



New South Wales

Workers Compensation Legislation Amendment (Costs) Bill 2012

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 repeal an uncommenced amendment to the *Workplace Injury Management and Workers Compensation Act 1998* that, if commenced, would remove the power of the Workers Compensation Commission to make cost orders in compensation claims and would provide that each party is to bear the party's own costs. The effect of the repeal is to restore the existing scheme for costs in compensation claims, under which the Commission may order costs but may not order costs against workers (except in cases of frivolous, vexatious or fraudulent proceedings).
- (b) To restore the existing scheme for costs in compensation claims (whether or not the uncommenced amendment has commenced), but with an amendment that requires any costs order made by the Commission to provide for costs to follow the event (i.e. costs are awarded to the successful party) and that provides that costs are not to be awarded against a worker unless the worker's compensation claim was without arguable merit.

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 on the date of assent to the proposed Act.

Clause 3 repeals Schedule 11 [11] of the *Workers Compensation Legislation Amendment Act 2012* to give effect to paragraph (a) of the Overview.

Schedule 1 amends the *Workplace Injury Management and Workers Compensation Act 1998* as described in paragraph (b) of the Overview.