



New South Wales

Workers Compensation Legislation Amendment Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Workers Compensation Act 1987* (**the Act**) to—
 - (i) implement changes to liability and entitlements for psychological injuries, and
 - (ii) provide for the process of assessing the degree of permanent impairment, and
 - (iii) to enable disputes about liability for a lump sum death benefit to be settled, subject to agreement by the Personal Injury Commission, and
 - (iv) enable regulations to be made to expand the classes of claims which are eligible for commutations, subject to approval by the Personal Injury Commission in a particular case,
- (b) to make miscellaneous amendments to the *Workplace Injury Management and Workers Compensation Act 1998*, the *Personal Injury Commission Act 2020*, the *State Insurance and Care Governance Act 2015* and other legislation.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Workers Compensation Act 1987 No 70

Schedule 1.1 provides for matters relating to whole person impairment, including the following—

- (a) the cessation of weekly compensation after 130 weeks, subject to the worker's degree of permanent employment,
- (b) an increase in the degree of permanent impairment required to access work injury damages,
- (c) an increase in the degree of permanent impairment required for access to lump sum compensation benefits for non-economic loss,
- (d) the entitlement to medical and related treatment for workers who have a primary psychological injury, being, subject to the worker's degree of permanent impairment—
 - (i) one year from the day the claim is made, if weekly compensation is not paid to the worker, or
 - (ii) one year after weekly payments cease, if weekly payments are paid to the worker.

Schedule 1.2 provides for the settlement of a claim that is the subject of a dispute about liability for a lump sum death benefit that has been referred for determination by the Personal Injury Commission.

Schedule 1.3 inserts proposed Part 6 that provides for the way in which the degree of permanent impairment that results from an injury must be assessed.

Proposed Part 6, Division 2 provides for the permanent impairment assessment process, the powers of permanent impairment assessors, principal assessment certificates and the ability for further principal assessments to be made.

In particular, proposed section 153K provides for applications to be made to the State Insurance Regulatory Authority by an insurer or a worker for a principal assessment. Proposed section 153L provides that, subject to some exceptions including an unexpected increase in the worker's permanent impairment of more than 10 percentage points, only one assessment can be made of an injured worker.

Proposed Part 6, Division 3 provides for the making of agreements entered into by the injured worker and employer or insurer, including a requirement that all parties agree on the degree of permanent impairment that has resulted from the injury. The proposed division also provides that the State Insurance Regulatory Authority must keep a register of permanent impairment assessors. The Personal Injury Commission has jurisdiction to determine disputes about liability and medical disputes.

Schedule 1.4 clarifies that the entitlements of injured workers are determined based on the Wage Price Index (NSW) issued by the Australian Bureau of Statistics, provides for the annual indexation of entitlements, and aligns the dates on which entitlements are adjusted.

Schedule 1.5 provides that regulations may be made to allow access to voluntary commutations for certain classes of claims, subject to the oversight and approval of the Personal Injury Commission.

Schedule 1.6 inserts proposed Part 7, Division 4A that provides that the State Insurance Regulatory Authority (the *Authority*) may accept a written undertaking given by an insurer in relation to a contravention or alleged contravention by the insurer in relation to the Workers Compensation Acts. The proposed division also makes it an offence for an insurer to contravene an undertaking given by the insurer that is in effect.

Schedule 1.7 transfers responsibility for the Insurers' Guarantee Fund from the Authority to Insurance and Care NSW.

Schedule 1.8 inserts definitions of *act of violence*, *AIDS*, *AWE*, *CPI*, *HIV*, *indictable criminal conduct*, *large employer*, *lump sum death benefit*, *PIAWE*, *procedural directions* and *WPI*, and defines and provides for the interpretation of *bullying*, *excessive work demands*, *primary*

psychological injury, psychological injury, racial harassment, reasonable management action, relevant event, secondary psychological injury, sexual harassment, traumatic incident and vicarious trauma.

A **relevant event** is defined as being subjected to an act of violence or a threat of violence, indictable criminal conduct, witnessing a traumatic incident or a dead or seriously injured person at the scene of a traumatic incident, experiencing vicarious trauma, being subjected to sexual harassment, racial harassment, bullying or excessive work demands. Other relevant events may be prescribed by the regulations.

The schedule also provides that no compensation is payable for a primary psychological injury to a worker unless—

- (a) a relevant event caused the primary psychological injury, and
- (b) there is a real and direct connection between the relevant event and the worker's employment, and
- (c) the worker's employment is the main contributing factor to the primary psychological injury.

Schedule 1.9 provides that a decision about the amount of an injured worker's pre-injury average weekly earnings is not a work capacity decision and that a work capacity decision or decision in relation to the pre-injury average weekly earnings may proceed to determination by the Personal Injury Commission.

The schedule also provides that an employer is liable to pay the cost of reasonable and necessary medical or hospital treatment and rehabilitation, domestic assistance and workplace rehabilitation services.

The schedule also increases the maximum penalty for a large employer that does not hold a workers compensation insurance policy and makes it an offence if a large employer recklessly fails to give an insurer information that enables the insurer to accurately calculate a workers compensation premium for the large employer's workers.

Schedule 1.10 inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86

Schedule 2 provides for special provisions applying to a claim for bullying, excessive work demands, sexual or racial harassment (each **relevant conduct**). Within 42 days after a claim is made, an insurer must accept the claim and commence weekly payments or dispute liability. If a claim is declined by an insurer, the worker may seek an internal review by the insurer. Following an internal review, the worker may lodge an application to the Industrial Relations Commission. The Industrial Relations Commission may determine whether the conduct the subject of the claim was relevant conduct. If the Industrial Relations Commission determines that relevant conduct occurred, and the insurer continues to dispute the claim, the dispute may be referred for determination by the Personal Injury Commission.

Workers who make claims for relevant conduct are entitled to weekly compensation during the period of determination of the claim. If the claim is accepted, workers are entitled to backpay of weekly benefits, aligned with weekly benefits for other compensation claims.

Schedule 3 Amendment of Personal Injury Commission Act 2020 No 18

Schedule 3 provides that the Personal Injury Commission may appoint a tutor to represent a person under legal incapacity in proceedings affecting that person and provides for the functions

and purpose of the Independent Review Officer and the Independent Legal Assistance and Review Service managed by the Independent Review Officer.

Schedule 4 Amendment of other legislation

Schedule 4.1 amends the *State Insurance and Care Governance Act 2015* to provide that—

- (a) the Insurers Guarantee Fund established under the *Workers Compensation Act 1987*, section 227 is a scheme fund for which the board of directors of Insurance and Care NSW must determine investment strategies, and
- (b) an appointed director of ICNSW may, by written notice given to the Minister, direct that the appointed director's remuneration be paid to the employee body or employer body that nominated the appointed director.

Schedule 4.2 amends the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* to provide that the *Workers Compensation Act 1987*, Part 1, Division 1 has effect as if included in the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

Schedule 4.3 amends the *Workers Compensation Regulation 2016* to provide that for certain workers who contract COVID-19 in the course of the worker's employment, the date that marks the end of the worker's incapacity to work as a result of COVID-19 is the date specified in the relevant certificate of capacity.



New South Wales

Workers Compensation Legislation Amendment Bill 2025

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Workers Compensation Legislation Amendment Bill 2025

No , 2025

A Bill for

An Act to amend workers compensation legislation and related legislation to implement changes to liability and entitlements for psychological injuries; and to make miscellaneous amendments to improve the effective operation of the workers compensation scheme.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Workers Compensation Legislation Amendment Act 2025</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1 **Amendment of Workers Compensation Act 1987 No 70**

1.1 Amendments relating to whole person impairment

[1] Section 32A Definitions

Omit section 32A, definition of *worker with high needs*, paragraph (a). Insert instead—

- (a) the degree of permanent impairment has been assessed under Part 6 or the 1998 Act, Chapter 7, Part 7 to be more than 20%, or

[2] Section 38 Weekly payments after second entitlement period (after week 130)

Insert after section 38(8)—

- (9) This section does not apply to a worker who has a primary psychological injury unless the injury results in a degree of permanent impairment of at least 25%.

Note— Under section 39A, the maximum duration of weekly payments for primary psychological injuries is 130 weeks. However, section 39A does not apply to primary psychological injuries that result in a permanent impairment of at least 25%.

[3] Section 38(9), as inserted by item [2]

Omit “25%” wherever occurring. Insert instead “31%”.

[4] Section 39, heading

Insert “—injuries other than primary psychological injuries” after “years”.

[5] Section 39(3)–(5)

Omit subsection (3). Insert instead—

- (3) For this section, the degree of permanent impairment that results from an injury must be assessed under Part 6.
- (4) If weekly payments of compensation become payable to a worker after compensation under this division ceases to be payable to the worker, compensation under this division is once again payable to the worker but only from the date of—
 - (a) the worker’s further principal assessment under Part 6, or
 - (b) an assessment under the 1998 Act, Chapter 7, Part 7.
- (5) This section does not apply in relation to primary psychological injuries.

Note— Under section 39A, the maximum duration of weekly payments for primary psychological injuries is 130 weeks, subject to the degree of permanent impairment of the worker.

[6] Section 39A

Insert after section 39—

39A Cessation of weekly payments after 130 weeks—primary psychological injuries

- (1) Despite any other provision of this division, a worker has no entitlement to weekly payments of compensation under this division in relation to a primary psychological injury after an aggregate period of 130 weeks, whether or not consecutive, for which a weekly payment has been paid or is payable to the worker in relation to the primary psychological injury.

(2)	This section does not apply to an injured worker whose injury results in permanent impairment if the degree of permanent impairment resulting from the injury is at least 25%.	1 2 3
	Note— For workers with at least 25% permanent impairment, entitlement to compensation may continue after 130 weeks but entitlement after 130 weeks is still subject to this division.	4 5 6
(3)	For this section, the degree of permanent impairment that results from an injury must be assessed under—	7 8
	(a) Part 6, or	9
	(b) the 1998 Act, Chapter 7, Part 7.	10
(4)	If weekly payments of compensation become payable to a worker after compensation under this division ceases to be payable to the worker, compensation under this division is once again payable to the worker but only from the date of the worker’s further assessment.	11 12 13 14
[7]	Section 39A(2), as inserted by item [6]	15
	Omit “25%” wherever occurring. Insert instead “31%”.	16
[8]	Section 59A Limit on payment of compensation	17
	Omit section 59A(2). Insert instead—	18
(2)	The compensation period in relation to an injured worker is as follows—	19
	(a) for an injury other than a primary psychological injury—	20
	(i) if the injury has resulted in a degree of permanent impairment assessed under Part 6 to be 10% or less, or the degree of permanent impairment has not been assessed as provided by that part—the period of 2 years starting on—	21 22 23 24
	(A) the day on which the claim for compensation in relation to the injury was first made, if weekly payments of compensation are not payable or have not been paid to the worker, or	25 26 27 28
	(B) the day on which weekly payments of compensation cease to be payable to the worker, if weekly payments of compensation are payable or have been paid to the worker, or	29 30 31 32
	(ii) if the injury has resulted in a degree of permanent impairment assessed under Part 6 to be more than 10% but not more than 20%—the period of 5 years starting on—	33 34 35
	(A) the day on which the claim for compensation in relation to the injury was first made, if weekly payments of compensation are not payable or have not been paid to the worker, or	36 37 38 39
	(B) the day on which weekly payments of compensation cease to be payable to the worker, if weekly payments of compensation are payable or have been paid to the worker,	40 41 42
	(b) for a primary psychological injury—the period of 1 year starting on—	43
	(i) the day on which the claim for compensation in relation to the primary psychological injury was first made, if weekly payments of compensation are not payable or have not been paid to the worker, or	44 45 46 47

	(ii) the day on which weekly payments of compensation cease to be payable to the worker, if weekly payments of compensation are payable or have been paid to the worker.	1 2 3
[9]	Section 59A(4), note	4
	Insert at the end of section 59A(4)—	5
	Note— See sections 38, 39 and 39A which limit the weekly payments of compensation to a worker.	6 7
[10]	Section 59A(5)	8
	Omit the subsection. Insert instead—	9
	(5) This section does not apply to—	10
	(a) for an injury other than a primary psychological injury—a worker with high needs, as defined in Division 2, or	11 12
	(b) for a primary psychological injury—a worker with highest needs, as defined in Division 2.	13 14
[11]	Section 65 Determination of degree of permanent impairment	15
	Omit the section.	16
[12]	Section 65A, heading	17
	Omit the heading. Insert instead—	18
	65A Special provisions for primary psychological injuries and secondary psychological injuries	19 20
[13]	Section 65A(3)	21
	Omit “15%”. Insert instead “25%”.	22
[14]	Section 65A(3), as amended by item [13]	23
	Omit “25%”. Insert instead “31%”.	24
[15]	Section 65A(4)	25
	Omit “(despite section 65(2))”.	26
[16]	Section 151DA Time not to run for commencement of proceedings in certain cases	27
	Omit section 151DA(1)(a). Insert instead—	28
	(a) while a medical dispute about any of the following is the subject of a referral for determination by the Commission or a referral for assessment under the 1998 Act, Chapter 7, Part 7, including any further assessment under that Act, section 329—	29 30 31 32
	(i) whether the degree of permanent impairment of the injured worker is at least 15% for a physical injury or 25% for a psychological injury,	33 34 35
	(ii) whether the degree of permanent impairment of the injured worker is fully ascertainable, or	36 37
[17]	Section 151DA(1)(a)(i), as inserted by item [16]	38
	Omit “25%”. Insert instead “31%”.	39

[18] Section 151H	1
Omit the section. Insert instead—	2
151H No damages unless permanent impairment at certain threshold	3
(1) No damages may be awarded unless the injury results in—	4
(a) the death of the worker, or	5
(b) a degree of permanent impairment of the injured worker, assessed under Part 6 or the 1998 Act, Chapter 7, Part 7, that meets the threshold specified in subsection (2).	6
Note— Part 6 provides for how the degree of permanent impairment is assessed.	8
(2) The threshold for the degree of permanent impairment is—	9
(a) at least 15% for a physical injury, and	10
(b) at least 25% for a psychological injury.	11
(3) In assessing whether the threshold has been met—	12
(a) impairment resulting from physical injury must be assessed separately from impairment resulting from psychological injury, and	13
(b) for assessing impairment resulting from psychological injury, no regard must be given to impairment that results from secondary psychological injury.	14
Note— Subsections (2) and (3) do not prevent an award of damages for both a physical and psychological injury together once the permanent impairment threshold has been met for one or the other.	15
(4) In assessing the degree of permanent impairment that results from a physical injury, no regard must be had to any impairment or symptoms arising from a psychological injury.	16
[19] Section 151H(2)(b), as inserted by item [18]	17
Omit “25%”. Insert instead “31%”.	18
1.2 Amendment relating to death benefit disputes	19
Part 3, Division 1A	20
Insert after Division 1—	21
Division 1A Compensation payable on death—death benefit disputes	22
32AA Interpretation	23
(1) In this division—	24
<i>death benefit dispute</i> means a dispute about liability for a lump sum death benefit that has been referred for determination by the Commission.	25
(2) For the purposes of determining whether a person is a dependant of a deceased person under this division—	26
(a) the deceased person is taken to be a worker, and	27
(b) the death of the person is taken to have resulted from an injury.	28
Note— See the 1998 Act, section 4(1), definition of <i>dependants</i> .	29

32AB	Application	1
(1)	This division applies to a claim that is the subject of a death benefit dispute.	2
(2)	This division has effect despite the 1998 Act, section 234.	3
32AC	Settlement of claim where liability disputed	4
(1)	A party to a death benefit dispute may lodge with the Commission a proposed agreement for an amount to be paid in settlement of the part of the claim that relates to the lump sum death benefit under Division 1.	5 6 7
(2)	The amount proposed to be paid in settlement must not be more than the amount of the lump sum death benefit otherwise payable under Division 1.	8 9
(3)	The parties to the agreement must include the insurer and—	10
(a)	each dependant of the deceased person, or	11
(b)	if there are no dependants—the legal personal representative of the deceased person.	12 13
(4)	The Commission must not entertain proceedings to give effect to the agreement unless satisfied—	14 15
(a)	there is a reasonable basis for the insurer to dispute liability for the death benefit compensation, and	16 17
(b)	the amount of compensation proposed to be paid in settlement of the claim is reasonable in the circumstances, and	18 19
(c)	each dependant of the deceased person is a party to the agreement or, if the Commission is satisfied there are no dependants, the legal personal representative of the deceased person is a party to the agreement.	20 21 22
(5)	For subsection (4)(a), there is a reasonable basis for an insurer to dispute liability only if the dispute is based on—	23 24
(a)	facts provable on the material available to the Commission, and	25
(b)	a reasonably arguable view of the law.	26
(6)	In proceedings for the death benefit dispute, each party to the agreement must be represented by an Australian legal practitioner unless otherwise directed by the Commission.	27 28 29
(7)	If the Commission makes a determination to give effect to an agreement under this division—	30 31
(a)	the insurer is taken to have accepted liability for death benefit compensation for the death, and	32 33
(b)	subject to paragraph (c), death benefit compensation is payable in accordance with Division 1 as if the death had resulted from an injury, and	34 35 36
(c)	the amount of lump sum death benefit payable under section 25 is the amount provided by the agreement as executed.	37 38
(8)	The Workers Compensation Guidelines may make provision in relation to the management of a claim to which an agreement under this division relates.	39 40
(9)	The Commission rules and procedural directions may provide for matters relating to—	41 42
(a)	applications under this section, and	43
(b)	the procedure for making a determination to give effect to an agreement under this division.	44 45

1.3 Amendments relating to single assessments	1
[1] Section 32A Definitions	2
Omit “medical assessor” from the definitions of <i>worker with high needs</i> , paragraph (b) and <i>worker with highest needs</i> , paragraph (b), wherever occurring.	3
Insert instead “permanent impairment assessor”.	4
[2] Section 64C Workers receiving weekly payments	5
Omit “assessed for the purposes of Division 4” from section 64C(1)(a).	6
Insert instead “assessed under Part 6”.	7
[3] Section 65A Special provisions for psychological and psychiatric injury	8
Omit “section 322 of the 1998 Act” from section 65A(3), note and (4), note, wherever occurring.	9
Insert instead “section 153B”.	10
[4] Section 65A(5)	11
Omit the subsection. Insert instead—	12
(5) To the extent of any inconsistency between this section and section 66, this section prevails.	13
[5] Part 6	14
Insert after Part 5—	15
Part 6 Determination of degree of permanent impairment	16
Division 1 Preliminary	17
152 Definitions	18
In this part—	19
<i>dispute assessment</i> means an assessment under the 1998 Act, Chapter 7, Part 7 of the degree of permanent impairment of an injured worker.	20
<i>further principal assessment</i> means the second or subsequent principal assessment made of a worker in relation to an injury for which a principal assessment has been made.	21
<i>permanent impairment agreement</i> —see section 153S.	22
<i>permanent impairment assessment</i> means—	23
(a) a principal assessment, or	24
(b) a dispute assessment.	25
<i>permanent impairment assessor</i> means—	26
(a) an assessor included on the SIRA register of permanent impairment assessors, or	27
(b) a medical assessor.	28
Note— See the 1998 Act, section 4(1), definition of <i>medical assessor</i> .	29
<i>principal assessment</i> means an assessment of the degree of permanent impairment of an injured worker under Division 2 by an assessor included on the SIRA register of permanent impairment assessors.	30

	<i>principal assessment certificate</i> means a certificate issued under section 153P.	1
		2
	<i>SIRA register of permanent impairment assessors</i> means the register kept under section 153M(4).	3
		4
153	Degree of permanent impairment must be assessed under this division	5
(1)	The degree of permanent impairment that results from an injury must be assessed as provided by this division.	6
		7
(2)	A reference in the Workers Compensation Acts to a degree of permanent impairment assessed under this part is a reference to the degree of permanent impairment agreed in a permanent impairment agreement.	8
		9
		10
153A	Requirement for legal advice before permanent impairment assessment	11
	Before an injured worker is seen by a permanent impairment assessor to start the permanent impairment assessment, the injured worker must obtain independent legal advice about the full legal implication of the assessment, including—	12
		13
		14
		15
	(a) implications in relation to any entitlement of the injured worker to compensation under this Act or to benefits under another law, including a law of the Commonwealth, and	16
		17
		18
	(b) the desirability of the worker obtaining independent financial advice about the financial consequences of the impact of the assessment.	19
		20
153B	Assessment of permanent impairment	21
(1)	A permanent impairment assessment of an injured worker for the purposes of the Workers Compensation Acts must be made in accordance with—	22
		23
	(a) this part, and	24
	(b) the Workers Compensation Guidelines—	25
	(i) issued for that purpose, and	26
	(ii) as in force at the time the assessment is made.	27
	Note— Section 65A provides for impairment arising from psychological injuries to be assessed separately from impairment arising from physical injuries.	28
		29
(2)	Impairments resulting from more than one injury arising out of the same incident must be assessed together to assess the degree of permanent impairment of the injured worker.	30
		31
		32
(3)	Impairments resulting from the same injury must be assessed together to assess the degree of permanent impairment of the injured worker.	33
		34
(4)	A permanent impairment assessor must decline to make a permanent impairment assessment unless the permanent impairment assessor is satisfied—	35
		36
		37
	(a) the impairment is permanent, and	38
	(b) the degree of permanent impairment is fully ascertainable.	39
(5)	If a permanent impairment assessor declines to make a permanent impairment assessment under subsection (4), proceedings before a court or the Commission may be adjourned until the assessment is made.	40
		41
		42
(6)	A permanent impairment assessment may be conducted outside New South Wales.	43
		44

153C	Deduction for previous injury or pre-existing condition or abnormality	1
(1)	In assessing the degree of permanent impairment resulting from an injury, there must be a deduction for any proportion of the impairment that is due to—	2
		3
(a)	a previous injury, whether or not it is an injury for which compensation has been paid or is payable under Part 3, Division 4, or	4
		5
(b)	a pre-existing condition or abnormality.	6
(2)	If the extent of a deduction under this section, or a part of a deduction, will be difficult or costly to determine, for example, because of an absence of medical evidence, it must be assumed, to avoid disputation, the deduction, or the relevant part of the deduction, is 10% of the impairment, unless this assumption is at odds with the available evidence.	7
		8
		9
		10
		11
	Example of deduction— If the degree of permanent impairment is assessed as 30% and this subsection operates to require a 10% reduction in that impairment to be assumed, the degree of permanent impairment is reduced from 30% to 27%, a reduction of 10%.	12
		13
		14
		15
(3)	The reference in subsection (2) to medical evidence is a reference to medical evidence accepted or preferred by the permanent impairment assessor in connection with the permanent impairment assessment of the matter.	16
		17
		18
(4)	The Workers Compensation Guidelines may make provision about the determination of the deduction required by this section.	19
		20
	Note— Sections 153D–153G make provision for how this section applies for the purpose of determining the degree of permanent impairment and associated pain and suffering for injuries to which section 15, 16, 17 or 22 applies.	21
		22
		23
153D	Deductions for previous injuries and pre-existing conditions—operation of section 15	24
		25
	In assessing the degree of permanent impairment resulting from an injury to which section 15 applies, section 153C applies to the assessment subject to the following—	26
		27
		28
(a)	there must be no deduction under section 153C for a proportion of the permanent impairment that is due to the worker’s employment in previous relevant employment, except any proportion for which compensation under the following provisions has been paid or is payable—	29
		30
		31
		32
		33
	(i) Part 3, Division 4 as in force at any time,	34
	(ii) the former Act, section 16,	35
(b)	for paragraph (a), <i>previous relevant employment</i> is employment to the nature of which the disease was due by a previous employer who—	36
		37
	(i) is liable under section 15 to contribute in relation to the degree of permanent impairment resulting from an injury, or	38
		39
	(ii) would be liable as mentioned in paragraph (a) if the requirement to contribute were not limited to employers who employed the worker during a particular period,	40
		41
		42
(c)	for permanent impairment of the back, neck or pelvis, a reference in this subsection to previous relevant employment is limited to employment after the commencement of this Act.	43
		44
		45
	Note— Section 15 applies to injuries that are diseases of a nature contracted by a gradual process.	46
		47

153E Deductions for previous injuries and pre-existing conditions—operation of section 16

In assessing the degree of permanent impairment for an injury to which section 16 applies, section 153C applies to the assessment subject to the following—

- (a) there must be no deduction under section 153C for a proportion of the permanent impairment that is due to the worker's employment in previous relevant employment, except any proportion for which compensation under the following provisions has been paid or is payable—
 - (i) Part 3, Division 4 as in force at any time,
 - (ii) the former Act, section 16,
- (b) for paragraph (a), *previous relevant employment* is employment that was a substantial contributing factor to the aggravation, acceleration, exacerbation or deterioration by a previous employer who—
 - (i) is liable under section 16 to contribute in relation to the degree of permanent impairment being assessed, or
 - (ii) would be liable as mentioned in paragraph (a) if the requirement to contribute were not limited to employers who employed the worker during a particular period,
- (c) for permanent impairment of the back, neck or pelvis, a reference in this subsection to previous relevant employment is limited to employment after the commencement of this Act.

Note— Section 16 applies to injuries that consist of the aggravation, acceleration, exacerbation or deterioration of a disease.

153F Deductions for previous injuries and pre-existing conditions—operation of section 17

In assessing the degree of permanent impairment resulting from an injury to which section 17 applies, section 153C applies to the assessment subject to the following—

- (a) there must be no deduction under section 153C for a proportion of the permanent impairment that is due to the worker's employment in previous relevant employment, except any proportion for which compensation under the following provisions has been paid or is payable—
 - (i) Part 3, Division 4 as in force at any time,
 - (ii) the former Act, section 16,
- (b) for paragraph (a), *previous relevant employment* is employment to the nature of which the loss of hearing was due by a previous employer who—
 - (i) is liable under section 17 to contribute in relation to the degree of permanent impairment being assessed, or
 - (ii) would be liable as mentioned in paragraph (a) if the requirement to contribute were not limited to employers who employed the worker during a particular period.

Note— Section 17 applies to an injury that is a loss, or further loss, of hearing which is of a nature to be caused by a gradual process.

153G	Deductions for previous injuries and pre-existing conditions—operation of section 22	1
		2
(1)	This section applies to an assessment of the degree of permanent impairment resulting from an injury for the apportionment of liability under section 22.	3
		4
(2)	There must be no deduction under section 153C for any proportion of the impairment that is due to an injury for which liability must be apportioned but without affecting any deduction under that section for any proportion of the impairment that is due to—	5
		6
	(a) another injury, or	7
		8
	(b) a pre-existing condition or abnormality.	9
		10
153H	Provision for HIV/AIDS	11
(1)	For determining the degree of permanent impairment as a result of an injury, HIV and AIDS are each considered to result in a degree of permanent impairment of 100%.	12
		13
		14
(2)	The regulations may provide for methods for determining, for this Act, whether a person is living with HIV/AIDS.	15
		16
(3)	Regulations need not be made under subsection (2) and, in the absence of regulations, the determination of whether a person is living with HIV/AIDS must be on the basis of medical opinion.	17
		18
		19
	Note— The amendment of this section, formerly section 67A, by the <i>Equality Legislation Amendment (LGBTIQA+) Act 2024</i> to refer to “living with HIV/AIDS” merely modernises language and is not intended to change the application of workers compensation legislation and other applicable legislation.	20
		21
		22
		23
153I	Costs of permanent impairment assessment	24
(1)	An employer is not liable to pay the costs of or in relation to a permanent impairment assessment incurred by the insurer or worker unless the assessment is—	25
		26
		27
	(a) a principal assessment or further principal assessment, or	28
		29
	(b) a dispute assessment, or	30
		31
	(c) another assessment permitted by the Workers Compensation Acts or regulations made under the Workers Compensation Acts.	32
(2)	Costs are not payable to an insurer or worker for more than one permanent impairment assessment of the worker unless—	33
		34
		35
	(a) the assessment is for the purposes of disputing a permanent impairment assessment, or	36
		37
	(b) in circumstances where the parties agree there appears to be an unexpected and material deterioration in the worker’s condition since the original permanent impairment assessment was conducted, or	38
		39
	(c) the assessment is for another purpose or in another circumstance prescribed by the regulations.	40
(3)	If a worker is required to undergo an examination for a permanent impairment assessment, the worker is entitled to recover from the worker’s employer, in addition to any compensation otherwise provided—	41
		42
		43
	(a) the amount of any wages lost by the worker because of the requirement to undergo the examination, and	44
		45
	(b) the cost to the worker of any fares, travelling expenses and maintenance necessarily and reasonably incurred in undergoing the examination.	46
		47

- (4) If it is necessary for a worker to travel to undergo an examination for a permanent impairment assessment and the worker is not reasonably able to travel unescorted, the fares, travelling expenses and maintenance referred to in this section include fares, travelling expenses and maintenance necessarily and reasonably incurred by an escort for the worker provided to enable the worker to be examined. 1
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- (5) If the cost of fares, travelling expenses and maintenance referred to in this section includes the cost of travel by private motor vehicle, the cost must be calculated at the rate fixed under section 64. 7
8
9
- (6) The regulations may provide for matters relating to legal costs relating to permanent impairment assessments. 10
11

Division 2 Principal assessment 12

153J Who must carry out permanent impairment assessment 13

- A principal assessment must be made by an assessor or assessors— 14
- (a) included on the SIRA register of permanent impairment assessors, and 15
 - (b) either— 16
 - (i) agreed by the insurer and worker, or 17
 - (ii) if the insurer and worker are unable to agree on the assessor or assessors within a period specified in the Workers Compensation Guidelines—appointed by the Authority. 18
19
20

153K Permanent impairment assessment process 21

- (1) An application may be made to the Authority for a principal assessment. 22
- (2) An application under subsection (1) must be made in accordance with the regulations. 23
24
- (3) The following matters relating to the principal assessment must be agreed between the insurer and the worker— 25
26
 - (a) the body system, body structure or disorder to be assessed, 27
 - (b) all medical and allied health information, including results of clinical investigations, relevant to the assessment of the injury, 28
29
 - (c) other matters specified in Workers Compensation Guidelines. 30
- (4) If the principal assessment relates to 2 or more body systems, body structures or disorders and different medical assessors are required to assess the different systems, structures or disorders, the assessment must be conducted by 2 or more permanent impairment assessors. 31
32
33
34
- (5) For subsection (4), one of the permanent impairment assessors must be the lead assessor, appointed by the Authority, to coordinate and calculate the final degree of permanent impairment resulting from the individual assessments of permanent impairment by the individual assessors. 35
36
37
38
- (6) A principal assessment must not be made if— 39
 - (a) liability for the injury is in issue, and 40
 - (b) a determination about the liability has not been determined by the Commission. 41
42

153L	One assessment only of degree of permanent impairment	1
	Subject to section 153Q, only one principal assessment may be made of an injured worker in relation to—	2
		3
	(a) the same injury, or	4
	(b) more than one injury arising from the same incident.	5
153M	Permanent impairment assessors	6
(1)	The Workers Compensation Guidelines may provide for matters relating to the approval of permanent impairment assessors for principal assessments under this division.	7
		8
		9
(2)	Without limiting subsection (1), Workers Compensation Guidelines may provide for—	10
		11
	(a) the approval of permanent impairment assessors, including the processes and procedures for the approval of assessors, and	12
		13
	(b) the functions of permanent impairment assessors, and	14
	(c) conditions that may be imposed on the approval of permanent impairment assessors, and	15
		16
	(d) the training requirements for permanent impairment assessors, and	17
	(e) the monitoring of services provided by permanent impairment assessors, and	18
		19
	(f) how the performance of permanent impairment assessors must be assessed.	20
		21
(3)	The Authority must consult with an employee body before approving a permanent impairment assessor and placing the assessor's name on the SIRA register of permanent impairment assessors.	22
		23
		24
(4)	The Authority must—	25
	(a) keep a register of permanent impairment assessors approved under this section, and	26
		27
	(b) publish the register on the Authority's website.	28
(5)	The Authority may, in publishing the register under subsection (4)(b), include the names and contact details of permanent impairment assessors approved under this section.	29
		30
		31
(6)	The maximum amount an employer is liable for in relation to the cost of a permanent impairment assessment must be set by the Authority by order published on the NSW legislation website.	32
		33
		34
(7)	A permanent impairment assessor whose approval under this section is revoked may apply to the Civil and Administrative Tribunal for an administrative review under the <i>Administrative Decisions Review Act 1997</i> of the decision to revoke the approval.	35
		36
		37
		38
(8)	In this section—	39
	employee body means—	40
	(a) Unions NSW, or	41
	(b) another employee body prescribed by the regulations.	42
153N	Powers of permanent impairment assessor on assessment	43
(1)	The permanent impairment assessor conducting a principal assessment may—	44

	(a)	consult with any medical practitioner or other health care professional who is treating or has treated the worker, and	1 2
	(b)	call for the production of the medical records, including X-rays and the results of other tests, and other information the permanent impairment assessor considers necessary or desirable for assessing the degree of permanent impairment, and	3 4 5 6
	(c)	require the worker to undergo an examination by the permanent impairment assessor.	7 8
	(2)	If a worker refuses to undergo an examination by the permanent impairment assessor if required to do so, or in any way obstructs the examination, the following are suspended until the examination has taken place—	9 10 11
	(a)	the worker's right to recover compensation in relation to the injury,	12
	(b)	the worker's right to weekly payments.	13
	(3)	The Workers Compensation Guidelines may provide for matters relating to the medical records and other information to be produced by the insurer or the worker under subsection (1)(b), including the nature and volume of information to be provided.	14 15 16 17
153O	Referral of medical dispute to Commission		18
		A medical dispute, within the meaning of the 1998 Act, section 319, arising from a principal assessment may be referred to the Commission under the 1998 Act, Chapter 7, Part 7.	19 20 21
153P	Certificate of principal assessment		22
	(1)	The permanent impairment assessor to whom a principal assessment is referred must give a certificate (a <i>principal assessment certificate</i>) about the worker's degree of permanent impairment to—	23 24 25
	(a)	each of the parties, and	26
	(b)	the Authority.	27
	(2)	A principal assessment certificate must be in a form approved by the Authority and must—	28 29
	(a)	set out details of the degree of permanent impairment, and	30
	(b)	certify the permanent impairment assessor's assessment of the degree of permanent impairment, and	31 32
	(c)	set out the permanent impairment assessor's reasons for the assessment, and	33 34
	(d)	set out the facts on which the assessment is based.	35
153Q	Further principal assessments		36
	(1)	A principal assessment does not prevent a further principal assessment of an injured worker.	37 38
		Note— A further principal assessment may result in a dispute about the degree of permanent impairment of the injured worker that is a medical dispute for the purposes of the 1998 Act, Chapter 7, Part 7.	39 40 41
	(2)	However, a further principal assessment of an injured worker may be made only—	42 43
	(a)	if the worker and insurer agree it appears there has been an unexpected and material deterioration in the worker's condition since the last principal assessment of the worker was conducted, or	44 45 46

	(b) in circumstances prescribed by the regulations.	1
(3)	For subsection (2)(a), an unexpected and material deterioration in the worker's condition since the original principal assessment was made occurs only if—	2
	(a) at the time of the original principal assessment there was no reasonable cause to believe the worker's condition would deteriorate, and	3
	(b) the deterioration results in an increase in the worker's degree of permanent impairment of at least a further 10 percentage points.	4
	Example— A worker was originally assessed at 25% permanent impairment under this part. For a further assessment to be treated as a further principal assessment, the worker must have an assessment of at least 35% permanent impairment, in addition to otherwise meeting the requirements of this section.	5
(4)	For subsection (3), age-related deterioration must not be considered in deciding whether an unexpected and material deterioration in a worker's condition has occurred.	6
(5)	The regulations may provide for matters relating to further principal assessments, including—	7
	(a) the rights of workers and insurers in relation to further principal assessments, and	8
	(b) costs of further principal assessments, and	9
	(c) requirements for reports in relation to further principal assessments and providing the reports to other parties.	10
153R	Personal liability of assessors on SIRA register of permanent impairment assessors	11
(1)	An assessor included on the SIRA register of permanent impairment assessors is not personally subject to liability for anything done—	12
	(a) in good faith, and	13
	(b) for the purpose of exercising a function under this Act.	14
(2)	In this section—	15
	<i>done</i> includes omitted to be done.	16
	<i>liability</i> means civil liability and includes action, claim or demand.	17
Division 3	Permanent impairment agreements	18
153S	Entering into permanent impairment agreements	19
(1)	After a principal assessment is conducted of an injured worker, the worker and the employer or insurer may enter into a written agreement (a <i>permanent impairment agreement</i>)—	20
	(a) that states the following—	21
	(i) the degree of permanent impairment the worker and the employer or insurer agree has resulted from the injury,	22
	(ii) whether any proportion of permanent impairment is due to a previous injury or pre-existing condition or abnormality,	23
	(iii) the nature and extent of any loss of hearing suffered by the worker,	24
	(iv) whether the impairment is permanent,	25
	(v) whether the degree of permanent impairment is fully ascertainable, and	26

	(b) in which there is a provision in which the employer or insurer certifies the employer or insurer is satisfied the worker obtained independent legal advice before entering into the permanent impairment assessment.	1 2 3
	Note— If the injured worker and the employer or insurer cannot agree on a permanent impairment agreement, a dispute about the degree of permanent impairment of the injured worker is a medical dispute for the purposes of the 1998 Act, Chapter 7, Part 7.	4 5 6
	(2) A permanent impairment agreement is of no force or effect if—	7
	(a) the agreement does not include a provision in which the employer or insurer certifies the employer or insurer is satisfied the worker obtained independent legal advice before entering into the agreement, or	8 9 10
	(b) it is established the worker was induced to enter the agreement as a result of fraud or misrepresentation.	11 12
	(3) Subsection (2) has effect despite the 1998 Act, section 234.	13
	Note— The 1998 Act, section 234 provides that the 1998 Act and this Act apply despite any contract to the contrary.	14 15
	(4) If a worker enters into a permanent impairment agreement in relation to an injury, the permanent impairment compensation to which the worker is entitled in relation to the injury is the compensation payable in relation to the degree of permanent impairment agreed.	16 17 18 19
	(5) Permanent impairment agreements, and the payments made under the agreements, must be recorded in accordance with the Workers Compensation Guidelines.	20 21 22
	(6) Nothing in this section prevents a permanent impairment agreement from containing provisions about the payment of costs.	23 24
153T	Failure to enter into permanent impairment agreement	25
	If an insurer and worker fail to enter into a permanent impairment agreement—	26 27
	(a) the insurer must give notice of the decision not to enter into the agreement in accordance with the 1998 Act, sections 78 and 79 and the regulations, and	28 29 30
	(b) the failure to agree is a medical dispute and may be referred to the Commission for determination.	31 32
	Note— The 1998 Act, section 105 provides that the Commission has exclusive jurisdiction to examine, hear and determine all matters arising under this Act and the 1998 Act.	33 34 35
153U	Agreement to change permanent impairment agreement	36
	The parties to a permanent impairment agreement may agree to change the degree of permanent impairment of the injured worker by—	37 38
	(a) agreeing to vary the permanent impairment agreement, or	39
	(b) entering into a further permanent impairment agreement in place of the original permanent impairment agreement.	40 41
153V	Permanent impairment agreement evidence of certain matters	42
	(1) The permanent impairment agreement must be used for the purposes of establishing entitlement for the following—	43 44
	(a) weekly payments,	45
	(b) medical expenses compensation,	46
	(c) lump sum compensation,	47

	(d) commutations,	1
	(e) work injury damages.	2
(2)	A permanent impairment agreement is, in relation to the following matters, conclusive evidence of—	3
	(a) the degree of permanent impairment of the worker as a result of the injury,	4
	(b) whether any proportion of permanent impairment is due to a previous injury or pre-existing condition or abnormality,	5
	(c) the nature and extent of any loss of hearing suffered by the worker,	6
	(d) whether impairment is permanent,	7
	(e) whether the degree of permanent impairment is fully ascertainable.	8
(3)	A permanent impairment agreement is, for a matter not mentioned in subsection (2)(a)–(e), evidence but not conclusive evidence of a matter stated in the agreement.	9
		10
(4)	Subsection (2) does not apply to proceedings in the Commission or a court about the degree of permanent impairment of the injured worker.	11
		12
153W	Permanent impairment agreement does not prevent further principal assessment	13
	A permanent impairment agreement does not prevent a further principal assessment of an injured worker being made under section 153Q.	14
	Note— A further principal assessment may result in a dispute about the degree of permanent impairment of the injured worker that is a medical dispute for the purposes of the 1998 Act, Chapter 7, Part 7. See also section 153U which provides the degree of permanent impairment may be changed by varying the permanent impairment agreement or entering into a further permanent impairment agreement.	15
		16
153X	Division subject to decisions of the Commission	17
	This division is subject to a decision made by the Commission determining permanent impairment and entitlements of injured workers.	18
1.4	Amendments relating to indexation and payments	19
[1]	Section 25 Death of worker leaving dependants	20
	Omit “\$750,000” from section 25(1)(a). Insert instead “\$955,950”.	21
[2]	Section 25(1)(b)	22
	Omit “\$66.60”. Insert instead “\$171.10”.	23
[3]	Section 34 Maximum weekly compensation amount	24
	Omit “\$1,838.70” from section 34(1). Insert instead “\$2,569.60”.	25
[4]	Section 38, heading	26
	Insert “—injuries other than primary psychological injuries” after “(130)”.	27
[5]	Sections 38(3)(b), 40(1)(d) and 41(5)(b)	28
	Omit “\$155” wherever occurring. Insert instead “\$225”.	29
[6]	Section 38A Special provision for workers with highest needs	30
	Omit “\$788.32” from section 38A(1) wherever occurring.	31

Insert instead “\$1,020”.	1
[7] Section 66 Entitlement to compensation for permanent impairment	2
Omit the formula from section 66(2)(a). Insert instead—	3
$\$25,070 + [\$3,770 \times (D - 10)]$	
[8] Section 66(2)(b)	4
Omit the formula. Insert instead—	5
$\$100,350 + [\$6,210 \times (D - 10)]$	
[9] Section 66(2)(c)	6
Omit “\$242,010”. Insert instead “\$310,580”.	7
[10] Section 66(2)(d)	8
Omit “\$309,020”. Insert instead “\$396,570”.	9
[11] Section 66(2)(e)	10
Omit “\$376,030”. Insert instead “\$482,560”.	11
[12] Section 66(2)(f)	12
Omit “\$443,030”. Insert instead “\$568,550”.	13
[13] Section 66(2)(g)	14
Omit “\$510,040”. Insert instead “\$654,540”.	15
[14] Section 66(2)(h)	16
Omit “\$577,050”. Insert instead “\$740,550”.	17
[15] Section 79 Definitions	18
Omit the section.	19
[16] Sections 80 and 81	20
Omit the sections. Insert instead—	21
80 Adjustment of amounts of benefits by WPI	22
(1) An adjustable amount for a year under a relevant provision must be calculated in accordance with the following formula—	23
$A \times \frac{B}{C}$	24
where—	25
<i>A</i> is the adjustable amount for the previous year.	26
<i>B</i> is the index number for the previous year.	27
<i>C</i> is the index number for the year before the previous year.	28
(2) If an amount calculated under subsection (1) for a year (the <i>current year</i>) would, for any reason, be less than the amount calculated for the previous year, the adjustable amount for the current year must be the same as the previous year.	29
	30
	31
	32

(3)	If an amount calculated under subsection (1) for a year is expressed as including cents, the amount must be rounded up to the next higher whole number of dollars.	1 2 3
(4)	In this section—	4
	<i>adjustable amount</i> means—	5
(a)	for the 12 months starting on 1 April 2025—each of the amounts specified in a relevant provision, and	6 7
(b)	for each subsequent period of 12 months starting on 1 April in a year—the amount specified in a relevant provision as adjusted under this division.	8 9 10
	<i>index number</i> means—	11
(a)	the number prescribed by the regulations, or	12
(b)	if a number is not prescribed by the regulations—the WPI for December.	13 14
	<i>relevant provision</i> means—	15
(a)	the following provisions—	16
(i)	sections 25, 34, 37 and 40,	17
(ii)	Schedule 6, Part 19H, clause 2, and	18
(b)	the 1998 Act, section 297(2), and	19
(c)	the <i>Workers' Compensation (Dust Diseases) Act 1942</i> , section 8(2B)(b)(i).	20 21
[17]	Section 82A Indexation—weekly payments	22
	Omit section 82A(1), formula, definitions of <i>B</i> and <i>C</i> .	23
	Insert instead—	24
	<i>B</i> is—	25
(a)	the number prescribed by the regulations, or	26
(b)	if a number is not prescribed by the regulations—the CPI for December of the previous year.	27 28
	<i>C</i> is—	29
(a)	the number prescribed by the regulations, or	30
(b)	if a number is not prescribed by the regulations—the CPI for December of the year before the previous year.	31 32
[18]	Section 82A(2)	33
	Omit the subsection. Insert instead—	34
(2)	In this section—	35
	<i>review date</i> means 1 April in each year.	36
[19]	Section 82B Indexation of certain amounts—according to average weekly earnings	37
	Omit “the financial year beginning on 1 July 2012 and each subsequent financial year” from section 82B(1).	38 39
	Insert instead “the year beginning on 1 April 2026 and each subsequent year starting on 1 April”.	40 41

[20] Section 82B(1)	1
Omit “\$155” from section 82B(1), formula, definition of <i>A</i> . Insert instead “\$225”.	2
[21] Section 82B(1)	3
Omit the formula, definitions of <i>B</i> and <i>C</i> . Insert instead—	4
<i>B</i> is the AWE for November of the previous year.	5
<i>C</i> is the AWE for November of the year before the previous year.	6
[22] Section 82B(2)	7
Omit “the start of each financial year”. Insert instead “each review date”.	8
[23] Section 82B(2)	9
Omit “that financial year”. Insert instead “the year beginning on the review date”.	10
[24] Section 82B(3)	11
Omit “the start of a financial year”. Insert instead “a review date”.	12
[25] Section 82B(3)	13
Omit “that financial year is”. Insert instead “the year starting on the review date is”.	14
[26] Section 82B(3)	15
Omit “effect for that financial year”. Insert instead “effect for that year”.	16
[27] Section 82B(4)	17
Insert after section 82B(3)—	18
(4) In this section—	19
<i>review date</i> means 1 April in each year.	20
[28] Section 82BA Indexation—compensation amount for workers with highest needs	21
Omit “\$788.32” from section 82BA(1), formula, definition of <i>A</i> . Insert instead “\$1,020”.	22
[29] Section 82BA(1)	23
Omit the formula, definitions of <i>B</i> and <i>C</i> . Insert instead—	24
<i>B</i> is the CPI for December of the previous year.	25
<i>C</i> is the CPI for December of the year before the previous year.	26
[30] Section 82BA(2), definition of “review date”	27
Omit “and 1 October”.	28
[31] Section 82C	29
Omit the section. Insert instead—	30
82C Indexation—no reduction	31
If an amount calculated under this division for a year (the <i>current year</i>) would, for any reason, be less than the amount calculated for the previous year, the adjustable amount for the current year must be same as the previous year.	32
	33
	34
[32] Section 82D	35
Omit the section. Insert instead—	36

82D Rounding up	1
If an amount calculated under this division for a year is expressed as including cents, the amount must be rounded up to the next higher whole number of dollars.	2 3 4
[33] Section 82F Indexation—compensation for permanent impairment	5
Omit “the financial year beginning on 1 July 2016 and each subsequent financial year” from section 82F(1).	6 7
Insert instead “the year beginning on 1 April 2026 and each subsequent year beginning on 1 April”.	8 9
[34] Section 82F(1)	10
Omit section 82F(1), formula, definitions of <i>B</i> and <i>C</i> . Insert instead—	11
<i>B</i> is the CPI for December of the previous year.	12
<i>C</i> is the CPI for December of the year before the previous year.	13
[35] Section 82F(2)	14
Omit the subsection.	15
[36] Section 82F(3)	16
Omit “the start of each financial year”. Insert instead “each review date”.	17
[37] Section 82F(3)	18
Omit “that financial year”. Insert instead “the year beginning on the review date”.	19
[38] Section 82F(4)	20
Omit “the start of a financial year”. Insert instead “a review date”.	21
[39] Section 82F(4)	22
Omit “that financial year is”. Insert instead “the year beginning on the review date is”.	23
[40] Section 82F(4)	24
Omit “effect for that financial year”. Insert instead “effect for that year”.	25
[41] Section 82F(5)	26
Insert after section 82(4)—	27
(5) In this section—	28
<i>review date</i> means 1 April in each year.	29
[42] Section 82G	30
Omit the section. Insert instead—	31
82G Indexation—no reduction	32
If an amount calculated under this division for a year (the <i>current year</i>) would, for any reason, be less than the amount calculated for the previous year, the adjustable amount for the current year must be same as the previous year.	33 34 35
[43] Section 82H	36
Omit the section. Insert instead—	37

82H Rounding up	1
If an amount calculated under this division for a year is expressed as including cents, the amount must be rounded up to the next higher whole number of dollars.	2 3 4
[44] Schedule 3 Earnings for purposes of weekly payments of compensation under Division 2 of Part 3	5 6
Omit clause 3(3).	7
[45] Schedule 6 Savings, transitional and other provisions	8
Omit “\$76,700” from Part 3, clause 2(2) and (4) wherever occurring.	9
Insert instead “\$197,100”.	10
[46] Schedule 6, Part 3, clause 2(3)(b) and (4)	11
Omit “\$38.30” wherever occurring.	12
Insert instead “\$98.40”.	13
[47] Schedule 6, Part 4, clause 4(1)(b)(i) and (2)	14
Omit “\$44.80” wherever occurring.	15
Insert instead “\$115.10”.	16
[48] Schedule 6, Part 4, clause 4(1)(b)(ii) and (2)	17
Omit “\$22.50” wherever occurring.	18
Insert instead “\$57.80”.	19
[49] Schedule 6, Part 4, clause 4A(2)(a) and (3)(a)	20
Omit “\$196.00” wherever occurring.	21
Insert instead “\$503.60”.	22
[50] Schedule 6, Part 4, clause 4A(2)(b) and (3)(b)	23
Omit “\$155.90” wherever occurring.	24
Insert instead “\$400.60”.	25
[51] Schedule 6, Part 4, clause 4A(2)(c) and (3)(c)	26
Omit “\$141.60” wherever occurring.	27
Insert instead “\$363.90”.	28
[52] Schedule 6, Part 4, clause 4A(2)(c) and (3)(c)	29
Omit “\$127.50” wherever occurring.	30
Insert instead “\$327.60”.	31
[53] Schedule 6, Part 4, clause 7(2)(a) and (4)	32
Omit “\$341.30” wherever occurring.	33
Insert instead “\$877.00”.	34
[54] Schedule 6, Part 19H, clause 2(1)	35
Omit “\$906.25”. Insert instead “\$1,266.50”.	36

1.5 Amendments relating to commutation

[1] Section 87E Compensation that may be commuted

Insert after section 87E(2)—

- (3) If compensation referred to in subsection (1) is commuted to a lump sum as provided by this division, any liability for work injury damages in relation to the same injury is extinguished.

[2] Section 87EAA Medical expenses compensation not to be commuted for catastrophic injuries

Omit “Authority is satisfied that, and certifies that it is satisfied that,” from section 87EAA(1).

Insert instead “President is satisfied that”.

[3] Section 87EA Preconditions to commutation

Omit “Authority is satisfied that, and certifies that it” from section 87EA(1).

Insert instead “President”.

[4] Section 87EA(1)(a)

Omit “at least 15% (assessed as provided by Part 7 of Chapter 7 of the 1998 Act)”.

Insert instead “assessed, under Part 6, as at least 15%”.

[5] Section 87EA(2) and (2A)

Omit section 87EA(2). Insert instead—

- (2) Despite subsection (1), a liability in relation to an injury may be commuted to a lump sum under this division in a particular case if the President is satisfied—
- (a) the case is of a class prescribed by the regulations as a class to which this subsection applies, and
 - (b) the circumstances of the case satisfy the requirements prescribed by the regulations as requirements that must be satisfied for this subsection, and
 - (c) unless the regulations otherwise provide, the lump sum to which the liability will be commuted is not inadequate and not excessive.
- (2A) In considering whether the lump sum to which a liability will be commuted is not inadequate and not excessive, the President may have regard to the following matters—
- (a) a dispute about liability to pay compensation under the Workers Compensation Acts,
 - (b) each of the following—
 - (i) the injury,
 - (ii) the worker’s age,
 - (iii) the worker’s general health,
 - (iv) the worker’s occupation at the time the injury occurred,
 - (v) any other relevant matter,
 - (c) the worker’s ability to compete in an open labour market,
 - (d) benefits from another source that the worker may be entitled to.

[6] Section 87EA(3)	1
Omit “Authority”. Insert instead “President”.	2
[7] Section 87EA(4)	3
Omit the subsection.	4
[8] Section 87EB	5
Insert after section 87EA—	6
87EB Commission rules	7
The Commission rules and procedural directions may provide for—	8
(a) the procedure for an application for a determination under section 87EAA(1) or 87EA(1) or (2), and	9
(b) the documentation to accompany the application.	10
[9] Section 87F Commutation by agreement	12
Insert after section 87F(2)—	13
(2A) The regulations may require the provision of independent financial advice to a worker, at the expense of the insurer, before the worker enters into a commutation agreement and the requirement applies despite any other provision of this section.	14
	15
	16
	17
[10] Section 87F(4)	18
Omit “has 14 days after entering into a commutation agreement in which to withdraw from the agreement by giving notice in writing to the insurer”.	19
	20
Insert instead “may withdraw from a commutation agreement by giving written notice to the insurer and the President at any time before the commutation agreement notice is approved under this division”.	21
	22
	23
[11] Section 87F(6) and (7)	24
Omit “registered” wherever occurring.	25
Insert instead “approved”.	26
[12] Section 87F(6)	27
Omit “Registration”. Insert instead “Approval”.	28
[13] Section 87H, heading	29
Omit the heading. Insert instead—	30
87H Approval of commutation	31
[14] Section 87H(1)	32
Omit “registration of the agreement by the President”.	33
Insert instead “approval of the agreement”.	34
[15] Section 87H(1), note	35
Omit “registered”. Insert instead “approved”.	36

[16] Section 87H(1A)	1
Insert after section 87H(1)—	2
(1A) The Commission rules and procedural directions may provide for the procedure for making applications under this division.	3 4
[17] Section 87H(2)	5
Omit the subsection. Insert instead—	6
(2) The President must refuse to approve a commutation agreement unless the President is satisfied—	7 8
(a) about the matters referred to in section 87EA(1) or (2), and	9
(b) for a liability to which section 87EAA applies—that the injury is not a catastrophic injury within the meaning of that section.	10 11
[18] Section 87H(3)	12
Omit “registering”. Insert instead “approving”.	13
[19] Section 87H(3)	14
Omit “register”. Insert instead “approve”.	15
[20] Section 87H(3), (4) and (6)	16
Omit “registered” wherever occurring. Insert instead “approved”.	17
[21] Section 87H(5)	18
Omit the subsection. Insert instead—	19
(5) In reviewing a commutation agreement, the Commission may have regard to the following matters—	20 21
(a) a dispute about liability to pay compensation under the Workers Compensation Acts,	22 23
(b) each of the following—	24
(i) the injury,	25
(ii) the worker’s age,	26
(iii) the worker’s general health,	27
(iv) the worker’s occupation at the time the injury occurred,	28
(v) any other relevant matter,	29
(c) the worker’s ability to compete in an open labour market,	30
(d) benefits from another source to which the worker may be entitled.	31
[22] Section 87H(6)	32
Omit “registration”. Insert “approval”.	33
1.6 Amendment relating to enforceable undertakings	34
Part 7, Division 4A	35
Insert after Division 4—	36

Division 4A	Enforceable undertakings	1
209A	Definition	2
	In this division—	3
	<i>insurer</i> means—	4
	(a) a licensed insurer, or	5
	(b) a self-insurer.	6
209B	Authority may accept undertaking	7
(1)	The Authority may accept a written undertaking given by an insurer in relation to a contravention or alleged contravention by the insurer in relation to the Workers Compensation Acts.	8 9 10
(2)	The giving of an undertaking does not constitute an admission of guilt by the insurer in relation to the contravention or alleged contravention to which the undertaking relates.	11 12 13
209C	Notice of decision	14
(1)	The Authority must give the insurer seeking to give an undertaking under this division written notice of—	15 16
	(a) the Authority's decision to accept or reject the undertaking, and	17
	(b) the reasons for the decision.	18
(2)	The Authority must, as soon as practicable after making a decision to accept or reject the undertaking, publish notice of the decision on the Authority's website.	19 20 21
209D	When undertaking is enforceable	22
	An undertaking under this division takes effect and becomes enforceable—	23
	(a) when the insurer receives notice of the Authority's decision to accept the undertaking, or	24 25
	(b) at a later date specified by the Authority.	26
209E	Compliance with undertaking	27
	An insurer must not contravene an undertaking given by the insurer under this division that is in effect.	28 29
	Maximum penalty—1,000 penalty units.	30
209F	Contravention of undertaking	31
(1)	The Authority may apply to the District Court for an order if an insurer contravenes an undertaking given under this division.	32 33
(2)	If the Court is satisfied the insurer that made the undertaking has contravened the undertaking, the Court, in addition to imposing a penalty, may make one or both of the following orders—	34 35 36
	(a) an order directing the insurer to comply with the undertaking,	37
	(b) an order discharging the undertaking.	38
(3)	In addition to the orders referred to in subsection (2), the Court may make other orders the Court considers appropriate in the circumstances, including orders directing the insurer to pay to the State—	39 40 41
	(a) the costs of the proceedings, and	42

(b)	the reasonable costs of the Authority in monitoring compliance with the undertaking in the future.	1 2
(4)	This section does not prevent proceedings being brought for the contravention or alleged contravention of this Act to which the undertaking relates.	3 4
209G	Withdrawal or variation of undertaking	5
(1)	An insurer who has given an undertaking under this division may at any time, with the written agreement of the Authority—	6 7
(a)	withdraw the undertaking, or	8
(b)	vary the undertaking.	9
(2)	However, the provisions of the undertaking may not be varied to provide for a different alleged contravention of the Workers Compensation Acts.	10 11
(3)	The Authority may at any time, with the written agreement of the insurer, withdraw its decision to accept an undertaking.	12 13
(4)	The Authority must, as soon as practicable after an undertaking is withdrawn or varied, publish on the Authority’s website notice of—	14 15
(a)	the withdrawal or variation, and	16
(b)	the reasons for the withdrawal or variation.	17
209H	Proceedings and civil penalties for alleged contravention	18
(1)	No proceedings may be brought against an insurer, and a civil penalty may not be issued to an insurer, for a contravention or alleged contravention of the Workers Compensation Acts if—	19 20 21
(a)	an undertaking under this division is in effect in relation to the contravention, or	22 23
(b)	an undertaking under this division has been given and completely discharged by the insurer.	24 25
(2)	The Authority may accept an undertaking in relation to a contravention or alleged contravention before proceedings in relation to the contravention have been finalised.	26 27 28
(3)	If the Authority accepts an undertaking before the proceedings are finalised, the Authority must take all reasonable steps to have the proceedings discontinued as soon as possible.	29 30 31
1.7	Amendments relating to Insurers’ Guarantee Fund	32
[1]	Section 225 Definitions	33
	Insert in alphabetical order in section 225(1)—	34
	<i>ICNSW</i> has the same meaning as in the <i>State Insurance and Care Governance Act 2015</i> .	35 36
[2]	Sections 227, 229–236 and 238	37
	Omit “the Authority” wherever occurring. Insert instead “ICNSW”.	38
[3]	Sections 229–231 and 238, headings	39
	Omit “Authority” wherever occurring. Insert instead “ICNSW”.	40

1.8 Amendments relating to interpretative and related provisions

[1] Part 1, Division 1

Insert before section 1—

Division 1 General

[2] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

act of violence has the same meaning as in the *Victims Rights and Support Act 2013*.

AIDS means Acquired Immune Deficiency Syndrome.

AWE means the average weekly total earnings of adults in full-time employment in New South Wales issued by the Australian Bureau of Statistics.

bullying—see section 8A.

CPI means the consumer price index for Sydney issued by the Australian Bureau of Statistics.

excessive work demands—see section 8B.

HIV means Human Immunodeficiency Virus.

indictable criminal conduct—

- (a) means the commission of an indictable offence, and
- (b) includes conduct of a person that would constitute an indictable offence were it not for the fact the person must not, or may not, be held criminally responsible for the conduct because of the person's age or mental illness or impairment.

large employer means—

- (a) an employer—
 - (i) insured under a policy of insurance to which the Workers Compensation Market Practice and Premiums Guidelines apply, and
 - (ii) whose basic tariff premiums, within the meaning of the Guidelines, for the policy would be more than \$50,000, if the period of insurance to which the premium relates were 12 months, or
- (b) an employer—
 - (i) insured under more than one policy of insurance to which the Workers Compensation Market Practice and Premiums Guidelines apply, and
 - (ii) whose combined basic tariff premiums, within the meaning of the Guidelines, for the policy would be more than \$50,000, if the period of insurance to which each premium relates were 12 months.

lump sum death benefit—see section 25(1)(a).

PIAWE means pre-injury average weekly earnings.

primary psychological injury—see section 8C.

procedural directions has the same meaning as in the *Personal Injury Commission Act 2020*.

psychological injury—see section 8D.

<i>racial harassment</i> —see section 8E.	1
<i>reasonable management action</i> —see section 8F.	2
<i>relevant event</i> —see section 8G.	3
<i>secondary psychological injury</i> —see section 8H.	4
<i>sexual harassment</i> —see section 8I.	5
<i>traumatic incident</i> —see section 8J	6
<i>vicarious trauma</i> —see section 8K.	7
<i>WPI</i> means the wage price index ordinary time, hourly rates of pay excluding bonuses, all sectors (NSW) issued by the Australian Bureau of Statistics.	8 9
[3] Part 1, Division 2	10
Insert after section 7A—	11
Division 2 Interpretation and related provisions—psychological injuries	12 13
Subdivision 1 Preliminary	14
8 Purpose of division	15
(1) This division provides for—	16
(a) interpretative provisions relating to psychological injuries, and	17
(b) other matters relating to the application of the Workers Compensation Acts to psychological injuries.	18 19
(2) This division does not—	20
(a) extend the definition of <i>injury</i> in section 4, or	21
(b) limit or otherwise affect the operation of section 4 in relation to personal injury or disease injury.	22 23
Subdivision 2 Definitions	24
8A Meaning of “bullying”	25
In this Act, <i>bullying</i> , in relation to a worker, means an individual or a group of individuals repeatedly behaving unreasonably towards the worker or a group of workers of which the worker is a member.	26 27 28
8B Meaning of “excessive work demands”	29
In this Act, <i>excessive work demands</i> , in relation to a worker, means work demands that are—	30 31
(a) beyond the requirements expected of the worker’s role, and	32
(b) repeated or persistent, and	33
(c) not reasonable in all the circumstances.	34
8C Meaning of “primary psychological injury”	35
In this Act, <i>primary psychological injury</i> means a psychological injury that is not a secondary psychological injury.	36 37

8D Meaning of “psychological injury”

In this Act, *psychological injury* means an injury that is a mental or psychiatric disorder that causes behavioural, cognitive or psychological dysfunction.

8E Meaning of “racial harassment”

In this Act, *racial harassment*, in relation to a worker, means an act that is—

- (a) reasonably likely in all the circumstances to offend, insult, humiliate or intimidate the worker, and
- (b) done because of the race, colour or national or ethnic origin of the worker.

8F Meaning of “reasonable management action”

(1) In this Act, *reasonable management action* means management action—

- (a) taken in a reasonable way, and
- (b) that is reasonable in all the circumstances.

(2) Without limiting subsection (1), reasonable management action in relation to a worker includes each of the following actions, if taken in a reasonable way and reasonable in all the circumstances—

- (a) appraisal of or feedback about the worker’s performance,
- (b) counselling of the worker,
- (c) demotion, redeployment or retrenchment of the worker,
- (d) disciplinary action taken in relation to the worker’s employment,
- (e) dismissal of the worker,
- (f) investigation by the worker’s employer of alleged misconduct—
 - (i) by the worker, or
 - (ii) of another person relating to the employer’s workforce in which the worker was involved or to which the worker was a witness,
- (g) promotion of the worker, including a worker being unsuccessful in a promotion,
- (h) provision of leave of absence to the worker,
- (i) provision to the worker of a benefit connected with the worker’s employment,
- (j) reclassification of the worker’s employment position,
- (k) suspension or stand-down of the worker’s employment,
- (l) training a worker in relation to the worker’s employment,
- (m) transfer of the worker’s employment,
- (n) communication in connection with an action mentioned in paragraphs (a)–(m),
- (o) another action prescribed by the regulations.

8G Meaning of “relevant event”

In this Act, a *relevant event* means—

- (a) being subjected to an act of violence or a threat of violence, or
- (b) being subjected to indictable criminal conduct, or
- (c) witnessing—

	(i) a traumatic incident happen, or	1
	(ii) a dead or seriously injured person at the scene of a traumatic incident, or	2
		3
	(d) experiencing vicarious trauma, or	4
	(e) being subjected to sexual harassment, or	5
	(f) being subjected to racial harassment, or	6
	(g) being subjected to bullying, or	7
	(h) being subjected to excessive work demands, or	8
	(i) another event prescribed by the regulations.	9
8H	Meaning of “secondary psychological injury”	10
	In this Act, <i>secondary psychological injury</i> means a psychological injury to the extent the psychological injury arises as a consequence of, or secondary to, a physical injury.	11
		12
		13
8I	Meaning of “sexual harassment”	14
	In this Act, <i>sexual harassment</i> , in relation to a worker, means a person who makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the worker or engages in other unwelcome conduct of a sexual nature in relation to the worker.	15
		16
		17
		18
8J	Meaning of “traumatic incident”	19
	In this Act, a <i>traumatic incident</i> means—	20
	(a) any of the following incidents if the incident results in, or is likely to result in, the death of, or serious injury to, a person—	21
		22
	(i) an act of violence,	23
	(ii) indictable criminal conduct,	24
	(iii) a natural disaster, fire or explosion,	25
	(iv) a motor accident or other accident, or	26
	(b) a suicide or attempted suicide, or	27
	(c) an incident prescribed by the regulations.	28
8K	Meaning of “vicarious trauma”	29
	In this Act, <i>vicarious trauma</i> means the psychological impact of repeated exposure, in the course of a worker’s duties, to the traumatic experiences of others that result from traumatic incidents.	30
		31
		32
Subdivision 3	Related matters	33
8L	Objective test for determining whether act or omission constitutes bullying, excessive work demands or racial or sexual harassment	34
		35
	In determining whether an act or omission amounted to a worker being subjected to bullying, excessive work demands, racial harassment or sexual harassment that caused a primary psychological injury—	36
		37
		38
	(a) an objective test must be used, and	39
	(b) the worker’s perception of the relevant event is relevant, but only to the extent the worker’s perception of the event is reasonable.	40
		41

8M	Matters to be considered in determining excessive work demands	1
	In determining whether work demands made of a worker are excessive work demands, the following matters must be considered—	2
		3
	(a) the usual patterns of work in the industry, or part of the industry, in which the worker is employed,	4
		5
	(b) supervision of the worker, including—	6
	(i) level of control over the worker's tasks, and	7
	(ii) whether there is unreasonable surveillance of the worker,	8
	(c) the nature of the worker's role, the worker's level of responsibility and the nature of the worker's employment arrangement,	9
		10
	(d) whether the worker is entitled to receive—	11
	(i) overtime payments, penalty rates, an on-call allowance or other compensation for working additional hours, or	12
		13
	(ii) a level of remuneration that reflects an expectation of working additional hours,	14
		15
	(e) the needs of the workplace in which the worker is employed,	16
	(f) staffing levels in the workplace, including the mix of qualifications and skills of employees, as the levels and mix relate to the worker's workload,	17
		18
		19
	(g) industrial agreements and arrangements relevant to the worker,	20
	(h) any other relevant matter.	21
8N	Vicarious trauma caused by act or omission for which worker has criminal responsibility	22
		23
	No compensation is payable for a primary psychological injury caused by a worker experiencing vicarious trauma if the act or omission that caused the injury was an act or omission for which the worker has criminal responsibility.	24
		25
		26
	Example— The worker is an accessory to the act or omission that caused the injury.	27
8O	Connection between relevant events, employment and primary psychological injuries	28
		29
	No compensation is payable for a primary psychological injury to a worker unless—	30
		31
	(a) a relevant event or a series of relevant events caused the primary psychological injury, and	32
		33
	(b) there is a real and direct connection between the relevant event or series of relevant events and the worker's employment, and	34
		35
	(c) employment is the main contributing factor to the primary psychological injury.	36
		37
8P	Physical and primary psychological injuries caused by same act or omission	38
	(1) This section applies if a worker has a physical injury and a primary psychological injury caused by the same act or omission.	39
		40
	(2) The worker is entitled to compensation on the basis of whichever injury gives the worker the greater entitlement to compensation.	41
		42
8Q	Regulations	43
	The regulations may provide for matters relating to primary psychological injuries, including—	44
		45

(a)	the type of matters or circumstances an insurer must take into account when determining whether an injury is a primary psychological injury for which compensation is payable, and	1 2 3
(b)	the evidence a worker must provide for a claim in relation to a primary psychological injury.	4 5
[4]	Section 9A No compensation payable unless employment substantial contributing factor to injury	6 7
	Omit section 9A(4). Insert instead—	8
(4)	This section does not apply in relation to—	9
(a)	a primary psychological injury to which section 8O applies, or	10
(b)	an injury to which section 10, 11 or 12 applies.	11
[5]	Section 11A No compensation for psychological injury caused by reasonable actions of employer	12 13
	Omit section 11A(1) and (3). Insert instead—	14
(1)	No compensation is payable under this Act in relation to a psychological injury if a significant cause of the psychological injury was—	15 16
(a)	reasonable management action taken or proposed to be taken by an employer in relation to a worker, or	17 18
(b)	a worker's expectation of reasonable management action being taken in relation to the worker, or	19 20
(c)	a worker's perception of reasonable management action taken or being taken in relation to the worker.	21 22
	Note— A psychological injury includes a primary psychological injury and a secondary psychological injury.	23 24
[6]	Section 11A(6)	25
	Omit the subsection.	26
1.9	Miscellaneous amendments	27
[1]	Section 19 Presumptions relating to certain employment	28
	Omit section 19(1)(b). Insert instead—	29
(b)	either—	30
(i)	for a person to whom Schedule 6, Part 19H, clause 20 or 25 applies—the employment is deemed to have been a substantial contributing factor to the disease, or	31 32 33
(ii)	otherwise—the employment is deemed to have been the main contributing factor to the disease.	34 35
[2]	Section 19B Presumptions relating to certain employment in relation to COVID-19	36
	Omit section 19B(5). Insert instead—	37
(5)	For this Act, it is presumed, unless the contrary is established, that a worker the subject of a presumption under subsection (1) is incapable of work as a result of COVID-19 for the period—	38 39 40
(a)	starting on the date of the injury, and	41
(b)	ending on a date established in accordance with the regulations, unless sooner ended by the death of the worker.	42 43

(5A)	The regulations may provide for when a worker is incapable of work for subsection (5).	1 2
[3]	Section 43 Work capacity decisions by insurers	3
	Omit “pre-injury average weekly earnings or” from section 43(1)(d).	4
[4]	Section 43(2)(b)	5
	Omit “1998 Act.”. Insert instead—	6
	1998 Act,	7
	(c) a decision about the amount of an injured worker’s PIAWE.	8
[5]	Section 44BAA	9
	Omit the section. Insert instead—	10
44BA	Certain disputes and decisions may proceed to determination by Commission	11
	The following may proceed to determination by the Commission—	12
	(a) a dispute in relation to a work capacity decision under section 43,	13
	(b) a decision in relation to PIAWE.	14
44BB	Regulations	15
	The regulations may provide for the procedures to be followed by insurers in connection with—	16 17
	(a) the making of work capacity decisions, including the adjustment of an amount of weekly payments a result of work capacity decisions, and	18 19
	(b) the making of decisions about PIAWE, including the adjustment of weekly payments as a result of decisions.	20 21
[6]	Section 60 Compensation for cost of medical or hospital treatment and rehabilitation etc	22 23
	Omit “reasonably necessary” wherever occurring in section 60(1), (2B) and (2C)(a).	24
	Insert instead “reasonable and necessary”.	25
[7]	Section 60AA Compensation for domestic assistance	26
	Omit “reasonably necessary” from section 60AA(1) wherever occurring.	27
	Insert instead “reasonable and necessary”.	28
[8]	Section 61 Rates applicable for medical or related treatment	29
	Omit “the reasonable necessity for the treatment” from section 61(1).	30
	Insert instead “whether the treatment is reasonable and necessary”.	31
[9]	Section 63A Rates applicable for workplace rehabilitation services	32
	Omit “the reasonable necessity for the service” from section 63A(1).	33
	Insert instead “whether the service is reasonable and necessary”.	34
[10]	Section 65B	35
	Insert after section 65A—	36

65B	Provision for HIV/AIDS	1
	(1) Permanent impairment compensation is not payable for permanent impairment that is HIV/AIDS if the impairment resulted from voluntary sexual activity or illicit drug use.	2 3 4
	(2) This subsection does not limit the operation of section 14.	5
[11]	Section 66A Agreements for compensation	6
	Omit the section.	7
[12]	Section 67A Special provisions for HIV/AIDS	8
	Omit the section.	9
[13]	Section 68B Deductions for previous injuries and pre-existing conditions—operation of sections 15, 16, 17 and 22	10 11
	Omit the section.	12
[14]	Section 73 Reimbursement for costs of medical certificate and examination	13
	Omit the section.	14
[15]	Section 87I Payment	15
	Omit “The annual report of the Authority” from section 87I(3).	16
	Insert instead “The annual review of the Commission”.	17
[16]	Section 155 Compulsory insurance for employers	18
	Omit section 155(1), penalty. Insert instead—	19
	Maximum penalty—	20
	(a) for a large employer—the greater of the following amounts or 2 years imprisonment, or both—	21 22
	(i) the amount that is 3 times the amount of the premium that would have been payable if the policy of insurance had been obtained and maintained,	23 24 25
	(ii) 1,000 penalty units, or	26
	(b) for another employer—500 penalty units or imprisonment for 6 months, or both.	27 28
[17]	Section 160 Recovery of excess from employer	29
	Omit “prescribed excess amount determined by the Workers Compensation Market Practice and Premiums Guidelines in respect of that policy” from section 160(1), definition of <i>prescribed excess amount</i> .	30 31 32
	Insert instead “excess amount prescribed by the regulations”.	33
[18]	Section 160(1), definition of “small business employer”	34
	Omit the definition.	35
[19]	Section 160(4A)	36
	Omit the subsection.	37
[20]	Section 160(9)	38
	Insert after section 160(8)—	39

- (9) The regulations may provide for matters relating to the payment of the prescribed excess amount, including the circumstances in which the prescribed excess amount must be paid.

[21] Section 173AA

Insert after section 173A—

173AA Offence for large employers to fail to give insurers information relevant to underinsurance

- (1) A large employer must not recklessly fail to comply with a requirement under workers compensation legislation for the large employer to give an insurer the following—
- (a) information about the wages of workers employed by the large employer,
 - (b) other information that enables the insurer to accurately calculate a workers compensation premium for workers employed by the large employer.
- Maximum penalty—
- (a) for a large employer—the greater of the following amounts or imprisonment for 2 years, or both—
 - (i) the amount that is 3 times the amount of the premium that would have been payable if the policy of insurance had been obtained and maintained,
 - (ii) 1,000 penalty units, or
 - (b) for another employer—500 penalty units or imprisonment for 6 months, or both.
- (2) For subsection (1), recklessness may also be established by proof of intention or knowledge.

1.10 Amendment relating to savings and transitional provisions

Schedule 6

Insert before Part 20, with appropriate part and clause numbering—

Part Provisions consequent on Workers Compensation Legislation Amendment Act 2025

Definitions

In this part—

amendment Act means the *Workers Compensation Legislation Amendment Act 2025*.

psychological injury provisions means the provisions of Part 1, Division 2 as inserted by the amendment Act, Schedule 1.8[3].

Application of amendments made by amendment Act generally

Subject to this part and the regulations, an amendment made by the amendment Act applies as follows—

- (a) to an injury received on or after the commencement of the amendment,

(b)	to an injury notified on or after the commencement of the amendment, whether the injury was received before or after the commencement,	1 2
(c)	to a claim for compensation made on or after the commencement of the amendment,	3 4
(d)	to proceedings initiated in the Commission or a court on or after the commencement of the amendment.	5 6
Primary psychological injuries		7
(1)	A psychological injury provision applies to an injury of which the employer first receives notification on or after the commencement of the psychological injury provision.	8 9 10
(2)	For a psychological injury of which the employer first received notification before the commencement of the psychological injury provisions, the Act continues to apply in relation to the injury as if the amendment Act had not commenced.	11 12 13 14
(3)	For an injury that is re-classified as a primary psychological injury by an insurer on or after the commencement of the psychological injury provisions, sections 8D and 8H do not apply.	15 16 17
Application of amendments to exempt workers		18
(1)	The amendments made by the amendment Act do not apply to, or in relation to an injury received by, an exempt worker other than the following amendments—	19 20 21
(a)	sections 60, 60AA, 61 and 63A made by Schedule 1.9[6]–[9],	22
(b)	the omission of section 79 by Schedule 1.4[15],	23
(c)	the substitution of section 80 and omission of section 81 by Schedule 1.4[16].	24 25
(2)	In this clause—	26
	<i>exempt worker</i> means the following—	27
(a)	a police officer,	28
(b)	a paramedic,	29
(c)	a firefighter.	30
Application of amendments to coal miners		31
	The amendments made by the amendment Act do not apply to, or in relation to an injury received by, a coal miner other than the following amendments—	32 33
(a)	the amendments to section 25 made by Schedule 1.4[1] and [2],	34
(b)	the insertion of new Part 3, Division 1A by Schedule 1.2,	35
(c)	the omission of section 66A by Schedule 1.9[11],	36
(d)	the omission of section 79 by Schedule 1.4[15],	37
(e)	the substitution of section 80 and omission of section 81 by Schedule 1.4[16],	38 39
(f)	the amendments to section 160 made by Schedule 1.9[17]–[20],	40
(g)	the amendments to Schedule 6 made by Schedule 1.4[45]–[54].	41

Application of amendments to claims for dust diseases

The amendments made by the amendment Act do not apply for the purposes of the *Workers' Compensation (Dust Diseases) Act 1942* other than—

- (a) the amendment to section 60 made by Schedule 1.9[6], and
- (b) the omission of section 79 by Schedule 1.4[15],
- (c) the substitution of section 80 and omission of section 81 by Schedule 1.4[16].

Application of amendments to claims for volunteers

The amendments made by the amendment Act do not apply for the purposes of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* other than—

- (a) the amendment to section 60 made by Schedule 1.9[6], and
- (b) the omission of section 79 by Schedule 1.4[15],
- (c) the substitution of section 80 and omission of section 81 by Schedule 1.4[16].

Existing claims in relation to primary psychological injuries—weekly payments and medical, hospital and rehabilitation treatment

- (1) Subject to this part, a provision of this Act, Part 2, as in force immediately before the commencement of an amendment made to the provision by the amendment Act, continues to apply to an existing claim as if the amendment made by to the provision by the amendment Act had not commenced.
- (2) In this clause—
existing claim means the following claims—
 - (a) a claim for compensation in relation to which an application for a determination of a claim for compensation was made but not finally determined before the commencement,
 - (b) a claim for permanent impairment compensation made but not finally determined before the commencement.

Presumptions relating to certain employment

The amendment of section 19 made by the amendment Act, Schedule 1.9[1] applies only in relation to a diagnosis of a deemed disease made on or after the commencement of Schedule 1.9[1].

Presumptions relating to certain employment in relation to COVID-19

The amendment of section 19B by the amendment Act, Schedule 1.9[2] applies only in relation to a worker diagnosed with COVID-19 by a medical practitioner on or after the commencement of Schedule 1.9[2].

Compensation payable on death—lump sum death benefit

The amendments of section 25 made by the amendment Act, Schedule 1.4[1] and [2] apply only in relation to deaths that occur on or after the commencement of Schedule 1.4[1] and [2].

Compensation payable on death—death benefit disputes

Part 3, Division 1A, as inserted by the amendment Act, Schedule 1.2, applies only in relation to deaths that occur on or after the commencement of Schedule 1.2.

Maximum weekly compensation amount

The amendment of section 34 made by the amendment Act, Schedule 1.4[3] applies to all claims, whether made before or after the commencement of the amendment Act, Schedule 1.4[3].

Weekly payments after second entitlement period (after week 130)

The amendment of section 38 made by the amendment Act, Schedule 1.1[2] applies only to a claim to which Part 1, Division 2, as inserted by the amendment Act, Schedule 1.8[3], applies.

PIAWE

Section 43, as amended by the amendment Act, Schedule 1.9[3] and [4], applies to a decision about PIAWE made on or after the commencement of Schedule 1.9[3] and [4], regardless of when the initial notification or claim was made.

Limit on payment of compensation

The amendments of section 59A made by the amendment Act, Schedule 1.1[8]–[10] apply only to a claim to which Part 1, Division 2, as inserted by the amendment Act, Schedule 1.8[3], applies.

Reasonable and necessary medical and other treatment—sections 60, 60AA, 61 and 63A

- (1) The amendments of sections 60, 60AA, 61 and 63A made by the amendment Act, Schedule 1.9[6]–[9] apply only to a new claim for medical expenses compensation made on or after the commencement of the amendment Act, Schedule 1.9[6]–[9].
- (2) In this clause—
existing claim means the following—
 - (a) a claim for medical and related expenses made but not finally determined before the commencement,
 - (b) a claim for medical and related expenses which has been approved and in relation to which medical or related treatment has, before the commencement—
 - (i) not yet been provided, or
 - (ii) started but not completed.

Lump sum compensation for psychological injuries

- (1) The amendments to section 65A made by the amendment Act, Schedule 1.1[12] and [13] apply only to a claim for lump sum compensation made on or after the commencement of Schedule 1.1[12] and [13].
- (2) The amendment to section 65A(3) by the amendment Act, Schedule 1.1[14] applies only to a claim for lump sum compensation made on or after the commencement of Schedule 1.1[14].
- (3) In this clause—
claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

Indexation of base amounts

- (1) This clause applies in relation to a base amount in workers compensation legislation that is amended by the amendment Act, Schedule 1.4.
- (2) A regulation may be made under this clause amending the workers compensation legislation to increase the base amount during the transition period.
- (3) In this clause—
transition period means the period—
 - (a) starting on the date of assent to the amendment Act, and
 - (b) ending on the day that is 6 months after the day the provision in which the base amount being increased is amended by the amendment Act, Schedule 1.4.

Existing claims in relation to primary psychological injuries

- (1) The substitution of section 151H by the amendment Act, Schedule 1.1[18] applies only to a claim made by a worker for which a pre-filing statement under the 1998 Act, section 315 was not served on the employer before the commencement of the amendment Act, Schedule 1.1[18].
- (2) An insurer may, on or after the commencement of the amendment Act, Schedule 1.1[18], re-classify a claim made before that commencement as a claim for a physical injury or a primary psychological injury for the purposes of section 151H(2)–(4).
- (3) If an insurer re-classifies a claim as a primary psychological injury, section 151H, as amended by the amendment Act, Schedule 1.1[18], applies in relation to the claim.
- (4) The amendment of section 151H(2)(b) by the amendment Act, Schedule 1.1[19] applies only to a claim made by a worker for which a pre-filing statement was not served on the employer before the commencement of the amendment Act, Schedule 1.1[19].

Determination of degree of permanent impairment

- (1) Part 6, Divisions 2 and 3, as inserted by the amendment Act, Schedule 1.3[5], do not apply during the period starting on the date of commencement and ending on a date specified by the Authority by notice published in the Gazette (the *relevant period*).
- (2) During the relevant period—
 - (a) section 66A, as in force immediately before the commencement of the amendment Act, Schedule 1.9[11], continues to apply in relation to the claim as if the section had not been repealed by the amendment Act, Schedule 1.9[11], and
 - (b) if the worker and the employer or insurer cannot agree as to the degree of permanent impairment that has resulted from the injury—the matter is a dispute for the purposes of the 1998 Act, Chapter 7, Part 7 and may be referred to the Commission.

Limits on re-filing premiums

Despite anything in this Act, Part 7, the regulations or the Market Practice and Premium Guidelines, the Authority must reject a revised premium filing from a licensed insurer that seeks to reduce premium pricing for the financial year starting on 1 July 2025 and ending on 30 June 2026.

Enforceable undertakings

Part 7, Division 4A, as inserted by the amendment Act, Schedule 1.6, applies only to a contravention or alleged contravention by an insurer in relation to the Workers Compensation Acts on or after the commencement of the amendment Act, Schedule 1.6.

Insurer's Guarantee Fund

- (1) On the commencement, the control, direction and management of the assets, rights and liabilities of the Insurance Guarantee Fund is transferred from the Authority to ICNSW.
- (2) A proceeding relating to the asset, right or liability by or against the Authority that was started and not finally determined before the transfer is taken to be a proceeding by or against ICNSW.
- (3) Another act, matter or thing done or omitted to be done in relation to an asset, right or liability of the Insurance Guarantee Fund by, or in relation to, the Authority is, to the extent the act, matter or thing has any force or effect, taken to have been done or omitted by, to or in relation to ICNSW.
- (4) A reference in an Act, or in an instrument of any kind, including a contract or agreement, to the Authority so far as the reference relates to the assets, rights and liabilities of the Insurance Guarantee Fund, is taken to be a reference to ICNSW.
- (5) In this section—
commencement means the commencement of this clause.

Review of workers compensation scheme

- (1) The Treasurer and Ministers must jointly ensure a review of aspects of the workers compensation scheme, including the sustainability of the scheme, is conducted, subject to terms of reference to be determined by the Government.
- (2) The review must be started as soon as practicable after the date of assent to the amendment Act.

Schedule 2 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86

[1] Section 35 Payments into and from Fund

Insert after section 35(2)(g)—

- (g1) amounts required for the costs of the Industrial Relations Commission exercising jurisdiction under Chapter 7, Part 3, Division 3A,

[2] Section 45B

Insert after section 45A—

45B Independent allied health consultants

- (1) The Workers Compensation Guidelines may provide for matters relating to the approval of allied health practitioners as independent allied health consultants to assist with proactively managing claims.
- (2) Without limiting subsection (1), the Workers Compensation Guidelines may provide for the following—
 - (a) the approval of independent allied health consultants, including the processes and procedures for the approval,
 - (b) the functions of approved independent allied health consultants,
 - (c) conditions to be imposed on the approval of independent allied health consultants,
 - (d) the monitoring of services provided by approved independent allied health consultants.
- (3) The names and contact details of approved independent allied health consultants may be made available by publication on the Authority's website.
- (4) An independent allied health consultant who is aggrieved by a decision of the Authority to revoke the practitioner's approval under this section may apply to the Civil and Administrative Tribunal for an administrative review of the decision under the *Administrative Decisions Review Act 1997*.
- (5) The maximum amount an employer is liable to pay for the services of an approved independent allied health consultant must be set by the Authority by order published on the NSW legislation website.

[3] Section 49 Employer must provide suitable work

Omit "50 penalty units" from section 49(1), penalty. Insert instead "100 penalty units".

[4] Section 76 Definitions

Omit the definitions of *internal review* and *original decision*. Insert in alphabetical order—

internal review means a review by an insurer of—

- (a) a work capacity decision under Chapter 7, Part 4, or
- (b) a decision about the amount of a worker's PIAWE.

original decision means either of the following decisions that are the subject of an internal review or a dispute referred for determination by the Commission—

- (a) a work capacity decision,
- (b) a decision about the amount of a worker's PIAWE.

[5] Section 76, definition of “review decision”, paragraph (a)	1
Omit the paragraph. Insert instead—	2
(a) in relation to an original decision that is the subject of an internal review—	3
(i) a work capacity decision made by an insurer as a result of the review, or	4
(ii) a decision about the amount of a worker’s PIAWE made by an insurer as a result of the review, or	5
	6
	7
	8
[6] Section 78 Insurer to give notice of decisions	9
Omit “the compensation.” from section 78(1)(b). Insert instead—	10
the compensation, or	11
(c) to not enter into a permanent impairment agreement following the issue of a principal assessment certificate under the 1987 Act, Part 6.	12
Note— Section 105 provides that the Commission has exclusive jurisdiction to examine, hear and determine all matters arising under the Workers Compensation Acts.	13
	14
	15
	16
[7] Section 83, heading	17
Insert “or decision about PIAWE” after “work capacity decision”.	18
[8] Section 83(c)	19
Omit the paragraph. Insert instead—	20
(c) the withdrawal of the referral to the Commission for determination of a dispute about—	21
(i) a work capacity decision, or	22
(ii) a worker’s PIAWE, or	23
(d) the discontinuance or dismissal of proceedings before the Commission in relation to a dispute referred to in paragraph (c).	24
	25
	26
[9] Section 231A	27
Insert after section 231—	28
231A Employers not entitled to attend medical treatment or medical examination	29
Neither an employer nor the employer’s representative is entitled to attend either of the following unless the worker requests the attendance—	30
(a) medical treatment of the worker,	31
(b) a medical examination of the worker.	32
	33
[10] Chapter 7, Part 2, Division 3	34
Insert after Division 2—	35
Division 3 Miscellaneous	36
264A Regulations	37
The regulations may provide for the modification of the application of Divisions 1 and 2 in relation to claims made for primary psychological injuries referred to in section 264B.	38
	39
	40

[11] Chapter 7, Part 3, Division 1AA	1
Insert after Chapter 7, Part 3, heading—	2
Division 1A Application of part	3
264B Application of part	4
(1) Divisions 1–3 do not apply in relation to a primary psychological injury caused by being subjected to—	5
(a) bullying, or	6
(b) excessive work demands, or	7
(c) racial harassment, or	8
(d) sexual harassment.	9
(2) Division 3A applies in relation to primary psychological injuries caused by—	10
(a) bullying, or	11
(b) excessive work demands, or	12
(c) racial harassment, or	13
(d) sexual harassment.	14
[12] Chapter 7, Part 3, Division 3A	15
Insert after Division 3—	16
Division 3A Special provisions for primary psychological injuries caused by bullying, excessive work demands and harassment	17
280AA Application of division	18
This division applies to a claim in relation to a relevant injury caused by relevant conduct.	19
Note— This division applies only in relation to claims made after the commencement of this section.	20
280AB Definitions	21
In this division—	22
relevant conduct means the following—	23
(a) bullying,	24
(b) excessive work demands,	25
(c) racial harassment,	26
(d) sexual harassment.	27
relevant injury means a primary psychological injury caused by being subjected to relevant conduct.	28
280AC Liability to be determined and weekly payments commenced within 42 days	29
(1) Within 42 days after a claim for a relevant injury is made under this division, the insurer on whom the claim is made must decide to—	30
(a) accept the claim and commence weekly payments, or	31
(b) dispute liability.	32

	Note— Section 280AG makes failure to comply with this section an offence. Section 280AE requires notice of a dispute to be given.	1 2
(2)	A finding by a commission, court or tribunal that relevant conduct has occurred is taken to be evidence the relevant conduct occurred.	3 4
(3)	If the insurer does not make a decision to accept the claim or dispute liability within the time required by subsection (1), the insurer is deemed to have made a decision to have accepted the claim.	5 6 7
280AD	Entitlements during determination period	8
(1)	While a decision is being made under section 280AC to accept the claim or dispute liability, the worker is entitled to a weekly payment (the <i>interim entitlement payment</i>) of—	9 10 11
(a)	if the worker has no current work capacity—75% of the worker's PIAWE,	12 13
(b)	if the worker has current work capacity—75% of the worker's PIAWE less the worker's current weekly earnings.	14 15
	Note— PIAWE and current weekly earnings are calculated in accordance with the 1987 Act, Part 3 and Schedule 3.	16 17
(2)	While a decision is being made under section 280AC to accept the claim or dispute liability, the worker is also entitled to medical or related treatment in relation to the relevant injury to a cost of not more than—	18 19 20
(a)	the amount specified in the Workers Compensation Guidelines, or	21
(b)	if an amount is not specified in the Workers Compensation Guidelines—\$7,500.	22 23
(3)	The worker's entitlement to an interim entitlement payment and medical expenses compensation under subsections (1) and (2) ceases—	24 25
(a)	if the insurer decides to dispute liability—14 days after the decision is made, or	26 27
(b)	56 days after the day the claim is made.	28
(4)	If the insurer decides to accept the claim, the worker is entitled to—	29
(a)	an amount (a <i>back payment</i>) equal to the difference between the interim entitlement payments and the worker's PIAWE for the period—	30 31
(i)	starting on the day the claim was made, and	32
(ii)	ending on the day the decision to accept the claim was made, and	33
(b)	reimbursement for any reasonable and necessary medical treatment for the relevant injury for which the worker paid before the decision to accept the claim was made, as specified in the Workers Compensation Guidelines.	34 35 36 37
(5)	In this section —	38
	<i>medical or related treatment—</i>	39
(a)	has the same meaning as in the 1987 Act, Part 3, Division 3, and	40
(b)	includes out patient hospital treatment and workplace rehabilitation services.	41 42
280AE	Disputing liability	43
(1)	If an insurer disputes liability in relation to a claim or an aspect of a claim, the insurer must give notice to the worker in accordance with section 78 and the regulations.	44 45 46

(2)	Notice under subsection (1) must be given to the worker not later than 42 days after the claim is made.	1 2
(3)	The worker may ask the insurer to review the claim, or any aspect of the claim, that is disputed by the insurer.	3 4
(4)	A request for a review of the claim, or any aspect of the claim, must be made before the dispute may be referred for determination by—	5 6
	(a) the Personal Injury Commission, or	7
	(b) the Industrial Relations Commission.	8
(5)	Within 14 days after the request for a review is made, the insurer must—	9
	(a) conduct the review, and	10
	(b) notify the worker of the insurer's decision about the review.	11
	Maximum penalty—50 penalty units.	12
(6)	A decision made following a review under subsection (5) replaces the previous decision of the insurer in relation to the claim.	13 14
(7)	The Workers Compensation Guidelines may provide for matters relating to—	15
	(a) the notification of decisions of insurers disputing liability for claims, including reasons for the decisions, and	16 17
	(b) the procedure for conducting reviews of the decisions.	18
280AF	Claims for weekly compensation—commencement of payments	19
(1)	Weekly payments of compensation must commence as soon as practicable, but no later than 7 days, after a decision is made, or deemed to have been made, to accept the claim.	20 21 22
	Note— Under section 280AC(3), if the insurer does not make a decision to accept the claim or dispute liability within the time required by section 280AC(1), the insurer is deemed to have made a decision to accept the claim.	23 24 25
(2)	The back payment must be made as soon as practicable, but no later than 21 days, after a decision is made to accept the claim.	26 27
(3)	This section ceases to apply if the claim for compensation is withdrawn.	28
280AG	Offences—weekly payments	29
(1)	A person on whom a claim for weekly payments of compensation is made is guilty of an offence if the person fails to commence the payments within the time required by section 280AF(1).	30 31 32
	Maximum penalty—50 penalty units.	33
(2)	A person on whom a claim for weekly payments of compensation is made is guilty of an offence if the person refers a matter that the person knows is not a genuine dispute for the purpose of delaying, without good cause, the commencement of weekly payments of compensation.	34 35 36 37
	Maximum penalty—50 penalty units.	38
280AH	Industrial Relations Commission may determine whether conduct was relevant conduct	39 40
(1)	This section applies if, following a review under section 280AE(5), the insurer still disputes a claim or an aspect of a claim for a relevant injury.	41 42
(2)	The worker may lodge an application with the Industrial Relations Commission seeking a decision about whether the conduct the subject of the claim was relevant conduct.	43 44 45

	(3)	The Industrial Relations Commission may—	1
	(a)	resolve the dispute by conciliation, or	2
	(b)	if the dispute cannot be resolved by conciliation—	3
	(i)	determine whether the conduct was or was not relevant conduct, and	4
	(ii)	give a certificate (a <i>certificate of determination</i>) about the matters determined by the Commission.	5
	(4)	Without limiting the matters to which the Industrial Relations Commission may have regard in determining whether conduct the subject of the claim was or was not relevant conduct, the Commission may have regard to any evidence from the employer that the conduct was reasonable management action taken or proposed to be taken by the employer.	6
	(5)	A certificate of determination must—	7
	(a)	set out the details of the determination and the reasons for the determination, and	8
	(b)	be in the form approved by the President of the Industrial Relations Commission.	9
	(6)	The determination of the Industrial Relations Commission about whether the conduct was or was not relevant conduct—	10
	(a)	is binding, and	11
	(b)	cannot be referred for determination by the Personal Injury Commission.	12
	Note—	The <i>Industrial Relations Act 1996</i> , Chapter 4, Part 7 provides for appeals and references from decisions made, or a matter to be heard, by a single member of the Industrial Relations Commission.	13
280AI		Effect of determination by Industrial Relations Commission	14
	(1)	If the Industrial Relations Commission determines conduct was not relevant conduct, no further compensation is payable to the worker in relation to the injury.	15
	(2)	If the Industrial Relations Commission determines conduct was relevant conduct—	16
	(a)	the worker must give a copy of the certificate of determination to the insurer, and	17
	(b)	the insurer must, not later than 7 days after receiving the certificate, issue a decision notice about the claim.	18
	(3)	If the insurer accepts liability for the claim for the relevant injury, the worker is entitled to compensation from the date the claim was made.	19
	(4)	If the insurer continues to dispute liability for the claim for the relevant injury, the dispute must be referred for determination by the Personal Injury Commission.	20
	Note—	Section 105 provides that, subject to this Act, the Personal Injury Commission has exclusive jurisdiction to examine, hear and determine all matters arising under this Act and the 1987 Act.	21
280AJ		Multiple entitlements and compensation not permitted	22
	(1)	This section applies if—	23
	(a)	a worker is receiving or has received entitlements under the Workers Compensation Acts for a primary psychological injury caused by a	24

	relevant event and is being subjected to bullying or sexual harassment, and	1 2
	(b) a stop bullying order or sexual harassment order was made under the <i>Industrial Relations Act 1996</i> in relation to the bullying or sexual harassment.	3 4 5
	(2) The worker cannot—	6
	(a) recover damages under a stop bullying order under the <i>Industrial Relations Act 1996</i> in relation to the same conduct for which the worker is receiving or has received entitlements under the Workers Compensation Acts, or	7 8 9 10
	(b) recover damages under a sexual harassment order under the <i>Industrial Relations Act 1996</i> in relation to the same conduct for which the worker is receiving or has received entitlements under the Workers Compensation Acts.	11 12 13 14
280AK	Costs of Industrial Relations Commission exercising jurisdiction under this division	15 16
	The costs of the Industrial Relations Commission exercising jurisdiction under this division must be paid from the Workers Compensation Operational Fund.	17 18
[13]	Section 287 Disputes to which Part applies	19
	Insert after section 287(2)—	20
	(3) The following provisions of this part do not apply to a dispute to which Chapter 7, Part 3, Division 3A applies—	21 22
	(a) Division 2,	23
	(b) Division 3, to the extent the jurisdiction of the Industrial Relations Commission applies to the determination of whether conduct is or is not—	24 25 26
	(i) bullying, or	27
	(ii) excessive work demands, or	28
	(iii) racial harassment, or	29
	(iv) sexual harassment.	30
	Note— Chapter 7, Part 3, Division 3A applies in relation to psychological injuries caused by being subjected to bullying, excessive work demands, racial harassment or sexual harassment.	31 32 33
[14]	Section 287A Request for review	34
	Insert after section 287A(1)(a)—	35
	(a1) a decision of the insurer about the worker’s PIAWE that is disputed by the worker, or	36 37
[15]	Section 288 Referral of disputes to Commission	38
	Omit “assessment)” from section 288(1), note. Insert instead “disputes)”. 39	
[16]	Section 289 Restrictions as to when dispute can be referred to Commission	40
	Omit “(other than a dispute based on a work capacity decision)” from section 289(1). 41	
	Insert instead “, other than a dispute based on a work capacity decision or a dispute about a worker’s PIAWE, 42 43	

[17] Section 289(2A)	1
Omit “reasonably necessary”. Insert instead “reasonable and necessary”.	2
[18] Section 289B Stay of disputed work capacity decision	3
Omit section 289B(1). Insert instead—	4
(1) The referral of a dispute for determination by the Commission in relation to either of the following operates to stay the decision and prevents the taking of action by an insurer based on the decision while the decision is stayed—	5
(a) a work capacity decision to discontinue, or reduce the amount of, weekly payments of compensation,	6
(b) a decision about a worker’s PIAWE.	7
[19] Section 297 Directions for interim payment of weekly payments or medical expenses compensation	8
Omit section 297(1A). Insert instead—	9
(1A) Section 298 does not apply to a dispute about a decision by the insurer—	10
(a) to discontinue or reduce weekly payments of compensation on the basis of a work capacity decision under the 1987 Act, Part 3, Division 2, or	11
(b) in relation to a worker’s PIAWE.	12
[20] Section 297(2)	13
Omit “\$7,500” wherever occurring. Insert instead “\$11,080.20”.	14
[21] Section 297(4)	15
Omit “reasonably necessary”. Insert instead “reasonable and necessary”.	16
[22] Section 314 What constitutes threshold dispute	17
Omit section 314(1)(a). Insert instead—	18
(a) the person on whom the claim is made has not accepted that the degree of permanent impairment of the injured worker resulting from the injury is—	19
(i) for a physical injury—at least 15%, or	20
(ii) for a psychological injury—at least 25%, or	21
[23] Section 314(1)(a)(ii), as inserted by item [23]	22
Omit “25%”. Insert instead “31%”.	23
[24] Section 314(1), note	24
Omit “section 322 (4)”. Insert instead “the 1987 Act, section 153B”.	25
[25] Section 314(4)	26
Insert after section 314(3)—	27
(4) A permanent impairment agreement that specifies the degree of permanent impairment of an injured worker also constitutes acceptance by the parties to the agreement of the degree of permanent impairment for the claim for work injury damages.	28
[26] Chapter 7, Part 7, heading	29
Omit “assessment”. Insert instead “disputes”.	30

[27] Section 320	1
Insert after section 319—	2
320 Application of part	3
This part applies only to a medical assessment conducted for the purposes of a medical dispute before the Commission.	4 5
[28] Section 322 Assessment of impairment	6
Omit the section.	7
[29] Section 322A, heading	8
Insert “for medical dispute” after “impairment”.	9
[30] Section 322A(1)	10
Omit the subsection.	11
[31] Section 322A(1A)	12
Omit “A reference in subsection (1) to an assessment includes an assessment of the degree of permanent impairment”.	13 14
Insert instead “Only one assessment of the degree of permanent impairment may be”.	15
[32] Section 322A(2)	16
Omit the subsection. Insert instead—	17
(2) The medical assessment certificate given in relation to the assessment under subsection (1A) is the only medical assessment certificate that may be used in connection with any further or subsequent medical dispute about the degree of permanent impairment of the worker as a result of the injury, whether the subsequent or further dispute is in relation to—	18 19 20 21 22
(a) weekly payments, or	23
(b) medical expenses compensation, or	24
(c) lump sum compensation, or	25
(d) commutations, or	26
(e) work injury damages.	27
[33] Section 322A, note	28
Insert at the end of the section—	29
Note— The assessment of permanent impairment under this part must be conducted in accordance with the 1987 Act, Part 6.	30 31
[34] Section 323 Deduction for previous injury or pre-existing condition or abnormality	32
Omit the note to the section. Insert instead—	33
Note— The 1987 Act, Part 6 makes provision for the purposes of calculating workers compensation lump sum benefits for permanent impairment and associated pain and suffering in cases to which the 1987 Act, section 15, 16, 17 or 22 applies.	34 35 36
[35] Section 327 Appeal against medical assessment	37
Omit section 327(3)(a). Insert instead—	38
(a) there has been an unexpected and material deterioration in the worker’s condition since the principal assessment was made under the 1987 Act, Part 6 that results in an increase in the degree of permanent impairment,	39 40 41

[36] Section 327(3A) and (3B)	1
Insert after section 327(3)—	2
(3A) For subsection (3)(a), an unexpected and material deterioration in the worker's condition since the principal assessment was made occurs only if—	3
(a) at the time the principal assessment was made there was no reasonable cause to believe the worker's condition would deteriorate, and	4
(b) the deterioration results in an increase in the worker's degree of permanent impairment of at least a further 10 percentage points.	5
Example— A worker was assessed at 25% permanent impairment under the 1987 Act, Part 6. For an appeal under subsection (3)(a), the worker must have an assessment of at least 35% permanent impairment, in addition to otherwise meeting the requirements of this section.	6
(3B) For subsection (3A), age-related deterioration must not be taken into account in deciding whether an unexpected and material deterioration in a worker's condition has occurred.	7
[37] Section 327(7)	8
Omit the subsection. Insert instead—	9
(7) There is no appeal against a medical assessment once the dispute to which the medical assessment relates has been the subject of—	10
(a) a determination by a court or the Commission, or	11
(b) an agreement registered under the 1987 Act, section 66A before its repeal, or	12
(c) a permanent impairment agreement.	13
[38] Section 332 Definitions	14
Insert after section 332(1), definition of <i>costs</i> , paragraph (b)—	15
(b1) costs incurred in relation to proceedings in the Industrial Relations Commission for matters under Part 3, Division 3A, and	16
[39] Section 332(1), definition of “costs”, paragraph (e)	17
Omit the paragraph. Insert instead—	18
(e) costs incidental to an application for registration of—	19
(i) an agreement under the 1987 Act, section 66A, or	20
(ii) a permanent impairment agreement, or	21
(iii) an agreement to commute liability to a lump sum, and	22
[40] Section 337 Maximum lawyer and agent costs	23
Omit “reports).” from section 337(1)(b). Insert instead—	24
reports),	25
(c) funding for ILARS within the meaning of the <i>Personal Injury Commission Act 2020</i> , Schedule 5,	26
(d) a scale of maximum costs for legal and associated costs provided by the Independent Review Officer under the <i>Personal Injury Commission Act 2020</i> , including providing for no costs to be payable for certain matters or in particular circumstances.	27

[41]	Section 377 Special requirements relating to Workers Compensation Guidelines relating to impairment	1
		2
	Insert after section 377(3)—	3
	(4) This section does not apply to Workers Compensation Guidelines made under Chapter 7, Part 6.	4
		5

Schedule 3 Amendment of Personal Injury Commission Act 2020 No 18

[1] Section 43A

Insert after section 43—

43A Commission may appoint tutor for person under legal incapacity

- (1) This section applies if proceedings directly or significantly affect a person under legal incapacity.
- (2) The Commission may appoint a person the Commission considers appropriate, including a person from the Guardian Ad Litem Panel, to—
 - (a) separately represent the person, and
 - (b) support the person.
- (3) A tutor must not commence or carry on proceedings except by a solicitor, unless the Commission orders otherwise.
- (4) The Commission may give directions in relation to the conduct of a tutor.
- (5) The Commission rules and procedural directions may provide for matters relating to tutors, including—
 - (a) the conduct of tutors, and
 - (b) the removal of tutors.
- (6) In this section—

Guardian Ad Litem Panel means the Guardian Ad Litem Panel constituted under the *Children and Young Persons (Care and Protection) Act 1998*.

person under legal incapacity has the same meaning as in the *Civil Procedure Act 2005*.

[2] Schedule 5 Independent Review Officer

Omit clause 6(a). Insert instead—

- (a) to assist and advise persons wishing to make complaints to the Independent Review Officer under this schedule and to deal with complaints made,

[3] Schedule 5, clause 9(2)

Omit the subclause. Insert instead—

- (2) The purpose of ILARS is to provide funding for legal and associated costs for workers under the Workers Compensation Acts seeking advice, representation or assistance regarding decisions of insurers or disputes that, if not addressed through legal representation or assistance, would result in a disadvantage to injured workers in relation to the workers' rights or entitlements to benefits under Workers Compensation Acts.

[4] Schedule 5, clauses 9A and 9B

Insert after Schedule 5, clause 9—

9A Funding for legal and associated costs

- (1) The Independent Review Officer must not provide funding for legal and associated costs to a person unless the Independent Review Officer is satisfied—

	(a)	having regard to the need to ensure the sustainability of the use of the workers compensation funds for the purposes of the ILARS scheme, the funding would be justified by the likely benefit to—	1 2 3
		(i) the person, or	4
		(ii) workers under the Workers Compensation Acts, and	5
	(b)	the person has reasonable prospects of success in relation to the matter to which the proposed funding relates, having regard to—	6 7
		(i) the investigations that are necessary to establish the entitlements of the person, and	8 9
		(ii) the need for an assessment of the correctness of decisions made in relation to the person under the Workers Compensation Acts by insurers, and	10 11 12
		(iii) the resolution of any disputes about the entitlements, and	13
	(c)	a prudent person who is self-funding, with adequate financial resources, would use the person's own financial resources for the purposes for which the proposed funding is to be applied.	14 15 16
	(2)	The regulations may provide for the matters to be considered by the Independent Review Officer in the assessment of the provision of funding for legal and associated costs under subclause (1).	17 18 19
9B	Independent Review Officer may arrange alternative assistance		20
		On receipt of a request for funding the Independent Review Officer may decide—	21 22
	(a)	to provide funding under this part, or	23
	(b)	exercise any of the other Independent Review Officer's functions under clause 6 in addition to, or instead of, providing funding, including by treating the request as a complaint about the actions of an insurer.	24 25 26
[5]	Schedule 5, clause 10(1)(a)		27
		Insert “and the revocation of the approval of lawyers” after “approval”.	28
[6]	Schedule 5, clause 10(1)(b) and (c) and (1A)		29
		Omit clause 10(1)(b). Insert instead—	30
	(b)	the allocation and amount of funding for legal and associated costs under ILARS, to the extent the guidelines are not inconsistent with regulations under the Workers Compensation Acts about costs payable under ILARS,	31 32 33 34
	(c)	the procedures and processes for making applications for funding under ILARS.	35 36
	(1A)	To the extent of any inconsistency between an ILARS guideline made under subclause (1)(b) and regulations made under the Workers Compensation Acts, the regulations prevail.	37 38 39

Schedule 4	Amendment of other legislation	1
4.1	State Insurance and Care Governance Act 2015 No 19	2
[1]	Section 12 Investment strategies for scheme funds	3
	Insert after section 12(4)(a)—	4
	(a1) the Insurers Guarantee Fund established under the <i>Workers Compensation Act 1987</i> , section 227,	5 6
[2]	Schedule 1 Provisions relating to directors of ICNSW Board	7
	Insert at the end of Schedule 1, clause 4—	8
	(2) An appointed director may, by written notice given to the Minister, direct that the appointed director's remuneration be paid to the employee body or employer body that nominated the appointed director.	9 10 11
4.2	Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No 83	12 13
[1]	Section 32 Application of Principal Act and 1998 Act	14
	Insert before section 32(1)(a)—	15
	(a1) Part 1, Division 1,	16
[2]	Section 32(1)(c)	17
	Insert "38(9), 39(3)–(5), 39A" after "sections".	18
4.3	Workers Compensation Regulation 2016	19
[1]	Clause 5C COVID-19—matters relating to incapacity	20
	Omit clause 5C(1) and (2). Insert instead—	21
	(1) For the 1987 Act, section 19B(5), the relevant date is the date that marks the end of the expected duration of the worker's incapacity for work as a result of COVID-19 that is specified in the certificate of capacity.	22 23 24
[2]	Clause 5C(3)(a)	25
	Omit "in relation to whom the presumption under section 19B(5) of the 1987 Act is rebutted".	26 27