

S3 D: MD extract - lodgement of EOI

Extracts from the Ministerial Directions Issued under section 119L of the *Accident Compensation Act 1985*

Subdivision 3

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.

'**NAATI**' means the National Accreditation Authority for Translators and Interpreters.

'**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 in English or if not in English, a translation of the document certified by a translator accredited by NAATI; or
 - (b) a current Australian passport or a current passport issued by or with the authority of the government of another country; or
 - (ba) an Australian passport or a passport issued by or with the authority of the government of another country that:
 - (i) was not cancelled; and

- (ii) was current within the two years before the worker gave the expression of interest;
 - (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.

Service of expression of interest, application for [settlement](#) and acceptance of offer of settlement

10. 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.

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. Alternatively, these details are available by telephoning the relevant agent or self-insurer or the WorkCover Advisory Service on 1800 136 089.

Privacy and collection of personal information

11. 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.

**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.