions. These are payments made under Subdivision 1, 2 or 3 of Division 3A of the Accident Compensation Act 1985 of Victoria.

Details of the Regulations are set out in the Attachment.

The Regulations commenced on gazettal.

Attachment

Details of the Health and Other Services (Compensation) Amendment Regulations 2002 (No. 1)

Regulation 1 provides for the Regulations to be referred to as the Health and Other Services (Compensation) Amendment Regulations 2002 (No. 1)

Regulation 2 provides for the Regulations to commence on gazettal.

Regulation 3 provides for the Health and Other Services (Compensation) Regulations to be amended as set out in Schedule 1.

Schedule 1 - Amendments

Item 1 - Name of Regulations

Item 1 provides for the name of the regulations. The regulations are re-named the *Health and Other Services (Compensation) Regulations 1995*.

Item 2 - Certain payments not compensation (Act s 4)

Item 2 provides for a new Regulation to be inserted into the regulations. Item 2 provides for compensation payments made under a provision of a Commonwealth, State or Territory Act to be excluded from the definition of compensation if they are specifically referred to in the attached Schedule 1. The new regulation excludes the specified compensation payments if certain conditions are met.

Schedule 1 - Prescribed Payments

Item 1 provides for exclusion from the definition of compensation for payments referred to in Subdivision 1, 2 or 3 of Division 3A of Part 4 of the Accident Compensation Act 1985 of Victoria as in force on 12 December 2001. All payments under this item must be made on or before 30 June 2006.