



# Victoria Government Gazette

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**SPECIAL**

## **Accident Compensation Act 1985**

### MINISTERIAL DIRECTIONS UNDER SECTION 119L

I, Robert Graham Cameron, Minister for WorkCover, hereby issue the attached Ministerial Directions under section 119L of the **Accident Compensation Act 1985**.

Dated 18 February 2002

BOB CAMERON MP  
Minister for WorkCover

**Accident Compensation Act 1985**  
DIRECTIONS UNDER SECTION 119L

**Scope of Directions**

1. These are Directions on requirements and procedures for settlements under Division 3A of Part 4 of the **Accident Compensation Act 1985** (“the Act”) and are made under section 119L of the Act.

**Commencement date of Directions**

2. The Directions take effect on the day after the day on which they are published in the Government Gazette.

**Definitions**

3. The following definitions apply for the purposes of these Directions:

“**Act**” means the **Accident Compensation Act 1985**.

“**ASIC**” means the Australian Securities and Investments Commission continued in existence by the **Australian Securities and Investments Commission Act 2001** of the Commonwealth.

“**Authority**” means the Victorian WorkCover Authority established under section 18 of the Act.

“**agent**” means a person appointed as an authorised agent under section 23 of the Act.

“**member of the worker’s family**” means the wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother or half-sister of the worker or any person who stands in the place of a parent in relation to the worker.

“**self-insurer**” means a body corporate or partnership approved as a self-insurer under Part V of the Act.

“**worker**”, in the case of a worker who is under a legal disability and has a legal personal representative, means, unless the context otherwise indicates, the worker’s legal personal representative.

**Form of Expression of Interest**

4. An expression of interest by a worker under section 119 of the Act should be in the form contained in **Schedule 1** to these Directions.

**Supporting documentation to accompany Expression of Interest**

5. An expression of interest must be accompanied by proof of identity and date of birth of the worker giving the expression of interest.
6. Subject to Directions 7 and 9, a certified copy of one of the following documents may be used as the proof of identity and date of birth required by Direction 5:
  - (a) a birth certificate or extract or change of name registration issued by the Registrar of Births, Deaths and Marriages or equivalent if issued by another State or Territory of the Commonwealth; or
  - (b) a current Australian passport or a current passport issued by or with the authority of the government of another country; or
  - (c) a current driver’s licence issued by a State or a Territory of the Commonwealth; or
  - (d) an Australian naturalisation or citizenship document, or immigration papers issued by the Department of Immigration and Multicultural and Indigenous Affairs or the Australian Passport Office.
7. If the name given in the document provided by the worker in accordance with Direction 6 is different from the current name under which the worker is known to the Authority or the self-

insurer in relation to the relevant injury, the worker must prove the current name by providing, in addition to the document provided in accordance with Direction 6, a certified copy of one or more of the following documents:

- (a) a marriage certificate; or
  - (b) a divorce paper bearing the name being reverted to; or
  - (c) a deed poll (pre 1 November 1986 in Victoria); or
  - (d) a change of name registration (on and after 1 November 1986 in Victoria); or
  - (e) a guardianship order; or
  - (f) an adoption paper.
8. For the purposes of Directions 6 and 7, a certified copy of a document is a copy of the document (as supplied by the issuing authority) which is certified as a true copy of the original document by a person who is:
- (a) empowered to witness a statutory declaration under section 107A of the **Evidence Act 1958** or to take an affidavit under section 123C of the **Evidence Act 1958**; or
  - (b) empowered under a law of the Commonwealth or of another State or Territory of the Commonwealth to witness a statutory declaration or to take an affidavit.

**Note:** For Direction 8(a), the lists of persons who may, under Victorian law, witness a statutory declaration or take an affidavit under sections 107A and 123C of the **Evidence Act 1958** are set out in Schedule 2 to these Directions.

9. On the request of the Authority or a self-insurer, the worker must provide to the Authority or the self-insurer the originals of any document or documents provided by the worker under Direction 6 or Direction 7.

#### **Financial and legal issues for proposed settlement**

10. The financial and legal issues in relation to a proposed settlement on which a worker must receive advice before applying for the settlement are:

- *Financial issues*
  - principles of short term money management;
  - a financial plan for the long term;
  - responsibility and skills necessary to manage a lump sum settlement;
  - disclosure by a financial adviser of any commissions, fees or other interests that may influence the financial adviser in the giving of financial advice under these Directions;
  - an estimated Centrelink preclusion period;
  - notification of:
    - (a) the rights of the Commonwealth to recover any amounts owed or owing by the worker under the **Social Security Act 1991** of the Commonwealth; and
    - (b) the possible consequent reduction by those amounts of the amount otherwise payable to the worker as a settlement under the **Accident Compensation Act 1985**.
- *Legal issues*
  - that acceptance of a settlement is voluntary;
  - the provisions of the **Accident Compensation Act 1985** in relation to the settlement;
  - the legal consequences of accepting a settlement (including all rights, benefits or claims foregone);

- a general overview of the compensation provisions (presently section 17 and Part 3.14) of the **Social Security Act 1991** of the Commonwealth, what the Centrelink preclusion period means and the effect of a settlement on social security payments;
  - any other legal remedies or rights available to the worker as an alternative to accepting a settlement.
11. In order to ensure that the worker has received independent advice, the financial or legal adviser must not be a member of the worker's family.

**Categories of persons from whom financial advice may be received**

12. A person providing financial advice must be a person who is:
- (a) either:
    - (i) entitled to provide investment or financial product advice as the holder of a licence under the **Corporations Act 2001** of the Commonwealth; or
    - (ii) permitted under the **Corporations Act 2001** of the Commonwealth to act as the representative of such a licensee; and
  - (b) either:
    - (i) a Certified Financial Planner; or
    - (ii) a Certified Practising Accountant; or
    - (iii) a member of the Institute of Chartered Accountants in Australia.

**Notes:**

- (1) For Direction 12, the Financial Planning Association of Australia issues the Certified Financial Planner designation and has information on those persons. The Association may be contacted on its web site at [www.fpa.asn.au](http://www.fpa.asn.au) or on 1800 626 393.
- (2) CPA Australia has information on persons who are certified practising accountants. CPA Australia may be contacted on its web site at [cpa@mail.cpaonline.com.au](mailto:cpa@mail.cpaonline.com.au) or on (03) 9606 9606.
- (3) The Institute of Chartered Accountants in Australia has information on persons who are members of the Institute. The Institute may be contacted on its web site at [www.icaa.org.au](http://www.icaa.org.au) or on 1800 809 828.

**Categories of persons from whom legal advice may be received**

13. A person providing legal advice must be:
- (a) a current practitioner (other than a corporate practitioner) within the meaning of the **Legal Practice Act 1996**; or
  - (b) an interstate practitioner within the meaning of the **Legal Practice Act 1996** who is permitted by the laws of the relevant state or territory of the Commonwealth to give the legal advice specified in these Directions.

**Form of certificates**

14. Financial and legal advisers must complete a certificate in the form specified in Direction 16 or 17 (as the case requires) to provide evidence that advice required by these Directions has been given.
15. The certificate by a financial or legal adviser must also certify in which category or capacity the adviser is providing the advice and list a registration number or other appropriate identifying information from a professional body, if applicable.

**Financial certificate**

16. The certificate by a financial adviser must state whether:

- (a) the worker has an understanding of the principles of short term money management (such as budgeting on a weekly income);
- (b) the worker has the financial responsibility and skills necessary to manage a lump sum settlement;
- (c) the worker has developed a financial plan for the long term;
- (d) the worker has the financial acumen, evident from past financial management, to manage a lump sum settlement;
- (e) before or at the time of giving financial advice to the worker, the financial adviser has fully disclosed to the worker particulars of:
  - (i) any commission or fee, or any other benefit or advantage, whether pecuniary or not and whether direct or indirect, that the financial adviser or an associate, has received, or will or may receive, in connection with the giving of that advice; and
  - (ii) any other pecuniary or other interest, whether direct or indirect, of the financial adviser that may reasonably be expected to be capable of influencing the financial adviser in the giving of that advice;
- (f) the worker has obtained any advice on an estimated Centrelink preclusion period and if so, what that advice was;
- (g) the worker has been informed of:
  - (i) the rights of the Commonwealth to recover any amounts owed or owing by the worker under the **Social Security Act 1991** of the Commonwealth; and
  - (ii) the possible consequent reduction by those amounts of the amount otherwise payable to the worker as a settlement under the **Accident Compensation Act 1985**;
- (h) (if no to any of the above) any and what alternative provision is proposed to be made to protect the worker's interests in the relevant respect or respects.

**Legal certificate**

17. The certificate by a legal adviser must state whether:
- (a) the worker has received financial advice under these Directions;
  - (b) the legal adviser has sighted the financial adviser's advice;
  - (c) the worker understands that acceptance of a settlement is voluntary;
  - (d) the legal adviser has explained the provisions of the **Accident Compensation Act 1985** that relate to the settlement;
  - (e) advice has been provided to the worker on the legal consequences of accepting a settlement;
  - (f) advice has been provided to the worker on the compensation provisions (presently section 17 and Part 3.14) of the **Social Security Act 1991** of the Commonwealth, what the Centrelink preclusion period means and the effect of a settlement on social security payments;
  - (g) the information contained in the settlement application is accurate; and
  - (h) (if no to any of the above) any and what alternative provision is proposed to be made to protect the worker's interests in the relevant respect or respects.

**Reimbursement for obtaining financial and legal advice**

18. Subject to Direction 22, the Authority or a self-insurer will pay the reasonable costs of the worker in obtaining the financial and legal advice in relation to a proposed settlement specified in these Directions only if the financial and legal costs (as the case may be) are incurred by the worker after he or she has:

- (a) lodged an expression of interest with the Authority or a self-insurer; and
  - (b) received a written response from the Authority or a self-insurer under section 119B(2) of the Act.
19. An account for financial or legal advice obtained in accordance with these Directions must be billed to the worker. The worker may then seek reimbursement from the Authority or a self-insurer.
20. Subject to Direction 22, the Authority or a self-insurer must reimburse a worker for the reasonable costs of obtaining financial and legal advice in relation to an application for a settlement within 28 days of receiving the request for reimbursement from the worker. However, if the Authority or a self-insurer has within that period requested a copy of the advice from the worker to determine the reasonable cost of the advice, then the Authority or a self-insurer must make the reimbursement within 28 days of receiving the copy from the worker.
21. Such reimbursement of the reasonable costs of the advice obtained must be provided by the Authority or a self-insurer regardless of whether the worker is offered a settlement or not, and regardless of whether the worker applies for or accepts a settlement offer.
22. The maximum amounts that the Authority or a self-insurer is liable to pay a worker in respect of such advice are:
- (a) for financial advice, \$495 (inclusive of GST); and
  - (b) for legal advice, \$400 (inclusive of GST).

**Copies of legal or financial advice to be provided on request**

23. On request of the Authority or a self-insurer, the worker must provide a copy to the Authority or a self-insurer of any financial or legal advice obtained for the purposes of Division 3A of Part 4 of the Act within 14 days of receiving the request from the Authority or self-insurer.
24. A copy of the advice may be requested by the Authority or a self-insurer only for the purpose of establishing the reasonable cost of the advice.

**Form of application and acceptance of offer of settlement**

25. An application for a settlement must be in writing and must be in accordance with the form contained in Schedule 3 to these Directions.
26. An acceptance of an offer of a settlement under Subdivision 1 or 2 of Division 3A of Part 4 of the Act must be in writing and must be in accordance with the form contained in Schedule 4 to these Directions.
27. An acceptance of an offer of a settlement under Subdivision 3 or 4 of Division 3A of Part 4 of the Act must be in writing and must be in accordance with the form contained in Schedule 5 to these Directions.

**Service of expression of interest, application for settlement and acceptance of offer of settlement**

28. An expression of interest in applying for a settlement, an application for a settlement and an acceptance of a settlement under Subdivision 1 of Division 3A of Part 4 of the Act must be given to or made (as the case may be) –
- (a) if the liability to pay compensation lies with a self-insurer, by posting it by registered post to or delivering it to the self-insurer; or
  - (b) in any other case:
    - (i) by posting it by registered post to or delivering it to the agent of the Authority managing the claim: or
    - (ii) if there is no agent managing the claim:
      - (A) by posting it by registered post to the Claims Management Division of the Authority, at GPO Box 4306, Melbourne, Victoria 3001; or

- (B) by delivering it to the Authority at its office at Level 24, 222 Exhibition Street, Melbourne.
29. An expression of interest in applying for a settlement and an application for a settlement under Subdivision 2 of Division 3A of Part 4 of the Act must be given to or made (as the case may be) –
- (a) if the liability to pay compensation lies with a self-insurer, by posting it by registered post to or delivering it to the self-insurer; or
  - (b) in any other case:
    - (i) by posting it by registered post to the Authority at GPO Box E2788, Melbourne, Victoria 3001; or
    - (ii) by delivering it to the Authority at its office at Level 24, 222 Exhibition Street, Melbourne.
30. An acceptance of a settlement under Subdivision 2 of Division 3A of Part 4 of the Act must be given to or made (as the case may be) –
- (a) if the liability to pay compensation lies with a self-insurer, by posting it by registered post to or delivering it to the self-insurer; or
  - (b) in any other case:
    - (i) by posting it by registered post or delivering it to the agent of the Authority managing the claim: or
    - (ii) if there is no agent managing the claim:
      - (A) by posting it by registered post to the Claims Management Division of the Authority at GPO Box 4306, Melbourne, Victoria 3001; or
      - (B) by delivering it to the Authority at its office at Level 24, 222 Exhibition Street, Melbourne.
31. An expression of interest in applying for a settlement, an application for a settlement and an acceptance of a settlement under Subdivision 3 of Division 3A of Part 4 of the Act must be given or made (as the case may be) –
- (c) if the liability to pay compensation lies with a self-insurer, by posting it by registered post to or delivering it to the self-insurer; or
  - (d) in any other case:
    - (i) by posting it by registered post or delivering it to the agent of the Authority managing the claim: or
    - (ii) if there is no agent managing the claim:
      - (A) by posting it by registered post to the Claims Management Division of the Authority at GPO Box 4306, Melbourne, Victoria 3001; or
      - (B) by delivering it to the Authority at its office at Level 24, 222 Exhibition Street, Melbourne.

**Note:** For Directions 28 to 31, the contact details for agents and self-insurers are posted on the web site of the Victorian WorkCover Authority at [www.workcover.vic.gov.au](http://www.workcover.vic.gov.au). Alternatively, these details are available by telephoning the relevant agent or self-insurer or the WorkCover Advisory Service on 1800 136 089.

**Period for paying settlement**

32. On acceptance by a worker of a settlement offer, the Authority, agent or self-insurer (as the case may be) must pay the settlement amount to a worker within 30 days of receipt of that acceptance.

**Privacy and collection of personal information**

33. The Authority, agent or self-insurer must comply with all applicable legislation relating to privacy and the collection of information (in particular, where relevant, the **Information Privacy Act 2000** and the **Privacy Act 1988** of the Commonwealth). The Authority, agent or self-insurer must ensure that any worker providing personal information is made aware of the information required by that legislation.

BOB CAMERON  
Minister for WorkCover

**Footnote**

Section 119L(5) of the Act provides that a person to whom a direction applies must comply with the direction.



**Schedule 1**

Direction 4

**EXPRESSION OF INTEREST FORM**

TO: Victorian WorkCover Authority  
[appropriate address as set out in Directions 28, 29 or 31, as applicable]

OR

[Name of agent or self-insurer]  
[address of agent or self-insurer]

I [name of worker] of [address of worker] am interested in applying for a lump sum settlement under Subdivision 1 / 2 / 3 / 4 (strike out whichever are not applicable) of Division 3A of Part 4 of the **Accident Compensation Act 1985**.

My claim number with the Victorian WorkCover Authority / agent /self-insurer is [insert claim number].

I am eligible to apply for the settlement because [provide details of eligibility: see Attachment to Schedule 1].

I attach a certified copy of one of the following documents as proof of my identity and date of birth (strike out whichever are not applicable):

- birth certificate
- current passport
- current driver's licence issued by a State or a Territory of the Commonwealth
- certificate of Australian citizenship.

If my name has changed from the name given in the certified document above, as proof of my current name under which I am known to the Authority or the self-insurer, I attach a certified copy of one or more of the following documents (strike out whichever are not applicable):

- marriage certificate
- divorce paper
- deed poll
- change of name registration
- guardianship order
- adoption paper.

SIGNED BY [name of worker]

Date

**Attachment to Schedule 1**  
**ELIGIBILITY CRITERIA FOR A SETTLEMENT**  
**Accident Compensation Act 1985**  
**Division 3A of Part 4**

You may be eligible to apply for a settlement under the Act if you are in one of the following categories for settlements provided in Division 3A of Part 4 of the **Accident Compensation Act 1985** (“the Act”).

**Subdivision 1 – Section 115 (Intensive Care Review Program) Claimants**

If you:

- were injured between 12 November 1997 and 19 October 1999; and
- are receiving weekly payments in respect of the injury as at the date of lodging an expression of interest or would have been entitled but for a period of suspension under section 96(2) of the Act because you have received a termination or superannuation payment; and
- have received weekly payments in respect of the injury for at least 104 weeks and been classified as having no current work capacity indefinitely; and
- have a whole person impairment in respect of the injury assessed, in accordance with the Act, at 30 per cent or more using the American Medical Association Guides to the Evaluation of Permanent Impairment 4th edition.

**Subdivision 2 – Section 116 (WorkCare) Claimants**

If you:

- were injured between 4 pm 31 August 1985 and 30 November 1992; and
- were receiving weekly compensation in respect of the injury on 3 September 2001 and on the date of lodging an expression of interest or would have been entitled but for a period of suspension under section 96(2) of the Act because you have received a termination or superannuation payment; and
- had received weekly payments in respect of the injury for at least 104 weeks as at 3 September 2001; and
- are classified in respect of the injury, for the purpose of receiving weekly compensation, as seriously injured or having no work capacity indefinitely.

**Subdivision 3 – Section 117 Claimants**

If you are either:

- (a) over 55 years of age and have received at least 104 weeks of compensation and be classified as having no work capacity indefinitely; or
- (b) have received weekly payments for at least 104 weeks and are classified as seriously injured for the purpose of receiving weekly compensation

**and for both (a) and (b)**

are receiving or are entitled to receive weekly payments of compensation at the time of lodging an expression of interest.

**Subdivision 4 - Section 118 Claimants**

This category is not operative as at the date of gazettal of these Directions.

**Privacy/collection of personal information statement**

A relevant privacy/collection of personal information statement must be included in accordance with the Information Privacy Principles, contained in Schedule 1 of the **Information Privacy Act 2000**.

**Disclaimer:** The above information, other than the privacy/collection of personal information statement, is based on the provisions of the **Accident Compensation Act 1985**. While this information is provided in good faith by the Victorian WorkCover Authority as a guide to workers on the eligibility criteria for a settlement under the Act, you are warned that the Authority makes no claim as to the accuracy of the information and will not accept any liability for any loss or damage which may be incurred by any person acting in reliance on the information. If you believe that you may be eligible to apply for a settlement under the Act, you should still read the Act itself or seek your own legal advice about it. Note: you may not recover the cost of this legal advice from a self-insurer or the Authority.

**Schedule 2**

## Direction 8

**LISTS OF PERSONS WHO MAY WITNESS STATUTORY DECLARATIONS AND TAKE AFFIDAVITS UNDER VICTORIAN LAW****Statutory Declarations**

Under Victorian law (see section 107A of the **Evidence Act 1958**), any of the following persons may witness the signing of a statutory declaration:

- (a) a justice of the peace or a bail justice;
- (b) a notary public;
- (c) a barrister and solicitor of the Supreme Court;
- (d) a clerk to a barrister and solicitor of the Supreme Court;
- (e) the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or a deputy registrar of the County Court, the principal registrar of the Magistrates' Court or a registrar or deputy registrar of the Magistrates' Court;
- (f) the registrar of probates or an assistant registrar of probates;
- (g) the associate to a judge of the Supreme Court or of the County Court;
- (h) the secretary of a master of the Supreme Court or of the County Court;
- (i) a person registered as a patent attorney under Part XV of the **Patents Act 1952** of the Commonwealth;
- (j) a member of the police force;
- (k) the sheriff or a deputy sheriff;
- (l) a member or former member of either House of the Parliament of Victoria;
- (m) a member or former member of either House of the Parliament of the Commonwealth;
- (n) a councillor of a municipality;
- (o) a senior officer of a Council as defined in the **Local Government Act 1989**;  
**Note:** Section 3 of the **Local Government Act 1989** defines a "senior officer" to mean a member of Council staff who is entitled to total remuneration in any 12 month period of at least \$60,000 (or any other amount that might be prescribed from time to time).
- (p) a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;
- (q) a registered dentist within the meaning of the **Dental Practice Act 1999**;
- (r) a veterinary practitioner;
- (s) a pharmacist;
- (t) a principal in the teaching service;
- (u) the manager of a bank;
- (v) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the National Institute of Accountants;
- (w) the secretary of a building society;
- (x) a minister of religion authorised to celebrate marriages;
- (y) a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** with a classification that is prescribed as a classification to which this section applies or who holds office in a statutory authority with such a classification;

**Notes:**

- (1) Regulation 5 of the Evidence (Affidavits and Statutory Declarations) Regulations 1998 provides that the following classifications in the public service are prescribed classifications for the purposes of sections 107A and 123C of the **Evidence Act 1958**:

- (a) Non-executive employee (VPS-2, VPS-3, VPS-4 and VPS-5);
  - (b) Executive (Level 1, Level 2 and Level 3);
  - (c) Principal Scientist or Principal Scientist Level PS-1 and PS-2;
  - (d) Child Adolescent and Family Welfare Officer CAWF1 to CAWF6 (inclusive);
  - (e) Health and Community Services Worker HCS2 to HCS5 (inclusive);
  - (f) Housing Services Officer HSO;
  - (g) Senior Medical Adviser SMA;
  - (h) Mental Retardation Nurse MRN3 to MRN8 (inclusive);
  - (i) Police Administration Officer PAO2 to PAO5 (inclusive).
- (2) Regulation 6 of the Evidence (Affidavits and Statutory Declarations) Regulations 1998 also provides that the office of Transport Accident Commission Officer (except Job Groups 1 and 2) in the Transport Accident Commission is prescribed for the purposes of section 107A of the **Evidence Act 1958**.
- (z) a fellow of the Institute of Legal Executives (Victoria).

#### **Affidavits**

Under Victorian law (see section 123C of the **Evidence Act 1958**), any of the following persons may take an affidavit:

- (a) any judge or the associate to any judge;
- (b) a master of the Supreme Court or of the County Court or the secretary of such a master;
- (c) a justice of the peace or a bail justice;
- (d) the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or a deputy registrar of the County Court, the principal registrar of the Magistrates' Court or a registrar or deputy registrar of the Magistrates' Court;
- (da) the registrar of probates or an assistant registrar of probates;
- (db) the registrar or deputy registrar of the Legal Profession Tribunal;
- (e) a member or former member of either House of the Parliament of Victoria;
- (ea) a member or former member of either House of the Parliament of the Commonwealth;
- (f) a notary public;
- (g) a natural person who is a current practitioner or interstate practitioner within the meaning of the **Legal Practice Act 1996**;
- (ga) a member of the police force of or above the rank of sergeant or for the time being in charge of a police station;
- (gb) a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** with a classification that is prescribed as a classification to which this section applies;

#### **Notes:**

- (1) Regulation 5 of the Evidence (Affidavits and Statutory Declarations) Regulations 1998 provides that the following classifications in the public service are prescribed classifications for the purposes of sections 107A and 123C of the **Evidence Act 1958**:
- (a) Non-executive employee (VPS-2, VPS-3, VPS-4 and VPS-5);
  - (b) Executive (Level 1, Level 2 and Level 3);
  - (c) Principal Scientist or Principal Scientist Level PS-1 and PS-2;
  - (d) Child Adolescent and Family Welfare Officer CAWF1 to CAWF6 (inclusive);
  - (e) Health and Community Services Worker HCS2 to HCS5 (inclusive);
  - (f) Housing Services Officer HSO;

- (g) Senior Medical Adviser SMA;
  - (h) Mental Retardation Nurse MRN3 to MRN8 (inclusive);
  - (i) Police Administration Officer PAO2 to PAO5 (inclusive).
- (2) Regulation 6 of the Evidence (Affidavits and Statutory Declarations) Regulations 1998 also provides that the office of Transport Accident Commission Officer (except Job Groups 1 and 2) in the Transport Accident Commission is prescribed for the purposes of section 107A of the **Evidence Act 1958**.
- (gc) a senior officer of a Council as defined in the **Local Government Act 1989**;  
**Note:** Section 3 of the **Local Government Act 1989** defines a “senior officer” to mean a member of Council staff who is entitled to total remuneration in any 12 month period of at least \$60,000 (or any other amount that might be prescribed from time to time).
- (gd) a person registered as a patent attorney under Part XV of the **Patents Act 1952** of the Commonwealth;
- (ge) a fellow of the Institute of Legal Executives (Victoria);
- (h) any officer or person empowered authorised or permitted by or under any Act of Parliament to take affidavits in relation to the matter in question or in the particular part of Victoria in which the affidavit is sworn and taken.

**Schedule 3**

Direction 25

**SETTLEMENT APPLICATION FORM**

TO: Victorian WorkCover Authority  
[appropriate address as set out in Directions 28, 29 or 31, as applicable]

OR

[Name of agent or self-insurer]  
[address of agent or self-insurer]

I [name of worker] of [address of worker] am applying for a lump sum settlement under Subdivision 1 / 2 / 3 / 4 (strike out whichever are not applicable) of Division 3A of Part 4 of the **Accident Compensation Act 1985** ("the Act").

My claim number with the Victorian WorkCover Authority / agent /self-insurer is [insert claim number].

I received a written response from the Victorian WorkCover Authority / agent /self-insurer under section 119B of the Act in respect of my expression of interest on [specify date]. I lodged my expression of interest to the Victorian WorkCover Authority / agent/ self-insurer on [specify date].

I attach certificates from my legal and financial advisers as required by the Ministerial Directions issued under section 119L of the Act.

SIGNED by [Worker's name]

Date

**Schedule 4**  
**Direction 26**  
**Accident Compensation Act 1985**  
**DIVISION 3A OF PART 4**  
**ACCEPTANCE OF SETTLEMENT OFFER RELEASE LETTER**  
**Subdivision 1 or 2**

**BETWEEN:** [name of worker] of [worker's address]  
**AND:** the Victorian WorkCover Authority ("the VWA")  
 [appropriate address as set out in Directions 28 or 30, as applicable]  
**OR** [name of agent or self-insurer]  
 [address of agent or /self-insurer]

**THE PARTIES ACKNOWLEDGE AND AGREE AS FOLLOWS:**

In accordance with section 119F of the **Accident Compensation Act 1985** ("the Act"), [worker's name] hereby accepts the VWA's / agent / self-insurer's offer of lump sum of \$ in full settlement, under Subdivision 1 / 2 (strike out whichever is not applicable) of Division 3A of Part 4 of the Act, of [his/her] entitlement under the Act (other than section 99) with respect to [his/her] injury. [Worker's name] claim number with the Victorian WorkCover Authority / agent /self-insurer is [insert claim number].

The offer was made to [worker's name] in the VWA's / agent's /self-insurer's notice under section 119E(2) of the Act of [date].

[Worker's name] fully understands that, because [he/she] has accepted this offer [he/she] is not entitled to any further compensation or other payment under the Act (other than under section 99 of the Act which relates to medical and like services) or to recover damages in any proceedings against the VWA / agent / self-insurer or an employer or any of the other persons or bodies referred to in the Act, in respect of –

- (a) [his/her] injury; or
- (b) any recurrence, aggravation, acceleration, exacerbation or deterioration of the injury (unless the recurrence, aggravation, acceleration, exacerbation or deterioration results from or is materially contributed to by any employment in the State of Victoria engaged in after the date of settlement); or
- (c) any other injury arising out of or in the course of, or due to the nature of, any employment in which [he/she] engaged before the date of the settlement –

unless the compensation is or the damages are within a class of compensation or damages mentioned in section 119J(2) of the Act.

[Worker's name] also fully understands that [he/she] has abandoned forever any claim (other than section 99 of the Act) [he/she] has made or action [he/she] may have commenced which is incomplete for either common law damages or a lump sum payment under the Act in respect of an injury mentioned in paragraph (a), (b) or (c) above other than a claim for compensation or damages within a class mentioned in section 119J(2) of the Act.

[Worker's name] acknowledges that [he/she] has been provided with advice on the provisions of Division 3A of Part 4 of the Act in relation to the settlement.

[Worker's name] fully understands that [his/her] acceptance of this offer may preclude or affect the payment or availability to [him/her] of Centrelink and other pensions, benefits or concessions for a period which may be substantial.

[Worker's name] fully acknowledges that [he/she] knows of:

- (b) the rights of the Commonwealth to recover any amounts owed or owing by [him/her] under the **Social Security Act 1991** of the Commonwealth; and



- (c) the possible consequent reduction by those amounts of the amount otherwise payable to [him/her] as a settlement under the **Accident Compensation Act 1985**.

SIGNED BY [worker's name]

In the presence of:

Witness:

Name:

Date:

SIGNED for and on behalf of the

VICTORIAN WORKCOVER AUTHORITY / [name of agent] / [name of self-insurer]

by

in the presence of:

Witness:

Name:

Date:

**Schedule 5**

Direction 27

**Accident Compensation Act 1985**

**DIVISION 3A OF PART 4**

**ACCEPTANCE OF SETTLEMENT OFFER RELEASE LETTER**

**Subdivision 3 or 4**

**BETWEEN:** [name of worker] of [worker's address]

**AND:** the Victorian WorkCover Authority ("the VWA")  
[appropriate address as set out in Direction 31, as applicable]

**OR** [name of agent or self-insurer]  
[address of agent or self-insurer]

**THE PARTIES ACKNOWLEDGE AND AGREE AS FOLLOWS:**

In accordance with section 119F of the **Accident Compensation Act 1985** ("the Act"), [worker's name] hereby accepts the VWA's / agent's / self-insurer's offer of lump sum of \$ in full settlement, under Subdivision 3 / 4 (strike out whichever is not applicable) of Division 3A of Part 4 of the Act, of [his/her] entitlement under the Act (other than section 99) with respect to [his/her] injury. [Worker's name] claim number with the Victorian WorkCover Authority/agent/self-insurer is [insert claim number].

The offer was made to [worker's name] in the VWA's / agent's /self-insurer's notice under section 119E(2) of the Act of [date].

[Worker's name] fully understands that, because [he/she] has accepted this offer [he/she] is not entitled to any further compensation or other payment under the Act (other than under section 99 of the Act which relates to medical and like services) or to recover damages in any proceedings against the VWA / self-insurer or an employer or any of the other persons or bodies referred to in the Act, in respect of [his/her] injury or any recurrence, aggravation, acceleration, exacerbation or deterioration of the injury (unless the recurrence, aggravation, acceleration, exacerbation or deterioration results from or is materially contributed to by any employment in the State of Victoria engaged in after the date of settlement).

[Worker's name] also fully understands that [he/she] has abandoned forever any claim (other than section 99 of the Act) [he/she] has made or action [he/she] may have commenced which is incomplete for either common law damages or a lump sum payment under the Act in respect of the injury.

[Worker's name] acknowledges that [he/she] has been provided with advice on the provisions of Division 3A of Part 4 of the Act in relation to the settlement.

[Worker's name] fully understands that [his/her] acceptance of this offer may preclude or affect the payment or availability to [him/her] of Centrelink and other pensions, benefits or concessions for a period which may be substantial.

[Worker's name] fully acknowledges that [he/she] knows of:

- (a) the rights of the Commonwealth to recover any amounts owed or owing by [him/her] under the **Social Security Act 1991** of the Commonwealth; and
- (b) the possible consequent reduction by those amounts of the amount otherwise payable to [him/her] as a settlement under the **Accident Compensation Act 1985**.

SIGNED BY [worker's name]

In the presence of:

Witness:

Name:

Date:

SIGNED for and on behalf of the

VICTORIAN WORKCOVER AUTHORITY / [name of agent] / [name of self-insurer]

by

in the presence of:

Witness:

Name:

Date:

---

**Accident Compensation Act 1985**

**NOTICE UNDER SECTION 119(3) OF THE ACCIDENT COMPENSATION ACT 1985**

The date specified for the purposes of section 119(3) of the **Accident Compensation Act 1985** is 1 March 2002.

Dated 24 February 2002

BOB CAMERON MP  
Minister for WorkCover

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