
c2025-277D
GRNS--The Greens

LEGISLATIVE COUNCIL

Workers Compensation Legislation Amendment Bill 2025

Second print

Proposed amendments

- No. 1 **Bullying—singular event**
Page 30, Schedule 1.8[3], proposed section 8A, lines 27 and 28. Omit all words on the lines. Insert instead “individuals behaving unreasonably towards the worker or a group of workers of which the worker is a member, whether on a singular occasion or repeatedly”.
- No. 2 **Relevant event—being subjected to a traumatic incident**
Page 31, Schedule 1.8[3], proposed section 8G(b), line 42. Omit all words on the lines. Insert instead—
(b) being subjected to a traumatic incident, or
- No. 3 **Relevant event—contravention of Work Health and Safety Act 2011**
Page 32, Schedule 1.8[3], proposed section 8G. Insert after line 8—
(h1) being subjected to an incident that would constitute a contravention of the *Work Health and Safety Act 2011*, or
- No. 4 **Traumatic incident—workplace serious safety incident**
Page 32, Schedule 1.8[3], proposed section 8J(a). Insert after line 25—
(iia) a safety incident at a workplace,
- No. 5 **Insurers to obtain legal advice about prospects of success**
Page 37, Schedule 1.9. Insert after line 21—
[21] Section 195
Insert after section 194—
195 Insurers to obtain legal advice about prospects of success
An insurer is not entitled to funding under workers compensation legislation to defend the denial of a claim, or a part of a claim, unless an Australian legal practitioner acting for the insurer has provided advice to the insurer that the insurer has a reasonable prospect of success in defending the denial.
- No. 6 **Insurers use of scheme funds to investigate and defend claims capped**
Page 37, Schedule 1.9. Insert after line 21—

[22] Section 196

Insert after section 194—

196 Insurers use of scheme funds to investigate and defend claims capped

An insurer is not entitled to an amount of funding under workers compensation legislation to investigate or defend a claim that exceeds more than 50% of the estimated amount payable under the claim.

No. 7 **Insurers use of scheme funds to investigate and defend claims capped**

Page 37, Schedule 1.9. Insert after line 21—

[23] Section 197

Insert after section 194—

197 Insurers use of scheme funds for medical report limited to one assessment for each injury

An insurer is not entitled to funding under workers compensation legislation for more than one medical report for an injured worker in relation to the same injury.

No. 8 **Joint consultative injured workers advisory committee**

Page 37, Schedule 1.9. Insert before line 22—

[24] Section 279B

Insert after section 279A—

279B Joint consultative injured workers advisory committee

- (1) The Minister must establish a joint consultative injured workers advisory committee (the *advisory committee*).
- (2) The advisory committee's functions include—
 - (a) to provide a forum for injured workers and others with lived experience of the workers compensation scheme to give feedback to ICNSW and the Authority about the day-to-day operation of the scheme, including roadblocks and gaps in the scheme, and
 - (b) to give feedback to the Minister in relation to changes to—
 - (i) the operation of the workers compensation scheme, and
 - (ii) workers compensation legislation.
- (3) For subsection (1)(b), the Minister must ensure the advisory committee is consulted about any material changes to the operation of the workers compensation scheme or workers compensation legislation before the changes are made.
- (4) The advisory committee consists of the following members—
 - (a) a chairperson, chosen by the Minister, who—
 - (i) is independent of ICNSW, the Authority and the Government, and
 - (ii) has, in the Minister's opinion, appropriate experience and knowledge of the workers compensation scheme,
 - (b) a person nominated by the Authority to represent the Authority,
 - (c) a person nominated by ICNSW to represent ICNSW.

No. 9 **Employer must provide suitable work unless not possible**

Page 44, Schedule 2. Insert after line 32—

[3A] Section 49(2A) and (2B)

Insert after section 49(2)—

- (2A) If the employer does not provide suitable employment for the worker in accordance with this section, the employer is liable to pay the worker compensation in an amount equal to the ongoing wages the worker would have been paid by the employer had suitable employment been provided.
- (2B) An employer must not terminate the employment of a worker in relation to whom the employer is obliged, under this section, to provide suitable employment for reasons that include either of the following—
 - (a) the worker is injured,
 - (b) the worker is partially incapacitated for work as a result of an injury.

Maximum penalty—50 penalty units.

No. 10 **Employer must provide suitable work unless not possible**

Page 44, Schedule 2. Insert before line 33—

[3B] Section 49(3)(a)

Omit “reasonably practicable”. Insert instead “possible”.

No. 11 **Primary psychological injuries caused by bullying, excessive work demands and harassment may be referred to Personal Injury Commission without first being considered by Industrial Relations Commission**

Page 48, Schedule 2[12], proposed section 280AH(2), lines 43–45. Omit all words on the lines. Insert instead—

- (2) The worker may lodge an application, seeking a decision about whether the conduct the subject of the claim was relevant conduct, with—
 - (a) the Industrial Relations Commission, or
 - (b) the Personal Injury Commission.

No. 12 **Industrial Relations Commission’s jurisdiction to deal with return to work of injured workers**

Page 53, Schedule 2. Insert after line 42—

[40A] Section 354

Insert after section 353—

354 Industrial Relations Commission’s jurisdiction to deal with return to work of injured workers

The jurisdiction of the Industrial Relations Commission under the *Industrial Relations Act 1996* to deal with industrial matters relating to the return to work for employees who have received a workplace injury extends to all injured workers as if the workers were employees for the purposes of that Act.

No. 13 **Amendment of Work Health and Safety Act 2011**

Page 56. Insert after line 39—

Schedule 3A Amendment of Work Health and Safety Act 2011 No 10

[1] Section 21A

Insert after section 21—

21A Duties of persons conducting businesses or undertakings involving digital work systems

- (1) A person conducting a business or undertaking that uses a digital work system must ensure, so far as is reasonably practicable, that the allocation of work by or using the digital work system is without risks to the health and safety of a person.
- (2) Without limiting subsection (1), a person conducting a business or undertaking must consider whether the allocation of work by or using a digital work system creates or results in any of the following risks—
 - (a) excessive or unreasonable workloads for workers at work in the business or undertaking,
 - (b) the use of excessive or unreasonable metrics to assess and track the performance of workers at work in the business or undertaking,
 - (c) excessive or unreasonable monitoring or surveillance of workers at work in the business or undertaking,
 - (d) discriminatory practices or decision-making in the conduct of the business or undertaking.
- (3) In this section—
digital work system means an algorithm, artificial intelligence, automation, online platform or software.

[2] Section 118 Rights that may be exercised while at workplace

Insert after section 118(1)(a)—

- (a1) require the relevant person conducting a business or undertaking to give the WHS entry permit holder reasonable assistance to access and inspect a digital work system relevant to the suspected contravention,

[3] Section 118(3)

Insert “(a1) or” after “subsection (1)”.

[4] Section 118(6)

Insert after section 118(5)—

- (6) In this section—
digital work system has the same meaning as in section 21A.

No. 14 **Long title—consequential to Amendment No 13 which inserts schedule amending Work Health and Safety Act 2011**

Omit “and to make miscellaneous amendments to improve the effective operation of the workers compensation scheme”. Insert instead “to make miscellaneous amendments to improve the operation of the workers compensation scheme; and for other purposes”.