



New South Wales

Workers Compensation Amendment Bill 2015

Explanatory note

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

The *State Insurance and Care Governance Bill 2015* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Workers Compensation Act 1987* (*the principal Act*) as follows:

- (a) the limitation on the payment of compensation for medical and related treatment and services (which currently applies to medical and related treatment and services provided more than 12 months after a worker's claim for compensation was made or weekly payments cease to be payable to the worker) will be changed as follows:
 - (i) the limitation will no longer apply to compensation in respect of crutches, artificial aids, home or vehicle modifications or secondary surgery,
 - (ii) the limitation will no longer apply to an injured worker with 21–30% permanent impairment,
 - (iii) the 12-month period in respect of which a worker remains eligible to claim the compensation will be extended to 2 years (for workers with 10% or less permanent impairment), or 5 years (for workers with 11–20% permanent impairment), after the claim was made or the weekly payments cease to be payable,
 - (iv) amendments will be made to clarify that the limitation period (referred to in subparagraph (iii)) in respect of a worker to whom weekly payments of compensation are payable commences when the worker's actual entitlement to weekly payments ceases,
- (b) the scheme for the payment of weekly compensation to injured workers during periods of incapacity will be changed as follows:

- (i) a worker who receives an injury before reaching retiring age will remain eligible for weekly payments of compensation (which currently terminate on retiring age) for a period of 12 months after reaching retiring age,
 - (ii) an injured worker with work capacity and more than 20% permanent impairment will no longer be required to work for a minimum number of hours (currently 15 hours), and earn a minimum amount (currently \$176), per week to be eligible to receive weekly payments of compensation after a period of 130 weeks during which weekly payments have been paid or payable,
 - (iii) the minimum amount of weekly compensation that an injured worker with more than 30% permanent impairment will be eligible to receive will be the amount of \$788.32 (being a combined total of compensation and earnings), to be indexed twice a year,
 - (iv) regulations made under the principal Act will be able to vary the method of calculating a worker's pre-injury average weekly earnings for the purposes of determining the amount of weekly compensation payable to the worker,
 - (v) an injured worker will be able to access paid legal advice in connection with certain reviews of work capacity decisions, in accordance with regulations made under the principal Act,
 - (vi) a review of a work capacity decision will operate to stay the decision if the application for the review is made within 30 days after the worker is notified of the decision or of the outcome of any earlier review,
 - (vii) amendments will be made to clarify the effect of a review of a work capacity decision on the period of notice required to be given by an insurer in respect of a discontinuation or reduction of an amount of weekly payments of compensation,
- (c) an injured worker who is unable to return to work with the worker's pre-injury employer will be eligible for compensation (to a maximum amount of \$1,000) for the cost of certain services and assistance provided to assist the worker in returning to work with a new employer,
 - (d) an injured worker with more than 20% permanent impairment who has received weekly payments of compensation for more than 78 weeks will be eligible for compensation (to a maximum amount of \$8,000) for the cost of education or training provided to assist the worker in returning to work,
 - (e) the amount of lump sum compensation payable to a worker for permanent impairment will be increased, and indexed once a year,
 - (f) the amount of lump sum compensation payable in respect of the death of a worker will be increased from \$524,000 to \$750,000,
 - (g) the maximum amount of compensation payable in respect of the funeral expenses of a deceased worker will be increased from \$9,000 to \$15,000,
 - (h) other minor or consequential amendments will be made, including amendments of a savings or transitional nature.

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.

Schedule 1 Amendment of Workers Compensation Act 1987 No 70—death benefits

Schedule 1 [1] makes the amendment referred to in paragraph (f) of the Overview.

Schedule 1 [2] makes the amendment referred to in paragraph (g) of the Overview.

**Schedule 2 Amendment of Workers Compensation Act 1987
No 70—weekly payments of compensation**

Schedule 2 makes the amendments referred to in paragraph (b) of the Overview.

**Schedule 3 Amendment of Workers Compensation Act 1987
No 70—medical and related expenses**

Schedule 3 makes the amendments referred to in paragraph (a) of the Overview.

**Schedule 4 Amendment of Workers Compensation Act 1987
No 70—return to work assistance**

Schedule 4 makes the amendments referred to in paragraphs (c) and (d) of the Overview.

**Schedule 5 Amendment of Workers Compensation Act 1987
No 70—lump sum compensation**

Schedule 5 makes the amendments referred to in paragraph (e) of the Overview.

**Schedule 6 Amendment of Workers Compensation Act 1987
No 70—savings and transitional provisions**

Schedule 6 makes the amendments of a savings or transitional nature referred to in paragraph (h) of the Overview.



New South Wales

Workers Compensation Amendment Bill 2015

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New South Wales

Workers Compensation Amendment Bill 2015

No. , 2015

A Bill for

An Act to amend the *Workers Compensation Act 1987* to make further provision with respect to the reform of the NSW workers compensation scheme.

See also the *State Insurance and Care Governance Bill 2015*.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Workers Compensation Amendment Act 2015</i> .	3
2 Commencement	4
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).	5 6
(2) The following provisions of this Act commence on the date of assent to this Act:	7
(a) Schedule 2 [1],	8
(b) Schedule 3 [1]–[3],	9
(c) Schedule 6.	10

Schedule 1	Amendment of Workers Compensation Act 1987	1
	No 70—death benefits	2
[1]	Section 25 Death of worker leaving dependants	3
	Omit “\$425,000” from section 25 (1) (a). Insert instead “\$750,000”.	4
[2]	Section 26 Funeral expenses	5
	Omit “\$9,000”. Insert instead “\$15,000”.	6

Schedule 2	Amendment of Workers Compensation Act 1987	1
	No 70—weekly payments of compensation	2
[1] Section 32A Definitions		3
	Omit paragraph (b) of the definition of <i>seriously injured worker</i> . Insert instead:	4
	(b) an assessment of the degree of permanent impairment 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	5 6 7 8 9
	Note. Paragraph (b) no longer applies once the degree of permanent impairment has been assessed.	10 11
[2] Section 32A, definition of “seriously injured worker”		12
	Omit “ <i>seriously injured worker</i> ” from the definition.	13
	Insert instead “ <i>worker with highest needs</i> ”, and transfer the definition to the end of the section.	14 15
[3] Section 32A, definition of “worker with high needs”		16
	Insert in alphabetical order:	17
	<i>worker with high needs</i> means a worker whose injury has resulted in permanent impairment and:	18 19
	(a) the degree of permanent impairment has been assessed for the purposes of Division 4 to be more than 20%, or	20 21
	(b) an assessment of the degree of permanent impairment 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	22 23 24 25 26
	Note. Paragraph (b) no longer applies once the degree of permanent impairment has been assessed.	27 28
	(c) the insurer is satisfied that the degree of permanent impairment is likely to be more than 20%, and includes a worker with highest needs.	29 30 31
[4] Section 38 Special requirements for continuation of weekly payments after second entitlement period (after week 130)		32 33
	Insert “(other than a worker with high needs)” after “A worker” in section 38 (3).	34
[5] Section 38 (3A)		35
	Insert after section 38 (3):	36
	(3A) A worker with high needs who is assessed by the insurer as having current work capacity is entitled to compensation after the second entitlement period only if the worker has applied to the insurer in writing (in the form approved by the Authority) no earlier than 52 weeks before the end of the second entitlement period for continuation of weekly payments after the second entitlement period.	37 38 39 40 41 42

[6] Sections 38 (5) and 44A (4)	1
Omit “seriously injured worker” wherever occurring.	2
Insert instead “worker with highest needs”.	3
[7] Section 38A	4
Insert after section 38:	5
38A Special provision for workers with highest needs	6
(1) If the determination of the amount of weekly payments of compensation payable to a worker with highest needs in accordance with this Subdivision results in an amount that is less than \$788.32, the amount is to be treated as \$788.32.	7 8 9 10
(2) If the amount specified in subsection (1) is varied by operation of Division 6A, a weekly payment of compensation payable to a worker with highest needs before the date on which the variation takes effect is, for any period of incapacity occurring on and after that date, to be determined by reference to that amount as so varied.	11 12 13 14 15
[8] Section 43 Work capacity decisions by insurers	16
Omit “section 44” from section 43 (1). Insert instead “section 44BB”.	17
[9] Section 44 Review of work capacity decisions	18
Omit “(an <i>internal review</i>)” from section 44 (1) (a).	19
[10] Section 44 (2A)	20
Insert after section 44 (2):	21
(2A) The insurer is to notify the worker of the decision on an internal review as soon as practicable after the review is conducted.	22 23
[11] Section 44 (4) and (6)	24
Omit the subsections.	25
[12] Section 44 (5)	26
Omit “the subject of a review under this section” Insert instead “stayed”.	27
[13] Section 44	28
Transfer section 44 (renumbered as section 44BB) to Subdivision 3A of Division 2 of Part 3 (as inserted by item [14]) and insert it after section 44BA.	29 30
[14] Part 3, Division 2, Subdivision 3A	31
Insert after section 44B:	32
Subdivision 3A Review of work capacity decisions	33
44BA Definitions	34
In this Subdivision:	35
<i>internal review</i> means a review by an insurer under section 44BB.	36
<i>original decision</i> means a work capacity decision that is the subject of a review under section 44BB.	37 38

required period of notice, in relation to the discontinuation of payment of compensation to a worker, or the reduction of the amount of compensation payable to the worker, means the required period of notice for the purposes of section 54 with respect to the discontinuation or reduction.

review decision means a work capacity decision made by an insurer as a result of a review under section 44BB.

44BC Stay of work capacity decisions

(1) A review of a work capacity decision in respect of a worker operates to stay the decision that is the subject of the review and prevents the taking of action by an insurer based on the decision while the decision is stayed.

(2) However, a review operates to stay the decision that is the subject of the review only if the application for review is made by the worker within 30 days after the day on which the worker is notified (or required under section 44BB to be notified) of:

(a) the work capacity decision to be reviewed (in the case of an application for internal review), or

(b) the decision on the internal review (in the case of an application for review by the Authority), or

(c) the findings of the merit review (in the case of an application for review by the Independent Review Officer).

(3) A stay operates from the time the application for review is made until the worker is notified of the findings of the review (or the application for review is withdrawn).

Note. After a stay is lifted, weekly payments of compensation must not be discontinued or reduced in accordance with the original decision (or any decision resulting from the review of that decision) until the required period of notice under section 54 has expired. See sections 44BD and 44BE for the effect of a review on that notice period.

(4) A stay of an original decision to discontinue, or reduce an amount of, compensation does not operate to extend the required period of notice with respect to the discontinuation or reduction.

Note. In some circumstances, a new period of notice will commence when a worker is notified of a discontinuation or reduction resulting from a review. See section 44BD.

44BD Effect of review decision on notice period

(1) In the application of section 54 to a discontinuation, or reduction of the amount, of payments of compensation as a result of a review decision (whether or not the review decision is less favourable to the worker than the original decision):

(a) no regard is to be had to any period of notice given to the worker in respect of any discontinuation or reduction before the date on which the worker is notified of the review decision, and

(b) the required period of notice commences on that date.

(2) This section does not apply to a discontinuation or reduction as a result of a review decision that affirms an original decision with respect to the discontinuation or reduction.

Note. See section 44BE for the effect of the affirmation of an original decision on the required period of notice.

44BE	Effect of affirmation or withdrawal on notice period	1
(1)	The required period of notice with respect to a discontinuation or reduction of compensation is not affected by:	2
		3
(a)	a review decision that affirms an original decision with respect to the discontinuation or reduction, or	4
		5
(b)	the withdrawal of an application for review under section 44BB of the original decision with respect to the discontinuation or reduction.	6
		7
(2)	Accordingly, the original decision (and any affirming review decision) takes effect on the later of:	8
		9
(a)	the date on which the worker is notified of the review decision, or withdraws the application for review, or	10
		11
(b)	the date on which the required period of notice in respect of the discontinuation or reduction to which the original decision relates expires.	12
		13
		14
44BF	Legal costs	15
(1)	A legal practitioner is not entitled to be paid or recover any amount for a legal service provided to a worker or an insurer in connection with a review if:	16
		17
(a)	the review is of a prescribed class, or	18
(b)	the regulations do not fix any maximum costs for providing the legal service to the worker or insurer in connection with the review.	19
		20
(2)	Despite section 341 of the 1998 Act, the regulations may provide that, in prescribed circumstances, a party to a review under this Subdivision (other than an internal review) is to bear the other party's costs in connection with the review.	21
		22
		23
		24
[15]	Section 52 Termination of weekly payments on retiring age	25
	Insert "first anniversary of the" after "after the" in section 52 (2) (a).	26
[16]	Section 54 Notice required before termination or reduction of payment of weekly compensation	27
	Insert at the end of the section:	28
		29
	Note. See sections 44BD and 44BE for the effect of a review under section 44BB on the required period of notice.	30
		31
[17]	Section 58A	32
	Insert after section 58:	33
58A	Regulations	34
	The regulations may make provision for or with respect to the following:	35
(a)	varying the method by which pre-injury average weekly earnings are to be calculated under this Subdivision in respect of a worker or class of workers,	36
		37
		38
(b)	prescribing a benefit, or class of benefit, as a non-pecuniary benefit for the purposes of this Division,	39
		40
(c)	prescribing a payment, allowance, commission or other amount, or class of amount, as a base rate of pay exclusion for the purposes of this Division.	41
		42
		43

[18] Section 79 Definitions	1
Omit “number 212.1” from paragraph (a) of the definition of <i>base index number</i> .	2
Insert instead “latest index number in relation to the adjustment date of 1 October 2015”.	3
[19] Section 82BA	4
Insert after section 82B:	5
82BA Indexation—compensation amount for workers with highest needs	6
(1) The amount <i>A</i> is to be varied on each review date, in accordance with the formula:	7
	8
$A \times \frac{B}{C}$	9
where:	10
<i>A</i> is the amount of \$788.32 specified in section 38A or, if that amount has been varied in accordance with this section, that amount as last so varied.	11
	12
<i>B</i> is:	13
(a) the CPI for the December quarter immediately prior to the review date when the review date is 1 April, or	14
	15
(b) the CPI for the June quarter immediately prior to the review date when the review date is 1 October.	16
	17
<i>C</i> is:	18
(a) the CPI for the June quarter immediately prior to the review date when the review date is 1 April, or	19
	20
(b) the CPI for the December quarter immediately prior to the review date when the review date is 1 October.	21
	22
(2) In this section:	23
<i>CPI</i> means the consumer price index (All Groups Index) for Sydney issued by the Australian Statistician.	24
	25
<i>review date</i> means 1 April and 1 October in each year.	26
(3) The Minister is to notify, by order published on the NSW legislation website on or before each review date, the amount that is to apply as the amount specified in section 38A as varied in accordance with this section.	27
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	29
(4) A notification published on the NSW legislation website after a review date for the purposes of the variation required for that review date under this section has effect as if published before that review date.	30
	31
	32
[20] Section 82C Indexation—no reduction	33
Omit “or 82B”. Insert instead “, 82B or 82BA”.	34

Schedule 3	Amendment of Workers Compensation Act 1987	1
	No 70—medical and related expenses	2
[1]	Section 59A Limit on payment of compensation	3
	Omit “the worker ceased to be entitled to weekly payments of compensation” from section 59A (2).	4
	Insert instead “the weekly payments of compensation cease to be payable to the worker”.	5
[2]	Section 59A (3)	6
	Omit “a worker becomes entitled to weekly payments of compensation after ceasing to be entitled to compensation under this Division, the worker is once again entitled to compensation under this Division”.	7
	Insert instead “weekly payments of compensation become payable to a worker after compensation under this Division ceases to be payable to the worker, compensation under this Division is once again payable to the worker”.	8
[3]	Section 59A (3A)	9
	Insert after section 59A (3):	10
	(3A) For the avoidance of doubt, weekly payments of compensation are payable to a worker for the purposes of this section only while the worker satisfies the requirement of incapacity for work and all other requirements of Division 2 that the worker must satisfy in order to be entitled to weekly payments of compensation.	11
[4]	Section 59A	12
	Omit the section. Insert instead:	13
59A	Limit on payment of compensation	14
(1)	Compensation is not payable to an injured worker under this Division in respect of any treatment, service or assistance given or provided after the expiry of the compensation period in respect of the injured worker.	15
(2)	The compensation period in respect of an injured worker is:	16
(a)	if the injury has resulted in a degree of permanent impairment assessed as provided by section 65 to be 10% or less, or the degree of permanent impairment has not been assessed as provided by that section, the period of 2 years commencing on:	17
(i)	the day on which the claim for compensation in respect of the injury was first made (if weekly payments of compensation are not or have not been paid or payable to the worker), or	18
(ii)	the day on which weekly payments of compensation cease to be payable to the worker (if weekly payments of compensation are or have been paid or payable to the worker), or	19
(b)	if the injury has resulted in a degree of permanent impairment assessed as provided by section 65 to be more than 10% but not more than 20%, the period of 5 years commencing on:	20
(i)	the day on which the claim for compensation in respect of the injury was first made (if weekly payments of compensation are not or have not been paid or payable to the worker), or	21

(ii)	the day on which weekly payments of compensation cease to be payable to the worker (if weekly payments of compensation are or have been paid or payable to the worker).	1 2 3
(3)	If weekly payments of compensation become payable to a worker after compensation under this Division ceases to be payable to the worker, compensation under this Division is once again payable to the worker but only in respect of any treatment, service or assistance given or provided during a period in respect of which weekly payments are payable to the worker.	4 5 6 7 8
(4)	For the avoidance of doubt, weekly payments of compensation are payable to a worker for the purposes of this section only while the worker satisfies the requirement of incapacity for work and all other requirements of Division 2 that the worker must satisfy in order to be entitled to weekly payments of compensation.	9 10 11 12 13
(5)	This section does not apply to a worker with high needs (as defined in Division 2).	14 15
(6)	This section does not apply to compensation in respect of any of the following kinds of medical or related treatment:	16 17
(a)	the provision of crutches, artificial members, eyes or teeth and other artificial aids or spectacles (including hearing aids and hearing aid batteries),	18 19 20
(b)	the modification of a worker’s home or vehicle,	21
(c)	secondary surgery.	22
(7)	Surgery is <i>secondary surgery</i> if:	23
(a)	the surgery is directly consequential on earlier surgery and affects a part of the body affected by the earlier surgery, and	24 25
(b)	the surgery is approved by the insurer within 2 years after the earlier surgery was approved (or is approved later than that pursuant to the determination of a dispute that arose within that 2 years).	26 27 28
(8)	This section does not affect the requirements of section 60 (including, for example, the requirement for the prior approval of the insurer for secondary surgery).	29 30 31
[5]	Section 60 Compensation for cost of medical or hospital treatment and rehabilitation etc	32 33
	Omit “must be referred by the Registrar for assessment under Part 7 (Medical assessment) of Chapter 7 of the 1998 Act, unless the regulations otherwise provide” from section 60 (5).	34 35
	Insert instead “may be referred by the Registrar for assessment under Part 7 (Medical assessment) of Chapter 7 of the 1998 Act”.	36 37

Schedule 4	Amendment of Workers Compensation Act 1987 No 70—return to work assistance	1 2
Part 3, Division 3A		3
Insert after Division 3 of Part 3:		4
Division 3A	Compensation for return to work assistance	5
64B	Workers returning to work with new employer	6
(1)	In this section:	7
	<i>group</i> means a group constituted under Division 2B of Part 7, but does not include any member of the group in respect of whom a determination under section 175E is in force.	8 9 10
	<i>new employer</i> , in relation to an injured worker, means any employer other than:	11 12
	(a) the pre-injury employer of the worker, or	13
	(b) an employer who is a member of the same group as the pre-injury employer of the worker.	14 15
	<i>pre-injury employer</i> , in relation to an injured worker, means the employer out of or in the course of employment with whom the injury arose.	16 17
	<i>work assistance</i> means the provision of education or training, transport, child care, clothing, equipment or any similar service or assistance.	18 19
(2)	This section applies to an injured worker who:	20
	(a) as a result of the injury, is not able to return to work with his or her pre-injury employer, and	21 22
	(b) accepts an offer of employment with a new employer.	23
(3)	The pre-injury employer of a worker to whom this section applies is liable to pay, subject to and in accordance with the regulations, compensation for the cost of work assistance provided to assist the worker to return to work with a new employer.	24 25 26 27
(4)	An employer is liable to pay compensation under this section in addition to any other compensation under this Act.	28 29
(5)	The maximum amount for which an employer is liable under this section in respect of the injury concerned is \$1,000.	30 31
(6)	Without limiting subsection (3), the regulations may make provision for or with respect to the following:	32 33
	(a) limiting the classes of work assistance the employer is liable to pay the cost of under this section,	34 35
	(b) otherwise limiting the circumstances in which an employer is liable to pay for the cost of work assistance under this section.	36 37
64C	Workers receiving weekly payments	38
(1)	This section applies to an injured worker if:	39
	(a) the injury has resulted in a degree of permanent impairment assessed for the purposes of Division 4 to be more than 20%, and	40 41
	(b) a weekly payment of compensation has been paid or payable to the worker in respect of the injury for an aggregate period of more than 78 weeks.	42 43 44

- (2) The employer of a worker to whom this section applies is liable to pay, subject to and in accordance with the regulations, compensation for the cost of education or training provided to assist the worker to return to work. 1
2
3
- (3) An employer is liable to pay compensation under this section in addition to any other compensation under this Act. 4
5
- (4) The maximum amount for which an employer is liable under this section in respect of the injury concerned is \$8,000. 6
7
- (5) Without limiting subsection (2), the regulations may make provision for or with respect to the following: 8
9
 - (a) limiting the classes of education or training the employer is liable to pay the cost of under this section, 10
11
 - (b) otherwise limiting the circumstances in which an employer is liable to pay for the cost of education or training under this section. 12
13

Schedule 5	Amendment of Workers Compensation Act 1987	1
	No 70—lump sum compensation	2
[1] Section 66 Entitlement to compensation for permanent impairment		3
Omit section 66 (2) (b)–(e). Insert instead:		4
(a) if the degree of permanent impairment is greater than 10% but not greater than 30%, the amount of permanent impairment compensation is to be calculated as follows:		5
	$\$19,540 + [\$2,940 \times (D - 10)]$	6
		7
(b) if the degree of permanent impairment is greater than 30% but not greater than 50%, the amount of permanent impairment compensation is to be calculated as follows:		8
	$\$78,200 + [\$4,840 \times (D - 30)]$	9
		10
(c) if the degree of permanent impairment is greater than 50% but not greater than 55%, the amount of permanent impairment compensation is \$242,010,		11
		12
(d) if the degree of permanent impairment is greater than 55% but not greater than 60%, the amount of permanent impairment compensation is \$309,020,		13
		14
(e) if the degree of permanent impairment is greater than 60% but not greater than 65%, the amount of permanent impairment compensation is \$376,030,		15
		16
(f) if the degree of permanent impairment is greater than 65% but not greater than 70%, the amount of permanent impairment compensation is \$443,030,		17
		18
(g) if the degree of permanent impairment is greater than 70% but not greater than 74%, the amount of permanent impairment compensation is \$510,040,		19
		20
(h) if the degree of permanent impairment is greater than 74%, the amount of permanent impairment compensation is \$577,050,		21
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		23
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[2] Section 66 (2A), examples		30
Omit the examples. Insert instead:		31
Example 1. A person suffers 12% permanent impairment. Under subsection (2), the amount of permanent impairment compensation to which he or she is entitled is \$25,420. If the whole of the impairment is to the back, the compensation payable in relation to the back will be the whole \$25,420. Under this subsection, that \$25,420 will be increased by 5%, yielding \$26,691.		32
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		34
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		36
Example 2. A person suffers 50% permanent impairment. Under subsection (2), the amount of permanent impairment compensation to which he or she is entitled is \$175,000. If two-thirds of the impairment is to the back, the compensation payable in relation to the back will be two-thirds of \$175,000, or \$116,666.67. Under this subsection, that \$116,666.67 will be increased by 5%, yielding \$122,500. The total compensation payable for the impairment will therefore be \$180,833.33.		37
		38
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		41
		42
[3] Section 79 Definitions		43
Omit paragraph (b) of the definitions of <i>adjustable amount</i> and <i>base index number</i> .		44
[4] Section 81 Rounding off		45
Omit “, 66 or 67” from section 81 (1).		46

[5] Part 3, Division 6B	1
Insert after section 82D:	2
Division 6B Indexation of compensation for permanent impairment	3
82E Definition	4
In this Division:	5
<i>variable amount</i> means each of the amounts specified in section 66 (2) (a)–(h).	6 7
82F Indexation—compensation for permanent impairment	8
(1) The amount <i>A</i> is to be varied, in respect of the financial year beginning on 1 July 2016 and each subsequent financial year, in accordance with the formula:	9 10 11
$A \times \frac{B}{C}$	12
where:	13
<i>A</i> is the variable amount or, if that amount has been varied in accordance with this section, that amount as last so varied.	14 15
<i>B</i> is the CPI for the most recent March quarter immediately prior to the review date.	16 17
<i>C</i> is the CPI for the March quarter immediately prior to the review date in the preceding calendar year.	18 19
(2) In this section:	20
<i>CPI</i> means the consumer price index (All Groups Index) for Sydney issued by the Australian Statistician.	21 22
<i>review date</i> means 1 July in each year.	23
(3) The Minister is to notify, by order published on the NSW legislation website before the start of each financial year, each amount that is to apply for that financial year as an amount specified in section 66 (2) (a)–(h) as varied in accordance with this section.	24 25 26 27
(4) A notification published on the NSW legislation website after the start of a financial year and specifying an amount that is to apply as an amount specified in section 66 (2) (a)–(h) for that financial year is to apply and has effect for that financial year.	28 29 30 31
82G Indexation—no reduction	32
If the variation of the variable amount by operation of section 82F has the effect of reducing the amount:	33 34
(a) the variation is deemed not to have taken effect, except for the purposes of the application of this section, and	35 36
(b) when the amount is varied and increased by operation of this section in respect of the next or a subsequent financial year, that variation has effect as an increase only to the extent (if any) to which the amount of the increase exceeds the amount of the reduction in respect of a preceding financial year, or that part of such a reduction that has not been set off against a previous increase.	37 38 39 40 41 42

82H Indexation—rounding

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Where it is necessary for the purposes of this Division to calculate an amount that consists of or includes a fraction of a whole number, the amount is deemed to have been calculated in accordance with this section if the calculation is made:

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(a) if the amount is less than \$1,000, to the nearest whole \$1, or

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(b) if the amount is \$1,000 or more, to the nearest whole \$10.

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Schedule 6	Amendment of Workers Compensation Act 1987 No 70—savings and transitional provisions	1 2
Schedule 6 Savings, transitional and other provisions		3
Insert after Part 19H:		4
Part 19I	Provisions consequent on enactment of Workers Compensation Amendment Act 2015	5 6 7
1	Definitions	8
	In this Part:	9
	<i>2012 existing claim</i> means a claim for compensation made before 1 October 2012.	10 11
	<i>2015 amending Act</i> means the <i>Workers Compensation Amendment Act 2015</i> .	12
	<i>existing recipient of weekly payments</i> means an injured worker who was in receipt of weekly payments of compensation in respect of the injury immediately before 17 September 2012.	13 14 15
2	Application of amendments generally	16
(1)	Except as provided by this Part or the regulations, an amendment made by the 2015 amending Act extends to:	17 18
	(a) an injury received before the commencement of the amendment, and	19
	(b) a claim for compensation made before the commencement of the amendment, and	20 21
	(c) proceedings pending in the Commission or a court immediately before the commencement of the amendment.	22 23
(2)	An amendment made by the 2015 amending Act does not apply to compensation paid or payable in respect of any period before the commencement of the amendment, except as otherwise provided by this Part.	24 25 26
3	Application of benefits amendments to other Workers Compensation Acts	27
	The amendments made by the 2015 amending Act do not apply for the purposes of the <i>Workers' Compensation (Dust Diseases) Act 1942</i> or the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i> and a reference in either of those Acts to a provision of the Workers Compensation Acts is a reference to the provision without regard to any amendment made by the 2015 amending Act.	28 29 30 31 32 33
4	Savings and transitional regulations	34
(1)	Regulations under Part 20 of this Schedule that contain provisions of a saving or transitional nature consequent on the enactment of the 2015 amending Act may, if the regulations so provide, take effect from a date that is earlier than the date of assent to the 2015 amending Act.	35 36 37 38
(2)	Clause 1 (3) of Part 20 does not limit the operation of this clause.	39
(3)	A provision referred to in subclause (1) has effect, if the regulations so provide, despite any other provision of this Part.	40 41
(4)	The power in Part 20 to make regulations that contain provisions of a saving or transitional nature consequent on the enactment of the 2015 amending Act	42 43

extends to authorise the making of regulations whereby the provisions of the Workers Compensation Acts are deemed to be amended in the manner specified in the regulations.	1 2 3
5 Death benefits	4
(1) The amendments made by the 2015 amending Act to sections 25 and 26 of the 1987 Act do not apply to deaths that occurred before the date on which the Bill for the 2015 amending Act was introduced into the Legislative Assembly.	5 6 7
(2) For the purposes of the operation of Division 6 of Part 3 of the 1987 Act in relation to the adjustable amount in section 25 of the 1987 Act, 1 October 2015 is not an adjustment date and the first adjustment date is 1 April 2016. Accordingly, the first adjustment under that Division of that adjustable amount is to be the adjustment provided for under that Division on and from 1 April 2016.	8 9 10 11 12 13
6 Workers with highest needs	14
(1) In this clause: <i>transitional worker</i> means a worker to whom paragraph (b) of the definition of <i>seriously injured worker</i> in section 32A of the 1987 Act applied immediately before the date of assent to the 2015 amending Act.	15 16 17 18
(2) A transitional worker is taken to be a worker with highest needs for the purposes of Division 2 of Part 3 of the 1987 Act (as amended by the 2015 amending Act) until the degree of permanent impairment is assessed in respect of the worker's injury.	19 20 21 22
7 Review of work capacity decisions	23
An amendment made by the 2015 amending Act to section 43 or 44, or to insert Subdivision 3A of Division 2 of Part 3, of the 1987 Act extends to:	24 25
(a) a work capacity decision made before the commencement of the amendment, and	26 27
(b) the review of a work capacity decision for which an application was made before the commencement of the amendment (whether or not the review had commenced before the commencement of the amendment).	28 29 30
8 Review of work capacity decisions—recovery of costs	31
A legal practitioner is not entitled to be paid or recover any amount for a legal service provided to a worker or an insurer in connection with a review of a work capacity decision for which an application is made under section 44 of the 1987 Act before the commencement of section 44BF of that Act (as inserted by the 2015 amending Act).	32 33 34 35 36
9 Weekly payments	37
(1) Section 38A of the 1987 Act extends to the determination of the compensation payable in respect of any period of incapacity occurring before the commencement of that section.	38 39 40
(2) The regulations may make provision for or with respect to the adjustment of the amount of weekly payments of compensation payable to an injured worker as a result of the operation of section 38A of the 1987 Act and this clause.	41 42 43
(3) Without limiting subclause (2), the regulations may prescribe the period within which any additional amount payable to an injured worker as a result of the adjustment is to be paid.	44 45 46

10	Termination of weekly payments on retiring age	1
	The amendment made by the 2015 amending Act to section 52 of the 1987 Act extends to a claim for weekly payments of compensation first made on or after 1 October 2012 but does not apply to a claim made before that date.	2 3 4
11	Medical, hospital and rehabilitation expenses	5
(1)	The amendments made by Schedule 3 [1]–[3] to the 2015 amending Act to section 59A of the 1987 Act are for the removal of doubt and, accordingly, that section is taken to have been so amended from its own commencement.	6 7 8
(2)	However, those amendments do not affect any decision of the Commission or a court, or any compromise or settlement, made before the commencement of the amendments.	9 10 11
(3)	Section 59A of the 1987 Act (as inserted by an amendment made by the 2015 amending Act) extends to the compensation payable to an injured worker who:	12 13
(a)	first made a claim for weekly payments of compensation in respect of the injury before the commencement of the amendment, but not before 1 October 2012, or	14 15 16
(b)	was an existing recipient of weekly payments in respect of the injury.	17
12	Work assistance	18
	Section 64B of the 1987 Act (as inserted by the 2015 amending Act) does not apply to work assistance provided before the commencement of that section.	19 20
13	Lump sum compensation	21
	The amendments made to section 66 of the 1987 Act by the 2015 amending Act do not apply to an injury received by a worker before the commencement of the amendments.	22 23 24
14	Police officers, paramedics and firefighters	25
	The amendments made by the 2015 amending Act do not apply to or in respect of an injury received by a police officer, paramedic or firefighter (before or after the commencement of this clause), and the Workers Compensation Acts (and the regulations under those Acts) apply to and in respect of such an injury as if those amendments had not been enacted.	26 27 28 29 30
15	Coal miners	31
(1)	The amendments made by the 2015 amending Act do not apply to or in respect of an injury received by a coal miner (before or after the commencement of this clause), and the Workers Compensation Acts (and the regulations under those Acts) apply to and in respect of such an injury as if those amendments had not been enacted.	32 33 34 35 36
(2)	In this clause:	37
	<i>coal miner</i> means a worker employed in or about a mine.	38