



New South Wales

Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025

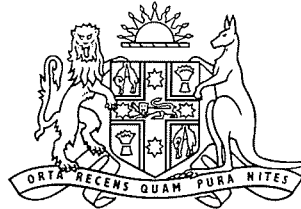
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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025

No , 2025

A Bill for

An Act to amend workers compensation legislation and related legislation to implement reforms to, and modernise the operation of, the workers compensation scheme; and for other purposes.

EXAMINED

Speaker

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

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025</i> .	3 4
2 Commencement	5
This Act commences as follows—	6
(a) for Schedules 1.1[1], [4], [9] and [12] and 2[2]—on 1 July 2026,	7
(b) for Schedules 1.1[2], [5], [10] and [13] and 2[3]—on 1 July 2027,	8
(c) for Schedules 1.1[3], [6], [11] and [14] and 2[4]—on 1 July 2029,	9
(d) otherwise—on a day or days to be appointed by proclamation.	10

Schedule 1	Amendment of Workers Compensation Act 1987	1
	No 70	2
1.1	Amendments relating to whole person impairment	3
[1]	Section 38 Weekly payments after second entitlement period (after week 130)	4
	Insert after section 38(8)—	5
	(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%.	6
	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%.	7
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		11
[2]	Section 38(9), as inserted by item [1]	12
	Omit “at least 25%” wherever occurring. Insert instead “more than 26%”.	13
[3]	Section 38(9), as inserted by item [1] and amended by item [2]	14
	Omit “more than 26%” wherever occurring. Insert instead “at least 28%”.	15
[4]	Section 39A	16
	Insert after section 39—	17
39A	Cessation of weekly payments after 130 weeks—primary psychological injuries	18
		19
	(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.	20
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	(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%.	25
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		27
	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.	28
		29
		30
	(3) For this section, the degree of permanent impairment that results from an injury must be assessed under—	31
		32
	(a) Part 6, or	33
	(b) the 1998 Act, Chapter 7, Part 7.	34
	(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.	35
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		38
[5]	Section 39A(2), as inserted by item [4]	39
	Omit “at least 25%” wherever occurring. Insert instead “more than 26%”.	40
[6]	Section 39A(2), as inserted by item [4] and amended by item [5]	41
	Omit “more than 26%” wherever occurring. Insert instead “at least 28%”.	42

[7] Section 59A(5)	1
Omit the subsection. Insert instead—	2
(5) This section does not apply to—	3
(a) for an injury other than a primary psychological injury—a worker with high needs, as defined in Division 2, or	4
(b) for a primary psychological injury—a worker with highest needs, as defined in Division 2.	5
[8] Section 65A(4)	6
Omit “(despite section 65(2))”.	7
[9] Section 151DA Time not to run for commencement of proceedings in certain cases	8
Omit section 151DA(1)(a). Insert instead—	9
(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—	10
(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,	11
(ii) whether the degree of permanent impairment of the injured worker is fully ascertainable, or	12
[10] Section 151DA(1)(a)(i), as inserted by item [9]	13
Omit the subparagraph. Insert instead—	14
(i) whether the degree of permanent impairment of the injured worker is—	15
(A) at least 15% for a physical injury, or	16
(B) more than 26% for a psychological injury,	17
[11] Section 151DA(1)(a)(i)(B), as inserted by item [10]	18
Omit “more than 26%”. Insert instead “at least 28%”.	19
[12] Section 151H	20
Omit the section. Insert instead—	21
151H No damages unless permanent impairment at certain threshold	22
(1) No damages may be awarded unless the injury results in—	23
(a) the death of the worker, or	24
(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).	25
Note— Part 6 provides for how the degree of permanent impairment is assessed.	26
(2) The threshold for the degree of permanent impairment is—	27
(a) at least 15% for a physical injury, and	28
(b) at least 25% for a psychological injury.	29
(3) In assessing whether the threshold has been met—	30

(a)	impairment resulting from physical injury must be assessed separately from impairment resulting from psychological injury, and	1 2
(b)	for assessing impairment resulting from psychological injury, no regard must be given to impairment that results from secondary psychological injury.	3 4 5
	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.	6 7 8
(4)	In assessing the degree of permanent impairment that results from a physical injury, no regard must be given to any impairment or symptoms arising from a psychological injury.	9 10 11
[13]	Section 151H(2)(b), as inserted by item [12]	12
	Omit “at least 25%”. Insert instead “more than 26%”.	13
[14]	Section 151H(2)(b), as inserted by item [12] and amended by item [13]	14
	Omit “more than 26%”. Insert instead “at least 28%”.	15
1.2	Amendments relating to interpretative and related provisions	16
	Section 8G Meaning of “relevant event”	17
	Insert after section 8G(c)—	18
(c1)	a worker experiencing the death of a person in the worker’s care, but only if—	19 20
(i)	the death is the result of a traumatic incident, and	21
(ii)	there is a real and direct connection between the traumatic incident and the worker’s employment, and	22 23
(iii)	the person who dies is under the immediate and primary care of the worker, at the workplace, at the time of the traumatic incident, and	24 25 26
(iv)	the relationship between the worker and the person who dies is pre-existing, ongoing and close, and	27 28
(v)	the relationship is a requirement of the worker’s employment, or	29
1.3	Amendment relating to savings and transitional provisions	30
	Schedule 6 Savings, transitional and other provisions	31
	Insert before Part 20, with appropriate part and clause numbering—	32
Part	Provisions consequent on Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025	33 34 35
	Definition	36
	In this part—	37
	<i>amendment Act</i> means the <i>Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2025</i> .	38 39

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,
- (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.

Existing claims for lump sum compensation for whole person impairment injuries

- (1) This clause applies to a worker who—
 - (a) notified an injury before the date of assent to the amendment Act, and
 - (b) makes a claim for lump sum compensation in relation to the injury before 1 July 2026.
- (2) Part 3, Division 4, as in force before the commencement of the whole person impairment amendments, applies to the worker's claim for lump sum compensation as if the whole person impairment amendments had not commenced.
- (3) In this clause—

claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

whole person impairment amendments means the amendments made to this Act by the amendment Act, Schedule 1.1[8].

Whole person impairment—at least 25%

The amendment to section 38 made by the amendment Act, Schedule 1.1[1], and section 39A as inserted by Schedule 1.1[4], apply only to a notification or claim for a primary psychological injury made on or after 1 July 2026.

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.

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.

Weekly payments after second entitlement period (after week 130)

The amendment to section 38 made by the amendment Act, Schedule 1.1[1] applies only to a primary psychological injury for which a notification or claim is made on or after 1 January 2027.

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.

Review by Chief Psychiatrist

- (1) The Chief Psychiatrist must conduct 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.
- (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 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 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.

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.

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.

Claims for work injury damages made before 1 January 2027

- (1) This clause applies if, before 1 January 2027, an injured worker—
 - (a) makes a claim for lump sum compensation for the injury, and
 - (b) serves a pre-filing statement for the injury.
- (2) Section 151H, as in force before the commencement of the amendment Act, Schedule 1.1[12], applies to the worker's injury.

Note— In the event of a dispute about a defective pre-filing statement served before 1 January 2027, if there is a finding in favour of the worker, the pre-filing statement is taken to have been served before 1 January 2027.
- (3) In this clause—

claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

Claims for work injury damages made before 1 January 2027—threshold dispute

- (1) This clause applies if, before 1 January 2027—
 - (a) an injured worker makes a claim for lump sum compensation for the injury, and
 - (b) a threshold dispute is lodged in the Commission in relation to the claim.
- (2) Section 151H, as in force before the commencement of the amendment Act, Schedule 1.1[12], applies to the worker's injury.
- (3) For the purposes of calculating when the injured worker must serve a pre-filing statement for the injury, any period during which the threshold dispute is unresolved must not be included.
- (4) In this clause—

claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

threshold dispute means—

 - (a) a medical dispute about whether the degree of impairment of the injured worker is at least 15%, or
 - (b) a medical dispute about whether the degree of permanent impairment of the injured worker is fully ascertainable, or
 - (c) an appeal in relation to an assessment under—
 - (i) Part 6, or
 - (ii) the 1998 Act, Chapter 7, Part 7.

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

[1] Section 105 Jurisdiction of Commission and Compensation Court

Insert after section 105(3)—

- (3A) Subsection (1) does not prevent the Industrial Relations Commission from dealing with an industrial matter referred to in the *Industrial Relations Act 1996*, section 6(2)(e1) relating to the return to work of an employee who has received a workplace injury.

[2] Section 314 What constitutes threshold dispute

Omit section 314(1)(a). Insert instead—

- (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—
- (i) for a physical injury—at least 15%, or
 - (ii) for a psychological injury—at least 25%, or

[3] Section 314(1)(a)(ii), as inserted by item [2]

Omit “at least 25%”. Insert instead “more than 26%”.

[4] Section 314(1)(a)(ii), as inserted by item [2] and amended by item [3]

Omit “more than 26%”. Insert instead “at least 28%”.

[5] Section 327 Appeal against medical assessment

Omit “principal assessment was made under the 1987 Act, Part 6” from section 327(3)(a).

Insert instead “medical assessment was made under this part”.

[6] Section 327(3A)

Omit “principal assessment” wherever occurring.

Insert instead “medical assessment”.

[7] Section 377 Special requirements relating to Workers Compensation Guidelines relating to impairment

Insert after section 377(3)—

- (4) This section does not apply to Workers Compensation Guidelines made under the 1987 Act, Part 6 to the extent the Guidelines are about the assessor or assessors for a principal assessment under that part.

Schedule 3 **Amendment of Personal Injury Commission Act 2020 No 18**

[1] **Section 58 Publication of decisions**

Omit “The” from section 58(1). Insert instead “Subject to section 58A, the”.

[2] **Section 58A**

Insert after section 58—

58A President may restrict disclosures about certain decisions

- (1) The President may make a relevant order if the President is satisfied it is desirable to make the order—
 - (a) because of the confidential nature of evidence or another matter, or
 - (b) for another reason.
- (2) A relevant order—
 - (a) may be made on the President’s own motion or on the application of a party to proceedings, and
 - (b) must be made in accordance with the Commission rules.
- (3) In this section—

relevant order means the following orders—

 - (a) an order prohibiting or restricting the publication or disclosure of details of a decision referred to in section 58(1),
 - (b) an order prohibiting or restricting the publication or disclosure of the following, whether or not the person is a party to proceedings in the Commission or a witness appearing before the Commission—
 - (i) a person’s name,
 - (ii) information, a picture or other material that identifies or is likely to lead to the identification of the person,
 - (c) an order prohibiting or restricting the publication or broadcast of a report, including a sound recording, video recording or transcript, of proceedings in the Commission,
 - (d) an order prohibiting or restricting the publication of evidence given before the Commission, whether in public or private, or of matters contained in documents lodged with the Commission or received in evidence by the Commission,
 - (e) an order prohibiting or restricting the disclosure of the following to some or all of the parties to the proceedings—
 - (i) evidence given before the Commission,
 - (ii) the contents of a document lodged with the Commission or received in evidence by the Commission in relation to the proceedings.

[3] **Section 69**

Insert after section 68—

69 Review of operation of section 58 in relation to workers compensation matters

- (1) The Minister must review the operation of section 58 in relation to workers compensation matters to determine whether—

- (a) the policy objectives of the section remain valid, and 1
 - (b) the terms of the section remain appropriate for achieving the objectives. 2
- (2) The review must be undertaken as soon as practicable after the 3
commencement of this section. 4
- (3) A report about the outcome of the review must be tabled in each House of 5
Parliament within 12 months after the commencement of this section. 6

Schedule 4	Amendment of Industrial Relations Act 1996 No 17	1
		2
Section 163	Rules of evidence and legal formality	3
Insert after section 163(2)—		4
(3)	The <i>Evidence Act 1995</i> , section 128 is taken to apply to evidence given in proceedings in the Commission, even when the Commission is not required to apply the rules of evidence in the proceedings.	5 6 7
(4)	If it appears to the Commission that a witness or party may have grounds for making an objection under the <i>Evidence Act 1995</i> , section 128, as applied by subsection (3), the Commission may satisfy itself that the witness or party is aware of the effect of that section.	8 9 10 11