

LEGISLATIVE COUNCIL

**Workers Compensation Legislation Amendment Bill 2012**

**First Print**

**Proposed amendments**

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- No. 1 Page 3, Schedule 1.1 [2], proposed definitions of *base rate of pay* and *base rate of pay exclusion*, lines 12 and 13. Omit all words on those lines.
- No. 2 Page 3, Schedule 1.1 [2], proposed definition of *first entitlement period*, line 28. Omit “13 weeks”. Insert instead “26 weeks”.
- No. 3 Page 4, Schedule 1.1 [2], proposed definition of *non-pecuniary benefit*, line 1. Omit all words on that line.
- No. 4 Page 4, Schedule 1.1 [2], proposed definition of *second entitlement period*, line 8. Omit “117 weeks”. Insert instead “104 weeks”.
- No. 5 Page 4, Schedule 1.1 [2], proposed definition of *seriously injured worker*, line 15. Omit “30%”. Insert instead “15%”.
- No. 6 Page 4, Schedule 1.1 [2], proposed definition of *seriously injured worker*, line 22. Omit “30%”. Insert instead “15%”.
- No. 7 Page 4, Schedule 1.1 [2], proposed definition of *suitable employment*, line 40. Omit “specify, and”. Insert instead “specify.”.
- No. 8 Pages 4 and 5, Schedule 1.1 [2], proposed definition of *suitable employment*, line 41 on page 4 to line 8 on page 5. Omit all words on those lines.
- No. 9 Pages 5 and 6, Schedule 1.1 [3], proposed section 35 (1) (definitions of *D*, *E* and *MAX*) and proposed section 35 (2), line 33 on page 5 to line 13 on page 6. Omit all words on those lines.
- No. 10 Page 6, Schedule 1.1 [3], proposed section 36, line 14. Omit “13 weeks”. Insert instead “26 weeks”.
- No. 11 Page 6, Schedule 1.1 [3], proposed section 36 (1), lines 17–20. Omit all words on those lines. Insert instead “entitlement period is to be at the rate of AWE.”.
- No. 12 Page 6, Schedule 1.1 [3], proposed section 36 (2), lines 23–26. Omit all words on those lines. Insert instead “entitlement period is to be at the rate of AWE.”.
- No. 13 Page 6, Schedule 1.1 [3], proposed section 37, line 27. Omit “weeks 14–130”. Insert instead “weeks 27–130”.

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- No. 14 Page 6, Schedule 1.1 [3], proposed section 37 (1), lines 30–33. Omit all words on those lines. Insert instead “entitlement period is to be at the rate of AWE x 90%.”.
- No. 15 Pages 6 and 7, Schedule 1.1 [3], proposed section 37 (2), line 37 on page 6 to line 3 on page 7. Omit all words on those lines. Insert instead “entitlement period is to be at the rate of AWE.”.
- No. 16 Page 7, Schedule 1.1 [3], proposed section 37 (3), lines 7–11. Omit all words on those lines. Insert instead “entitled during the second entitlement period is to be at the rate of AWE x 90%.”.
- No. 17 Page 8, Schedule 1.1 [3], proposed section 38 (6), lines 16–19. Omit all words on those lines. Insert instead “the second entitlement period is to be at the rate of AWE x 90%.”.
- No. 18 Page 8, Schedule 1.1 [3], proposed section 38 (7), lines 22–25. Omit all words on those lines. Insert instead “after the second entitlement period is to be at the rate of AWE x 90%.”.
- No. 19 Pages 8 and 9, Schedule 1.1 [3], proposed section 39, line 28 on page 8 to line 4 on page 9. Omit all words on those lines.
- No. 20 Page 11, Schedule 1.1 [3], proposed section 43 (2), line 21. Omit “Act.”. Insert instead:
- Act,
- (c) a decision as to whether an employer has at the request of an injured worker provided suitable employment for the worker.
- No. 21 Page 11, Schedule 1.1 [3], proposed section 43 (3), lines 22–25. Omit all words on those lines.
- No. 22 Page 11, Schedule 1.1 [3], proposed section 44 (1), line 40. Omit “Authority.”. Insert instead:
- Authority, or
- (d) by the Commission (as a merit review of the decision), but not until the dispute has been the subject of internal review by the insurer.
- No. 23 Page 12, Schedule 1.1 [3], proposed section 44 (2), line 5. Insert “the Commission,” before “the Authority”.
- No. 24 Page 12, Schedule 1.1 [3], proposed section 44 (3) (h), line 40. Omit “are not binding on the insurer or the Authority”. Insert instead “are binding on, and must be given effect to by, the insurer and the Authority”.
- No. 25 Page 12, Schedule 1.1 [3], proposed section 44. Insert after line 40:
- (4) The following provisions apply to the review of a work capacity decision when the reviewer is the Commission:
- (a) an application for review must be made within 30 days after the worker receives notice of the Independent Review Officer’s decision on a review,
- (b) an application for review by the Commission may be made without a review by the Independent Review Officer if the Independent Review Officer has failed to conduct a review and notify the worker of the decision on the review within 30 days after the application for review is made,

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- (c) the Commission may decline to review a decision because the application for review is frivolous or vexatious or because the worker has failed to provide information requested by the Commission,
- (d) the worker and the insurer must provide such information as the Commission may reasonably require and request for the purposes of the review,
- (e) the Commission is to notify the insurer, the worker and the Authority of the findings of the review and may make recommendations to the insurer based on those findings (giving reasons for any such recommendation),
- (f) recommendations made by the Commission are binding on the insurer and must be given effect to by the insurer.
- No. 26 Page 13, Schedule 1.1 [3], proposed section 44 (4), lines 1–3. Omit all words on those lines. Insert instead:
- (4) A review of a work capacity decision operates to stay the decision and prevents the taking of action based on the decision until the review is completed.
- No. 27 Page 13, Schedule 1.1 [3], proposed section 44 (5), line 4. Omit “is not to”. Insert instead “may”.
- No. 28 Page 13, Schedule 1.1 [3], proposed section 44 (6), lines 9–12. Omit all words on those lines.
- No. 29 Page 13, Schedule 1.1 [3], proposed section 44A (6), lines 32–35. Omit all words on those lines.
- No. 30 Page 15, Schedule 1.1 [3], proposed section 44C (1) (b), lines 10–12. Omit “(but only for the purposes of the calculation of weekly payments payable in the first 52 weeks for which weekly payments are payable)”.
- No. 31 Page 15, Schedule 1.1 [3], proposed section 44C (2) (b), lines 23–25. Omit “(but only for the purposes of the calculation of weekly payments payable in the first 52 weeks for which weekly payments are payable)”.
- No. 32 Page 16, Schedule 1.1 [3], proposed section 44C (3) (e), lines 4–6. Omit “(but only for the purposes of the calculation of weekly payments payable in the first 52 weeks for which weekly payments are payable)”.
- No. 33 Page 16, Schedule 1.1 [3], proposed section 44C (5), lines 13–15. Omit “(but only for the purposes of the calculation of weekly payments payable in the first 52 weeks for which weekly payments are payable)”.
- No. 34 Pages 18 and 19, Schedule 1.1 [3], proposed section 44F, line 14 on page 18 to line 12 on page 19. Omit all words on those lines.
- No. 35 Page 19, Schedule 1.1 [3], proposed section 44G, lines 13–34. Omit all words on those lines.
- No. 36 Page 33, Schedule 1.2 [8], lines 10–16. Omit all words on those lines.
- No. 37 Pages 3–28, Schedule 1.1, line 3 on page 3 to the last line on page 28. Omit all words on those lines.
- No. 38 Page 31, Schedule 1.2 [7], lines 33–35. Omit all words on those lines. Insert instead:  
*inspector* means:
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- (a) a member of staff who is an inspector for the purposes of section 238 (Powers of entry and inspection by officers of Authority), and
- (b) a health and safety representative under the *Work Health and Safety Act 2011* who is authorised to issue provisional improvement notices under Part 5 of that Act.
- No. 39 Page 34, Schedule 2.1 [1]–[3], lines 4–10. Omit all words on those lines.
- No. 40 Page 34, Schedule 2.1 [4], lines 12 and 13. Omit all words on those lines. Insert instead “Omit the subsection.”.
- No. 41 Page 34, Schedule 2.1 [5], lines 14–26. Omit all words on those lines.
- No. 42 Pages 34 and 35, Schedule 2.1 [6]–[8], line 27 on page 34 to line 8 on page 35. Omit all words on those lines.
- No. 43 Pages 35 and 36, Schedule 2.1 [10]–[17], line 16 on page 35 to line 4 on page 36. Omit all words on those lines.
- No. 44 Page 36, Schedule 2.2 [1] and [2], lines 7–11. Omit all words on those lines.
- No. 45 Page 37, Schedule 2.2 [4], proposed section 322A (3), lines 1–5. Omit all words on those lines.
- No. 46 Page 37, Schedule 2.3, lines 8–16. Omit all words on those lines.
- No. 47 Pages 34–37, Schedule 2. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 48 Page 38, Schedule 3. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 49 Page 39, Schedule 4 [1], proposed section 59A. Insert after line 24:
- (5) This section does not apply to treatment comprising the provision, replacement, maintenance or repair of any prosthesis (including crutches, artificial members, eyes or teeth and other artificial aids or spectacles).
- No. 50 Pages 39–41, Schedule 4. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 51 Page 42, Schedule 5. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 52 Pages 43 and 44, Schedule 6. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 53 Page 45, Schedule 7. [**Vote “No” to the Question that the Schedule as read stand part of the Bill**].
- No. 54 Page 47, Schedule 8 [3], lines 1–7. Omit all words on those lines.
- No. 55 Page 59, Schedule 11 [11], lines 21–27. Omit all words on those lines.
- No. 56 Pages 60 and 61, Schedule 12 [1], line 9 on page 60 to line 26 on page 61. Omit all words on those lines. Insert instead:

### **1 Application of 2012 amendments**

An amendment made by the *Workers Compensation Legislation Amendment Act 2012* (referred to in this Part as the **2012**)

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*amending Act*) does not apply to or in respect of an injury received before the commencement of the amendment.

- No. 57 Page 61, Schedule 12 [1], line 27. Omit “**benefits**”.
- No. 58 Page 61, Schedule 12 [1], line 29. Omit “The benefits amendments do”. Insert instead “An amendment made by the 2012 amending Act does”.
- No. 59 Page 61, Schedule 12 [1], lines 34 and 35. Omit “the benefits amendments”. Insert instead “the 2012 amending Act”.
- No. 60 Pages 61–67, Schedule 12 [1], line 36 on page 61 to line 4 on page 67. Omit all words on those lines.
- No. 61 Page 67, Schedule 12 [1], line 22. Omit “benefits amendments”. Insert instead “amendments made by the 2012 amending Act”.
- No. 62 Page 67, Schedule 12 [1], line 29. Omit “benefits amendments”. Insert instead “amendments made by the 2012 amending Act”.