

1992—No. 135

WORKERS COMPENSATION ACT 1937—REGULATION

(Relating to certain weekly benefits payable in respect of total incapacity)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Workers Compensation Act 1987, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY
Minister for Industrial Relations,
Minister for Further Education,
Training and Employment.

Citation

1. This Regulation may be cited as the Workers Compensation (Savings and Transitional) Regulation 1992.

Authority

2. This Regulation is made in pursuance of Part 20 of Schedule 6 to the Act.

Definition

3. In this Regulation, “**the Act**” means the Workers Compensation Act 1987.

Post-26 week payments covered by the former Act not affected by the Workers Compensation (Benefits) Amendment Act 1991

4. (1) This clause applies to a period of incapacity for work occurring after the date of commencement of the Workers Compensation (Benefits) Amendment Act 1991:

- (a) if the incapacity results from an injury received before the commencement of Division 2 of Part 3 of the Act; or
- (b) if the period of incapacity is one referred to in Part 18 of Schedule 6 to the Act.

(2) For the purpose of determining the weekly payment of compensation in respect of a period of incapacity to which this clause applies (whether clause 4 or 5 of Part 4 of Schedule 6 to the Act applies to the case), section 37 of the Act applies:

- (a) as if the amount of \$235.20 in section 37 (a) (i) were \$196.00; and
- (b) as if the amount of \$187.10 in section 37 (1) (a) (ii) were \$155.90; and
- (c) as if the amount of \$170.00 in section 37 (1) (a) (iii) were \$141.60 and the amount of \$153.00 in that section were \$127.50.

(3) Division 6 of Part 3 of the Act applies as if the amounts of:

- (a) \$196.00; and
- (b) \$155.90; and
- (c) \$141.60 and \$127.50,

were adjustable amounts.

(4) This clause has effect despite clause 4 and 5 of Part 4 and clause 1 (1) of Part 18 of Schedule 6 to the Act.

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EXPLANATORY NOTE

Payments to workers whose period of incapacity results from an injury received before the commencement of the Workers Compensation Act 1987 are regulated by Part 4 of Schedule 6 (Savings, Transitional and Other Provisions) to that Act. (Certain coal miners are also brought within the ambit of that Part by Part 18 of the Schedule.) Part 4 provides that the workers concerned are to be compensated at the rates fixed under the Workers Compensation Act 1926 (as adjusted by indexation).

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The Workers Compensation (Benefits) Amendment Act 1991 increased benefits, including the weekly benefit payable to a totally incapacitated worker under section 37 (Weekly payment during total incapacity—after first 26 weeks) of the Workers Compensation Act 1987. The increased benefits apply generally to workers injured after the commencement of the Workers Compensation Act 1987.

The object of this Regulation is to make it clear that those increased benefits do not apply to weekly payments for total incapacity for injured workers without dependents as well as for injured workers with dependents, where the workers were injured before the commencement of the Workers Compensation Act 1987 and are compensated in accordance with the transitional arrangements described above.
