



New South Wales

Workers Compensation Amendment (Lump Sum Compensation) Bill 2015

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Workers Compensation Act 1987* (**the 1987 Act**) to enable certain workers to make more than one claim for lump sum compensation for permanent impairment in respect of an injury following the decision of the NSW Court of Appeal in *Cram Fluid Power Pty Ltd v Green* [2015] NSWCA 250.

That decision considered the effect of a provision of the 1987 Act (inserted by the *Workers Compensation Legislation Amendment Act 2012* (**the 2012 amending Act**)) which restricts the making of claims for lump sum compensation to a single claim in respect of the permanent impairment that results from an injury. The Court of Appeal held that the provision extended to a claim for deterioration of an injury in respect of which a claim for lump sum compensation for permanent impairment had been made before 19 June 2012 (the date on which the Bill for the 2012 amending Act was introduced into the Legislative Assembly). The Bill reverses the decision to the extent necessary to enable a worker who made a claim for lump sum compensation in respect of an injury before 19 June 2012 to make further claims for lump sum compensation in respect of the same injury.

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 on the date of assent to the proposed Act.

**Schedule 1 Amendment of Workers Compensation Act 1987
No 70**

The Schedule makes the amendment referred to in the Overview.

**Schedule 2 Amendment of Workers Compensation
Regulation 2010**

The Schedule makes consequential amendments to the *Workers Compensation Regulation 2010*.



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The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Workers Compensation Amendment (Lump Sum Compensation) Act 2015*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Amendment of Workers Compensation Act 1987	1
	No 70	2
Schedule 6 Savings, transitional and other provisions		3
Insert at the end of clause 15 of Part 19H of the Schedule:		4
(2)	However, section 66 (1A) of the 1987 Act (as inserted by the 2012 amending Act) does not apply to a lump sum compensation claim made on or after 19 June 2012 in respect of an existing injury (a <i>deterioration claim</i>).	5 6 7
(3)	Accordingly, on and from the commencement of subclause (2):	8
(a)	a deterioration claim made, and not withdrawn or finally determined, before that commencement is to continue and be dealt with as if section 66 (1A) of the 1987 Act had never been enacted, and	9 10 11
(b)	a further deterioration claim may be made in respect of an existing injury for which a deterioration claim was made, and withdrawn or finally determined, before that commencement.	12 13 14
(4)	In this clause:	15
	<i>existing injury</i> means an injury in respect of which a lump sum compensation claim was made before 19 June 2012.	16 17
	<i>lump sum compensation claim</i> means a claim specifically seeking compensation under section 66 of the 1987 Act.	18 19

Schedule 2	Amendment of Workers Compensation Regulation 2010	1
		2
[1] Schedule 8 Savings and transitional provisions		3
Omit “66 or” from clause 11 (1).		4
[2] Schedule 8, clause 11 (2)		5
Omit “Clause 15”. Insert instead “Clause 15 (1)”.		6
[3] Schedule 8, clause 11 (3)		7
Insert after clause 11 (2):		8
(3) However, subclause (1) does not affect the operation of clause 15 (2) and (3) of Part 19H of Schedule 6 to the 1987 Act.		9
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