



New South Wales

Workers Compensation Amendment Bill 2015

Explanatory note

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

The *State Insurance and Care Governance Bill 2015* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Workers Compensation Act 1987* (*the principal Act*) as follows:

- (a) the limitation on the payment of compensation for medical and related treatment and services (which currently applies to medical and related treatment and services provided more than 12 months after a worker's claim for compensation was made or weekly payments cease to be payable to the worker) will be changed as follows:
 - (i) the limitation will no longer apply to compensation in respect of crutches, artificial aids, home or vehicle modifications or secondary surgery,
 - (ii) the limitation will no longer apply to an injured worker with 21–30% permanent impairment,
 - (iii) the 12-month period in respect of which a worker remains eligible to claim the compensation will be extended to 2 years (for workers with 10% or less permanent impairment), or 5 years (for workers with 11–20% permanent impairment), after the claim was made or the weekly payments cease to be payable,
 - (iv) amendments will be made to clarify that the limitation period (referred to in subparagraph (iii)) in respect of a worker to whom weekly payments of compensation are payable commences when the worker's actual entitlement to weekly payments ceases,
- (b) the scheme for the payment of weekly compensation to injured workers during periods of incapacity will be changed as follows:

- (i) a worker who receives an injury before reaching retiring age will remain eligible for weekly payments of compensation (which currently terminate on retiring age) for a period of 12 months after reaching retiring age,
- (ii) an injured worker with work capacity and more than 20% permanent impairment will no longer be required to work for a minimum number of hours (currently 15 hours), and earn a minimum amount (currently \$176), per week to be eligible to receive weekly payments of compensation after a period of 130 weeks during which weekly payments have been paid or payable,
- (iii) the minimum amount of weekly compensation that an injured worker with more than 30% permanent impairment will be eligible to receive will be the amount of \$788.32 (being a combined total of compensation and earnings), to be indexed twice a year,
- (iv) regulations made under the principal Act will be able to vary the method of calculating a worker's pre-injury average weekly earnings for the purposes of determining the amount of weekly compensation payable to the worker,
- (v) an injured worker will be able to access paid legal advice in connection with certain reviews of work capacity decisions, in accordance with regulations made under the principal Act,
- (vi) a review of a work capacity decision will operate to stay the decision if the application for the review is made within 30 days after the worker is notified of the decision or of the outcome of any earlier review,
- (vii) amendments will be made to clarify the effect of a review of a work capacity decision on the period of notice required to be given by an insurer in respect of a discontinuation or reduction of an amount of weekly payments of compensation,
- (c) an injured worker who is unable to return to work with the worker's pre-injury employer will be eligible for compensation (to a maximum amount of \$1,000) for the cost of certain services and assistance provided to assist the worker in returning to work with a new employer,
- (d) an injured worker with more than 20% permanent impairment who has received weekly payments of compensation for more than 78 weeks will be eligible for compensation (to a maximum amount of \$8,000) for the cost of education or training provided to assist the worker in returning to work,
- (e) the amount of lump sum compensation payable to a worker for permanent impairment will be increased, and indexed once a year,
- (f) the amount of lump sum compensation payable in respect of the death of a worker will be increased from \$524,000 to \$750,000,
- (g) the maximum amount of compensation payable in respect of the funeral expenses of a deceased worker will be increased from \$9,000 to \$15,000,
- (h) other minor or consequential amendments will be made, including amendments of a savings or transitional nature.

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—death benefits

Schedule 1 [1] makes the amendment referred to in paragraph (f) of the Overview.

Schedule 1 [2] makes the amendment referred to in paragraph (g) of the Overview.

**Schedule 2 Amendment of Workers Compensation Act 1987
No 70—weekly payments of compensation**

Schedule 2 makes the amendments referred to in paragraph (b) of the Overview.

**Schedule 3 Amendment of Workers Compensation Act 1987
No 70—medical and related expenses**

Schedule 3 makes the amendments referred to in paragraph (a) of the Overview.

**Schedule 4 Amendment of Workers Compensation Act 1987
No 70—return to work assistance**

Schedule 4 makes the amendments referred to in paragraphs (c) and (d) of the Overview.

**Schedule 5 Amendment of Workers Compensation Act 1987
No 70—lump sum compensation**

Schedule 5 makes the amendments referred to in paragraph (e) of the Overview.

**Schedule 6 Amendment of Workers Compensation Act 1987
No 70—savings and transitional provisions**

Schedule 6 makes the amendments of a savings or transitional nature referred to in paragraph (h) of the Overview.