



New South Wales

Workers Compensation Amendment (Existing Claims) Regulation 2015

under the

Workers Compensation Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

VICTOR DOMINELLO, MP
Minister for Innovation and Better Regulation

Explanatory note

The object of this Regulation is to make transitional arrangements consequent on the enactment of the *Workers Compensation Amendment Act 2015* with respect to:

- (a) the removal of certain caps on the amounts of compensation payable to certain injured workers in respect of certain medical and related treatments and services, and the removal of the requirement to obtain prior approval for those treatments and services, and
- (b) the continued effect of certain certificates of capacity, and
- (c) increases in lump sum compensation for permanent impairment.

This Regulation is made under the *Workers Compensation Act 1987*, including section 280 (the general regulation-making power) and Parts 19I and 20 of Schedule 6.

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1 Name of Regulation

This Regulation is the *Workers Compensation Amendment (Existing Claims) Regulation 2015*.

2 Commencement

This Regulation commences on 16 October 2015 and is required to be published on the NSW legislation website.

Schedule 1 **Amendment of Workers Compensation Regulation 2010**

Schedule 8 Savings and transitional provisions

Insert at the end of the Schedule:

Part 3 Workers Compensation Amendment Act 2015

Note. Consequent on the amendment made to section 52 of the 1987 Act by the 2015 amending Act, certain workers who were injured before reaching the retiring age (and who reached the retiring age during the period commencing on 1 October 2012 and ending on 15 October 2015) may be eligible for weekly payments of compensation after the day on which they reached the retiring age. As a result of this extension of eligibility for weekly payments of compensation, the period during which certain workers are eligible for compensation for medical and related expenses may also be extended. See section 59A of the 1987 Act for the effect of weekly payments of compensation on eligibility for compensation for medical and related expenses.

32 Interpretation

- (1) In this Part:
 - retirement period*, in relation to a worker who reached the retiring age during the transition period, means the period commencing on the day immediately following the day on which the worker reached the retiring age and ending on 15 October 2015 (inclusive).
 - retiring age* has the same meaning as in section 52 of the 1987 Act.
 - transition period* means the period commencing on 1 October 2012 and ending on 15 October 2015 (inclusive).
- (2) A worker is a *retiring-age worker* for the purposes of this Part if:
 - (a) the worker received an injury before reaching the retiring age, and
 - (b) the worker reached the retiring age during the transition period, and
 - (c) weekly payments of compensation are payable to the worker under Division 2 of Part 3 of the 1987 Act, as amended by the 2015 amending Act, in respect of any period of incapacity occurring during the retirement period.
- (3) Words and expressions used in this Part have the same meaning as in Part 19I of Schedule 6 to the 1987 Act.
- (4) The provisions of the 1987 Act, including Part 19I of Schedule 6 to that Act, are deemed to be amended to the extent necessary to give effect to this Part.

33 Medical and related expenses

- (1) The following provisions of the 1987 Act do not apply with respect to any exempt medical treatment:
 - (a) section 60 (2A) (a),
 - (b) sections 61 (2), 62 (1) and 63A (2).
- (2) However, this clause does not affect the operation of section 60A of the 1987 Act.
- (3) In this clause, *exempt medical treatment* means any treatment, service or assistance referred to in Division 3 of Part 3 of the 1987 Act in respect of which compensation has become payable to a retiring-age worker under that Division by reason of the amendment made to section 52 of the 1987 Act by the 2015 amending Act.

34 Certificates of capacity

A certificate of capacity provided under section 44B of the 1987 Act may relate to a period that is more than 90 days before the certificate is provided if:

- (a) the worker to whom the certificate relates is a retiring-age worker, and
- (b) the period to which the certificate relates occurred wholly during the retirement period.

35 Lump sum compensation

The amendments made to section 66 of the 1987 Act by the 2015 amending Act extend to an injury received by a worker on or after 5 August 2015.