

c2026-002M
GOVT--Government

LEGISLATIVE COUNCIL

Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025

Second print

Proposed amendments

No. 1 **Commencement**

Page 2, clause 2. Insert after line 6—

(a1) for Schedule 1AA—on the date of assent to this Act,

No. 2 **Amendments to Workers Compensation Legislation Amendment Act 2025**

Page 3. Insert before line 9—

**Schedule 1AA Amendment of Workers Compensation
Legislation Amendment Act 2025 No 72**

[1] Schedule 1 Amendment of Workers Compensation Act 1987 No 70

Omit Schedule 1.1[4], proposed section 39(3). Insert instead—

(3) For this section, the degree of permanent impairment that results from an injury must be assessed under—

- (a) Part 6, or
- (b) the 1998 Act, Chapter 7, Part 7.

[2] Schedule 1.1[5A]–[5C]

Insert after Schedule 1.1[5]—

[5A] Section 39B

Insert after section 39A, as inserted by item [5]—

39B Weekly payments after 130 weeks—primary psychological injury of at least 21% but less than 25%

- (1) This section applies to an injured worker in relation to a primary psychological injury if—
 - (a) the degree of permanent impairment resulting from the injury is at least 21% but less than 25%, and
 - (b) the second entitlement period in relation to the injury has expired.

-
- (2) The injured worker is entitled to compensation after the second entitlement period if—
- (a) the worker—
 - (i) has applied to the insurer, in the form approved by the Authority, for continuation of weekly payments after the second entitlement period, and
 - (ii) has been assessed by the insurer as having no work capacity, or
 - (b) the worker—
 - (i) has applied to the insurer, in the form approved by the Authority, for continuation of weekly payments after the second entitlement period, and
 - (ii) has been assessed by the insurer as having current work capacity, and
 - (iii) has returned to work for at least 15 hours per week, and
 - (iv) has current weekly earnings of at least \$225 per week.

Note— See also the 1998 Act, sections 53(1A) and 53A in relation to the return to work intensive support program established by the Authority to provide vocational support to injured workers entitled to compensation under this section.

- (3) An insurer must, for the purpose of assessing an injured worker's entitlement to weekly payments under this section, ensure that a work capacity assessment of the worker is conducted during the last 52 weeks of the second entitlement period.

Note— An insurer may conduct a work capacity assessment of a worker at any time. The Workers Compensation Guidelines may also require a work capacity assessment to be conducted.

- (4) Subject to subsection (7) and section 34, the weekly payment of compensation to which an injured worker is entitled under this section is the lesser of the following rates—
- (a) 60% of the worker's pre-injury average weekly earnings, less the worker's current weekly earnings,
 - (b) the maximum weekly compensation amount, less the worker's current weekly earnings.

Note— Section 34(1AA) provides that a weekly payment of compensation under this subdivision must not exceed the maximum weekly compensation amount set out in section 34(1).

- (5) An injured worker has no entitlement to weekly payments of compensation under this section in relation to a primary psychological injury after an aggregate period of 182 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.
- (6) A worker's entitlement to compensation under this section may be reassessed at any time.
- (7) The regulations may provide for an alternative method of calculating weekly payment of compensation to which an injured worker is entitled under this section.
- (8) This section does not apply to a worker with highest needs.
-

[5B] Section 39B(2), as inserted by item [5A]

Omit “less than 25%” wherever occurring.

Insert instead “not more than 26%”.

[5C] Section 39B(2), as inserted by item [5A] and amended by item [5B]

Omit “not more than 26%” wherever occurring. Insert instead “less than 28%”.

[3] Schedule 1.1[6], proposed section 59A(2)(a)(i) and (ii)

Insert “or the 1998 Act, Chapter 7, Part 7” after “Part 6” wherever occurring.

[4] Schedule 1.1[6], proposed section 59A(2)(a)(i)

Omit “that part”. Insert instead “either of the parts”.

[5] Schedule 1.1[7], proposed section 59A(4), note

Omit “and 39A”. Insert instead “, 39A and 39B,”.

[6] Schedule 1.3[2]

Insert “or the 1998 Act, Chapter 7, Part 7” after “Part 6”.

[7] Schedule 1.3[5], proposed Part 7, section 153(1)

Omit “An employer is not liable to pay the costs of or”.

Insert instead “Costs are not payable”.

[8] Schedule 1.4[20A]

Insert after Schedule 1.4[20]—

[20A] Section 82B(1)

Insert “39B,” after “38,” wherever occurring in section 82B.

[9] Schedule 1.5[2A]

Insert after Schedule 1.5[2]—

[2A] Section 87EA Preconditions to commutation

Insert “of an injured worker” after “A liability in respect of an injury” in section 87EA(1).

[10] Schedule 1.5[3]

Omit “Section 87EA Preconditions to commutation”.

Insert instead “Section 87EA(1)”.

[11] Schedule 1.5[4]

Omit the item. Insert instead—

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

Omit the paragraph. Insert instead—

(a) the injury has resulted in a degree of permanent impairment that is assessed, under either of the following, as at least 15%—

(i) Part 6,

(ii) the 1998 Act, Chapter 7, Part 7, and

[12] Schedule 1.6, proposed Part 7, Division 4A, section 209F(3)

Omit “to the State”.

Insert instead “into the Workers Compensation Operational Fund”.

[13] Schedule 1.8[5], proposed section 11A(1)

Omit “if the psychological injury was predominantly caused by”.

Insert instead “if the significant cause of the psychological injury was”.

[14] Schedule 1.10, proposed clause titled "Application of amendments to exempt workers"

Omit “[16].” from subclause (1)(c). Insert instead—

[16],

(d) the amendments made by Schedule 1.5.

[15] Schedule 1.10, proposed clause titled "Application of amendments to coal miners"

Omit the clause. Insert instead—

Application of amendments to coal miners

- (1) 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—
 - (a) the amendments to this Act, section 25 made by Schedule 1.4[1] and [2],
 - (b) the insertion of this Act, Part 3, Division 1A by Schedule 1.2,
 - (c) the amendments to this Act, section 60 made by Schedule 1.9[6],
 - (d) the omission of this Act, section 79 by Schedule 1.4[15],
 - (e) the substitution of this Act, section 80 and omission of section 81 by Schedule 1.4[16],
 - (f) the amendments to this Act, section 160 made by Schedule 1.9[16]–[19],
 - (g) the amendments to this Act, sections 225, 227, 229–236 and 238 made by Schedule 1.7,
 - (h) the amendments to this Act, Schedule 6 made by Schedule 1.4[45]–[52],
 - (i) the insertion of the 1998 Act, section 45B made by Schedule 2[2].
- (2) For the purposes of subclause (1)(b), a reference to the Commission in this Act, Part 3, Division 1A is taken to be a reference to the District Court.

[16] Schedule 1.10

Insert after the clause titled **Weekly payments after second entitlement period (after week 130)**—

Weekly compensation payments for whole person impairment—at least 25%

Section 39B as inserted by the amendment Act, Schedule 1.1[5A] applies only to a notification or claim for a primary psychological injury made on or after 1 July 2026.

Weekly compensation payments for whole person impairment—more than 26%

The amendment to section 39B made by the amendment Act, Schedule 1.1[5B] applies only to a notification or claim for a primary psychological injury made on or after 1 July 2027.

Weekly compensation payments for whole person impairment—at least 28%

The amendment to section 39B made by the amendment Act, Schedule 1.1[5C] applies only to a notification or claim for a primary psychological injury made on or after 1 July 2029.

[17] Schedule 1.10, proposed clause titled “Reasonable and necessary medical and other treatment—sections 60, 60AA, 61 and 63A”

Omit “only to a new claim” from subclause (1).

Insert instead “to a new claim, but not an existing claim,”.

[18] Schedule 1.10, proposed clause titled “Lump sum compensation for psychological injuries”

Omit the clause. Insert instead—

Recovery of excess from employer

Section 160 as amended by the amendment Act, Schedule 1.9[16]–[19] applies in relation to all claims made against a policy of insurance issued or renewed on or after 4pm on 30 June 2026, regardless of whether the amendments commence before, on or after that time.

[19] Schedule 1.10, proposed clause titled “Insurer’s Guarantee Fund”

Omit “**Insurer’s**” from the heading. Insert instead “**Insurers**”.

[20] Schedule 1.10, proposed clause titled “Insurer’s Guarantee Fund”

Omit “Insurance” wherever occurring in subclauses (1), (3) and (4).

Insert instead “Insurers”.

[21] Schedule 1.10, proposed clause titled “Review of workers compensation scheme”

Insert “and the *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025*” after “*Workers Compensation Legislation Amendment Act 2025*” in subclause (4)(a).

[22] Schedule 1.10, proposed clause titled “Joint select committee”

Omit subclause (2)(a). Insert instead—

(a) 4 members of the Legislative Assembly, including the following—

(i) at least 1 Opposition member,

(ii) at least 1 independent member, and

[23] Schedule 4 Amendment of other legislation

Omit Schedule 4.1.

No. 3 **Assessment of permanent impairment for purposes of damages**

Page 4, Schedule 1.1[12], proposed section 151H(1), line 37. Omit “provides”. Insert instead “and the 1998 Act, Chapter 7, Part 7 provide”.

No. 4 **Regulations may amend Act in relation to permanent impairment**

Page 5, Schedule 1.1. Insert after line 15—

[15] Section 280A

Insert after section 280—

280A Regulations may amend Act to decrease degree of permanent impairment required for compensation and damages

- (1) The regulations may amend a provision of this Act to the extent the provision of the Act provides for the degree of permanent impairment for an injured worker or class of injured workers—
 - (a) to be entitled to weekly payments of compensation, or
 - (b) to make a claim for damages, or
 - (c) to be entitled to medical expenses compensation.
- (2) A regulation made under this section must not amend a provision of this Act to increase the degree of permanent impairment required for an injured worker or class of injured workers—
 - (a) to be entitled to weekly payments of compensation, or
 - (b) to make a claim for damages, or
 - (c) to be entitled to medical expenses compensation.
- (3) A regulation may be made under this section only—
 - (a) on the recommendation of the Minister with the concurrence of the Treasurer, and
 - (b) if the Minister and Treasurer consider the making of the regulation to be in the public interest.
- (4) A regulation made under this section amending a provision of this Act may take effect before the commencement of the regulation but not before the date of assent to the provision of this Act amended by the regulation.
- (5) A provision of a regulation made under this section taking effect before the publication of the regulation on the NSW legislation website does not—
 - (a) affect the rights of a worker existing before the publication in a way prejudicial to the worker, or
 - (b) impose liabilities on a worker for anything done or omitted to be done before the publication.

No. 5 **Omission of amendments relating to meaning of “relevant event”**

Page 5, Schedule 1.2, lines 16–29. Omit all words on the lines.

No. 6 **Premium rate freeze**

Page 5. Insert after line 29—

1.2A Amendment relating to premium rate freeze

Section 168A

Insert after section 168—

168A Freeze on insurance premium rate increases by Nominal Insurer until 30 June 2028

- (1) The Nominal Insurer must not file an insurance premium with the Authority if the filing of the premium would result in an increase during the insurance premium freeze period in the insurance premium target collection rate relative to the insurance premium target collection rate for the 2025/26 financial year.
- (2) The Authority may reject an insurance premium filed with the Authority for reasons other than the insurance premium target collection rate.
- (3) To avoid doubt, this section does not prevent a variation, including an increase, in the insurance premium under an employer's policy of insurance in accordance with the Nominal Insurer's premium-setting methodology, filed with the Authority.
- (4) The regulations may provide for matters relating to the prohibition on the filing of insurance premiums under this section, including providing for the variation of the Workers Compensation Market Practice and Premiums Guidelines.
- (5) To the extent of an inconsistency between a regulation made under this section and the Workers Compensation Market Practice and Premiums Guidelines, the regulation prevails.
- (6) In this section—
insurance premium freeze period means the period—
 - (a) starting on 30 June 2026, and
 - (b) ending at 4pm on 30 June 2028.*insurance premium target collection rate* means the total premium expected to be collected, including loadings, discounts and adjustments but excluding the Dust Diseases Contribution and the Mine Safety Fund Premium Adjustment, divided by total portfolio wages for the premium renewal year.
- (7) This section is repealed on 1 July 2028.

No. 7 **Savings and transitional provisions**

Pages 5–8, Schedule 1.3, line 32 on page 5 to line 40 on page 8. Omit all words on the lines. Insert instead—

Insert before Part 20, with appropriate part numbering—

Part Provisions consequent on Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025

1 Definition

In this part—

amendment Act means the *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025*.

2 Application of amendments made by amendment Act generally

- (1) 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,
 - (c) to a claim for compensation made on or after the commencement of the amendment,
 - (d) to proceedings initiated in the Commission or a court on or after the commencement of the amendment.
- (2) Without limiting subclause (1), provided an injury was notified before the commencement of an amendment made by the amendment Act to any of the following provisions, the threshold for the degree of permanent impairment in the provision continues to apply as if the provisions were not amended by the amendment Act—
- (a) the 1987 Act, sections 151DA and 151H,
 - (b) the 1998 Act, section 314.

3 Application of amendments to exempt workers

- (1) The amendments made by the amendment Act do not apply to, or in relation to an injury received by, an exempt worker.
- (2) In this clause—
exempt worker means the following—
 - (a) a police officer,
 - (b) a paramedic,
 - (c) a firefighter, including firefighters employed by the Forestry Corporation of New South Wales, the National Parks and Wildlife Service and Transport for NSW.

4 Application of amendments to coal miners

The amendments made by the amendment Act do not apply to, or in relation to an injury received by, a coal miner.

5 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*.

6 Application of amendments to claims for certain 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*.

7 Whole person impairment—at least 25%

The following apply only to a notification or claim for a primary psychological injury made on or after 1 July 2026—

- (a) the amendment to section 38 made by the amendment Act, Schedule 1.1[1],
- (b) section 39A, as inserted by the amendment Act, Schedule 1.1[4].

8 Whole person impairment—more than 26%

The amendments to sections 38 and 39A made by the amendment Act, Schedule 1.1[2] and [5] apply only to a notification or claim for a primary psychological injury made on or after 1 July 2027.

9 Whole person impairment—at least 28%

The amendments to sections 38 and 39A made by the amendment Act, Schedule 1.1[3] and [6] apply only to a notification or claim for a primary psychological injury made on or after 1 July 2029.

10 Limit on payment of compensation

The amendment of section 59A made by the amendment Act, Schedule 1.1[7] applies only to a claim to which Part 1, Division 2, as inserted by the *Workers Compensation Legislation Amendment Act 2025* applies.

11 Review by Chief Psychiatrist or another appropriately qualified person

- (1) A review to assess, and report to the Minister and Treasurer about, the effectiveness and appropriateness of PIRS, and alternatives to PIRS, for assessing whole person impairment within the workers compensation scheme must be conducted by—
 - (a) the Chief Psychiatrist, or
 - (b) another person chosen by the Chief Psychiatrist, who the Chief Psychiatrist considers is appropriately qualified to conduct the review.
- (2) The review must be conducted in accordance with terms of reference—
 - (a) determined by the Minister and Treasurer, and
 - (b) tabled in each House of Parliament.
- (3) Without limiting subclause (2), the review must—
 - (a) consider the appropriateness of PIRS as a tool to determine the degree of permanent impairment of injured workers, and
 - (b) develop an alternative tool to determine the degree of permanent impairment of injured workers.
- (4) In undertaking the review, the Chief Psychiatrist or other person must consider—
 - (a) the reliability, robustness and consistency of PIRS and other tools in assessing the degree of permanent impairment of injured workers, and
 - (b) any other matter the Chief Psychiatrist or other person considers relevant.
- (5) The review must commence as soon as practicable after the date of assent to the amendment Act.
- (6) A final report on the outcome of the review must be—
 - (a) tabled in each House of Parliament within 18 months after the date of assent to the amendment Act, and
 - (b) given to the expert panel conducting a review under this part.
- (7) In this clause—

Chief Psychiatrist means the person appointed to the role of Chief Psychiatrist within the Ministry of Health.

PIRS means the assessment tool known as the psychiatric impairment rating scale that is—
 - (a) used to assess the level of functional impairment caused by psychiatric conditions and provide a structured approach to evaluating the impact of mental health disorders on an individual's daily life and ability to work, and
 - (b) set out in guidelines developed in consultation with relevant medical colleges, other relevant colleges and associations under the 1998 Act, section 377.

12 Review of workers compensation scheme

The terms of reference for the review of aspects of the workers compensation scheme conducted by the expert panel under this schedule must include consideration of the Chief Psychiatrist's report about the effectiveness and appropriateness of PIRS and alternatives to PIRS.

13 Joint Select Committee

The Joint Select Committee of the Parliament established to consider the report of the expert panel under this schedule must, in considering the expert panel's report, consider the expert panel's consideration of the Chief Psychiatrist's report about the effectiveness and appropriateness of PIRS and alternatives to PIRS.

No. 8 **Vocational supports to support return to work for injured workers with primary psychological injury**

Page 9, Schedule 2. Insert after line 2—

[1AA] Section 53 Vocational re-education etc provided by Authority

Insert after section 53(1)—

- (1A) Without limiting subsection (1), the Authority must institute a vocational re-education and rehabilitation scheme for a return to work intensive support program, in accordance with section 53A, to provide vocational support and rehabilitation for injured workers.

[1AB] Section 53(5)

Insert after section 53(4)—

- (5) To remove doubt, the requirement for the Authority to institute a vocational re-education and rehabilitation scheme for a return to work intensive support program referred to in subsection (1A) does not affect an injured worker's entitlements under the 1987 Act, section 64B or 64C.

[1AC] Section 53A

Insert after section 53—

53A Vocational re-education and rehabilitation scheme for return to work intensive support program

- (1) The vocational re-education and rehabilitation scheme for a return to work intensive support program instituted under section 53(1A) must be—
- (a) made available only to injured workers entitled to compensation under the 1987 Act, section 39B, and
 - (b) made available to an injured worker entitled to compensation under the 1987 Act, section 39B for no more than 12 months.
- (2) Without limiting what may be included in the vocational re-education and rehabilitation scheme for a return to work intensive support program, the program may include the following for injured workers—
- (a) education and training,
 - (b) mentoring and on-the-job coaching,
 - (c) career counselling,

(d) workplace facilitated discussions and mediation.

(3) The regulations may provide for other matters in relation to the return to work intensive support program.

No. 9 **Exclusive jurisdiction of Industrial Relations Commission regarding certain conduct and entitlements during determination period**

Page 9, Schedule 2[1], lines 3–8. Omit all words on the lines. Insert instead—

[1] Chapter 4, Part 2, Division 6, heading

Omit the heading. Insert instead—

Division 6 Proceedings before Personal Injury Commission

[1A] Section 105

Omit the section. Insert instead—

105 Jurisdiction of Personal Injury Commission etc

- (1) Subject to subsections (2)–(7) and this Act, the Personal Injury Commission has exclusive jurisdiction to examine, hear and determine all matters arising under this Act and the 1987 Act.
- (2) The Personal Injury Commission does not have exclusive jurisdiction in relation to matters arising under the 1987 Act, Part 5, except for the purposes of and in connection with the operation of this Act, Chapter 7, Part 6.
- (3) The Industrial Relations Commission has exclusive jurisdiction to determine whether conduct the subject of a claim is relevant conduct within the meaning of Chapter 7, Part 3, Division 3A.
- (4) To avoid doubt, the Industrial Relations Commission has power to determine whether the Commission has jurisdiction to hear an application under Chapter 7, Part 3, Division 3A.
- (5) The Personal Injury Commission does not have jurisdiction in relation to matters the District Court has jurisdiction to examine, hear and determine.
- (6) The District Court has exclusive jurisdiction to examine, hear and determine all matters arising in relation to coal miners, except matters under the 1987 Act, Part 5.
- (7) For subsection (4), references in this Act to the Commission are to be read as references to the District Court, to the extent the reference relates to a matter the District Court has jurisdiction to examine, hear and determine.

No. 10 **Entitlements during determination period**

Page 9, Schedule 2. Insert before line 9—

[1B] Section 280AD Entitlements during determination period

Omit “While” from section 280AD(1).

Insert instead “Subject to subsection (1A), while”.

[1C] Section 280AD(1A)

Insert after section 280AD(1)—

-
- (1A) If the interim entitlement payment calculated under subsection (1)(a) or (b) would be more than the maximum weekly compensation amount under the 1987 Act, section 34, the interim entitlement payment is the maximum weekly compensation amount.

[1D] Section 280AD(4)(a)

Omit “the worker’s PIAWE”.

Insert instead “the amount to which the worker would have been entitled under the 1987 Act, section 36”.

[1E] Section 280AH Industrial Relations Commission may determine whether conduct was relevant conduct

Omit section 280AH(1). Insert instead—

- (1) This section applies if, following a review under section 280AE(5), the insurer disputes a claim on the basis the conduct the subject of the claim was not relevant conduct, whether or not the insurer also disputes the claim on other grounds.

[1F] Section 280AH(2A)

Insert after section 280AH(2)—

- (2A) Subject to regulations made under subsection (7), a worker must not lodge an application with the Personal Injury Commission in relation to the claim before the Industrial Relations Commission has determined whether the conduct the subject of the claim was relevant conduct.

[1G] Section 280AH(3)(a) and (b)

Insert “about whether the conduct was relevant conduct” after “dispute” wherever occurring.

[1H] Section 280AH(7)

Insert after section 280AH(6)—

- (7) The regulations may provide for matters in relation to which the Personal Injury Commission has jurisdiction to examine, hear and determine disputes relating to relevant conduct, including the circumstances in which the Commission has jurisdiction to examine, hear and determine the disputes.