



New South Wales

# **Workers Compensation Amendment (Insurance Amnesty) Regulation 1996**

under the  
**Workers Compensation Act 1987**

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

JEFFREY SHAW, QC, M.L.C.  
Minister for Industrial Relations

## **Explanatory note**

The object of this Regulation is to provide for a 3 month amnesty for contraventions of section 155 of the *Workers Compensation Act 1987* (the section that requires employers to have workers compensation insurance cover for their workers). The amnesty is conditional on an employer taking out the necessary insurance during the amnesty period. The amnesty applies only to employers who are in breach of section 155 when the amnesty starts. The amnesty operates to excuse any contravention of the insurance requirement that occurred before insurance was taken out. Transitional arrangements provide for the amnesty to not apply to pending criminal proceedings and pending premium recovery proceedings. The amnesty will also not apply if a claim for an uninsured liability has been made against the employer in the past.

This Regulation is made under the *Workers Compensation Act 1987*, including section 155 (5) (the power to provide for an amnesty by regulation) and section 280 (the general regulation making power).

## **1996 No 347**

Clause 1      Workers Compensation Amendment (Insurance Amnesty) Regulation 1996

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# **Workers Compensation Amendment (Insurance Amnesty) Regulation 1996**

### **1 Name of Regulation**

This Regulation is the *Workers Compensation Amendment (Insurance Amnesty) Regulation 1996*.

### **2 Commencement**

This Regulation commences on 1 August 1996.

### **3 Amendment of Workers Compensation (General) Regulation 1995**

The *Workers Compensation (General) Regulation 1995* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

## **Schedule 1    Amendment of Workers Compensation (General) Regulation 1995**

(Clause (3))

### **Clause 54A**

Insert after clause 54:

#### **54A Amnesty for insurance contraventions**

- (1) There is an amnesty for a contravention of section 155 of the Act by a person who satisfies the condition of the amnesty during the amnesty period, such that the person is not liable to be prosecuted for an offence under that section in respect of a contravention that occurred before the person satisfied that condition and is not liable to recovery under section 156 of the Act in respect of a contravention that occurred before the person satisfied that condition. The amnesty period is the period of 3 months that begins on the commencement of this clause.

- (2) The condition of the amnesty is that the person obtains any policy of insurance that the person is at the time required to obtain under section 155 of the Act.
- (3) The amnesty applies only to a person who is contravening section 155 of the Act at the commencement of this clause.
- (4) The amnesty does not prevent a person being prosecuted for an offence under section 155 of the Act if
  - (a) proceedings for the offence were commenced before the person satisfied the condition of the amnesty, or
  - (b) proceedings for recovery under section 156 of the Act in respect of the contravention with which the offence is concerned were commenced before the person satisfied the condition of the amnesty, or
  - (c) an uninsured liability claim was made against the person (as provided by subclause (6)) before the person satisfied the condition of the amnesty, even if that uninsured liability claim does not relate to the prosecution concerned.
- (5) The amnesty does not prevent recovery from a person under section 156 of the Act if:
  - (a) proceedings for recovery were commenced before the person satisfied the condition of the amnesty, or
  - (b) proceedings for an offence under section 155 of the Act in respect of the contravention with which recovery is concerned were commenced before the person satisfied the condition of the amnesty, or
  - (c) an uninsured liability claim was made against the person (as provided by subclause (6)) before the person satisfied the condition of the amnesty, even if that uninsured liability claim does not relate to the recovery proceedings concerned.

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Schedule 1      Amendment of Workers Compensation (General) Regulation 1995

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- (6) An uninsured liability claim is considered to have been made against a person if a claim has been made under section 140 of the Act, or proceedings have been commenced in the Compensation Court, against the person in respect of a claim for compensation under the Act in respect of an injury to a worker, and the person:
  - (a) in contravention of the Act had not obtained, or was not maintaining in force, a policy of insurance for the full amount of the person's liability under the Act as employer in respect of the injured worker at the relevant time, and
  - (b) was not a self-insurer at that relevant time.
- (7) When the amnesty applies in respect of a contravention by a corporation, the amnesty extends in respect of that contravention to a person who is a director of the corporation or concerned in the management of the corporation.