



**COVERED CASES**

**Case Snippet**

**ANDERSON -v- ARNOTT'S BISCUITS LTD**

**[2001] SAWCT 27**

**(Re-Determination)**

Here, the issue was what constitutes “new information” for the purpose of a re-determination under Section 53(7a)(c).

In September **2000** the exempt employer re-determined the worker’s claim, originally accepted on 17<sup>th</sup> April **1997**, for a left hip injury on the basis of further medical reports by Professor Bauze dated 23 **August 2000** and 27 **October 2000**. In other words, the re-determination was made **3½ years** after the original determination.

The question that fell to be considered by the Tribunal was whether the reports of Professor Bauze could be “new information” for the purposes of applying Section 53(7a)(c).

Acting Deputy President Thompson made it clear that new information refers to “information that exists at the time the original determination is made. It must be available and capable of being discovered”.

His Honour further held that Section 53(7a)(c) has a narrow application. To allow re-determinations to be made many years after the original determination on the basis of a medical opinion *fortuitously discovered* would cause detriment to the proper workings of the workers compensation system.

Further, His Honour was doubtful that a medical opinion could constitute “*information*” new or otherwise. It may be no more than another “*opinion*”.

What this means to a decision maker is that unless the information, particularly medical opinion, was not in existence or could not be sought at the time of the original

determination it is not *new information* and cannot be used for the purpose of Section 53(7a)(c).