



New South Wales

Workers Compensation Amendment (Transitional Arrangements for Weekly Payments) Regulation 2016

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 further transitional arrangements in respect of the application of certain amendments made by the *Workers Compensation Legislation Amendment Act 2012* to injured workers receiving weekly payments of workers compensation immediately before 1 October 2012. Those amendments limited the entitlement to weekly payments of compensation to an aggregate period of 260 weeks (except in the case of workers assessed as having more than 20% permanent impairment) and provided that an injured worker may have only one assessment of permanent impairment. The Regulation provides that:

- (a) the 260-week limit on entitlement to weekly payments of compensation does not apply to certain injured workers whose degree of permanent impairment has not been assessed or has been determined by an insurer to be more than 20%, and
- (b) an injured worker whose degree of permanent impairment has been assessed may have one further assessment of permanent impairment for the purposes of determining the worker's entitlement to benefits under the *Workers Compensation Act 1987*.

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

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1 Name of Regulation

This Regulation is the *Workers Compensation Amendment (Transitional Arrangements for Weekly Payments) Regulation 2016*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Workers Compensation Regulation 2016

Schedule 8, Part 2A

Insert after Part 2:

Part 2A Special provisions for existing recipients of weekly payments—2012 amendments

28A Interpretation

- (1) Words and expressions used in this Part have the same meaning as in Part 19H of Schedule 6 to the 1987 Act.
- (2) The following provisions are deemed to be amended to the extent necessary to give effect to this Part:
 - (a) section 39 of the 1987 Act,
 - (b) Part 19H of Schedule 6 to the 1987 Act,
 - (c) section 322A of the 1998 Act.

28B Application and operation of Part

- (1) This Part takes effect on and from 1 October 2012.
- (2) This Part applies to an injured worker who is an existing recipient of weekly payments.

28C 5 year limit on weekly payments

Section 39 of the 1987 Act (as substituted by the 2012 amending Act) does not apply to an injured worker if the worker's injury has resulted in permanent impairment and:

- (a) an assessment of the degree of permanent impairment for the purposes of the Workers Compensation Acts is pending and has not been made because an approved medical specialist has declined to make the assessment on the basis that maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, or
- (b) the insurer is satisfied that the degree of permanent impairment is likely to be more than 20% (whether or not the degree of permanent impairment has previously been assessed).

28D Further permanent impairment assessments

- (1) This clause applies to an injured worker if the degree of permanent impairment resulting from the worker's injury is or has been assessed for the purposes of the Workers Compensation Acts.
- (2) Section 322A of the 1998 Act does not operate to prevent a further assessment being made of the degree of permanent impairment resulting from the worker's injury for the purposes of Part 3 of the 1987 Act.
- (3) However, only one further assessment may be made of the degree of permanent impairment resulting from the worker's injury.