



**THE ACCIDENT REHABILITATION AND COMPENSATION  
INSURANCE (EARNINGS DEFINITIONS) REGULATIONS 1992,  
AMENDMENT NO. 2**

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CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 29th day of March 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 167 of the Accident Rehabilitation and Compensation Insurance Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992, Amendment No. 2, and shall be read together with and deemed part of the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of April 1993.

**2. Interpretation**—(1) Regulation 2 (1) of the principal regulations is hereby amended by revoking subparagraph (viii) of the definition of the

\*S.R. 1992/64  
Amendment No. 1: S.R. 1992/152

term "earnings as an employee", and substituting the following subparagraphs:

"(viii) Any redundancy payment:

"(ix) Any retiring allowance:"

(2) Regulation 2 (1) of the principal regulations is hereby amended by inserting, after the definition of the term "private domestic worker", the following definitions:

" 'Redundancy payment', in relation to any employee, means any payment made to the employee—

"(a) On or after the 1st day of April 1993; and

"(b) Which is not regularly included in the earnings as an employee (excluding paragraph (viii) of that definition) of the employee and which is not paid in lieu of or in substitution for any earnings as an employee (excluding paragraph (viii) of that definition) which would otherwise have been paid to the employee; and

"(c) In consequence of the termination of the employment of the employee wholly or mainly by reason of the employee being superfluous to the needs of the employee's employer:

" 'Retiring allowance', in relation to any employee, means any payment made to the employee—

"(a) On or after the 1st day of January 1994; and

"(b) Which is not regularly included in the earnings as an employee (excluding paragraph (ix) of that definition) of the employee and which is not paid in lieu of or in substitution for any earnings as an employee (excluding paragraph (ix) of that definition) which would otherwise have been paid to the employee; and

"(c) In consequence of the retirement of the employee from employment with the employee's employer:"

(3) Regulation 2 (3) of the principal regulations is hereby revoked.

(4) Regulation 2 of the principal regulations is hereby amended by revoking subclause (4), and substituting the following subclause:

"(4) In calculating the assessable income of any person for the purposes of determining earnings other than as an employee for the person, no deduction shall be allowed for the amount of—

"(a) Any loss of the person which might otherwise be deductible by the person under section 188 of the Income Tax Act 1976; and

"(b) Any part of any loss of a loss attributing qualifying company (as defined in section 393A of the Income Tax Act 1976) attributable to the person as a shareholder of that company under section 393P of the Income Tax Act 1976."

(5) Regulation 2 of the principal regulations is hereby amended by adding the following subclause:

"(7) If—

"(a) An amount, to which section 6 (2) or section 6 (3) of the Income Tax Act 1976 applies, is paid or payable by an employer to an irregular payment employee for the year ending with the 31st day of March 1992; and

"(b) That amount was paid or payable on or after the 1st day of June 1992; and

“(c) That amount has not been included in any previous statement required to be delivered by the employer under section 43 of the Accident Compensation Act 1982—  
that amount shall not be included in earnings as an employee for the purposes of calculating the premium payable by the employee pursuant to section 114 of the Act, but shall be included in earnings as an employee for the purposes of calculating the premium payable by the employer pursuant to section 101 of the Act.”

(6) Regulation 2 of the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992, Amendment No. 1 is hereby consequentially revoked.

**3. Employers**—Regulation 3 (a) of the principal regulations is hereby amended by inserting, after the words “of the employees of the employer”, the words “(excluding irregular payment employees, except where the amount is an amount to which regulation 2 (7) of these regulations applies)”.

**4. Irregular payment employees**—The principal regulations are hereby amended by inserting, after regulation 3, the following regulation:  
“3A. Every employer who makes a payment of an amount to which section 6 (2) or section 6 (3) of the Income Tax Act 1976 applies (referred to in this regulation as irregular payment employee earnings) shall—

“(a) Within the time within which the employer is required to furnish a return of income pursuant to section 9 of the Income Tax Act 1976, deliver a statement of the total amount of irregular payment employee earnings paid or payable by the employer for the income year to which the return relates; and

“(b) Pay, by the date that income tax not previously due and payable is due and payable by the employer as specified in section 388 or section 395 of the Income Tax Act 1976, the employer premium payable on such irregular payment employee earnings under section 101 of the Act calculated at the rate prescribed in regulations made under the Act.”

**5. Failure to furnish**—The principal regulations are hereby amended by adding the following regulation:

“19. Every earner and every employer who is required to deliver any statement, document, or other information under these regulations to the Corporation and who intentionally fails to do so commits an offence against these regulations.”

MARIE SHROFF,  
Clerk of the Executive Council.

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EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 April 1993, amend the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992, which define various terms and prescribe procedures for the payment of employer and earner premiums, to—

- (a) Define redundancy payments and retiring allowances, which are excluded from the definition of earnings as an employee:
- (b) In the case of shareholders in loss attributing qualifying companies, exclude any part of any loss attributed to any such shareholder from the calculation of earnings other than as an employee:
- (c) Ensure that earnings determined after 31 May 1992 for shareholder/employees which relate to the 1991/1992 income year are not subject to earner premium:
- (d) Align the payment date for employer premium on shareholder/employee earnings with the terminal tax payment date for the income year to which such earnings relate:
- (e) Provide that intentional failure to furnish earnings statements or other documents or information to the Corporation is an offence.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

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These regulations are administered in the Accident Rehabilitation and Compensation Insurance Corporation.