



New South Wales

Workers' Compensation (Dust Diseases) Amendment Bill 2010

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 (Dust Diseases) Act 1942* (the *principal Act*) as follows:

- (a) to increase the lump sum death benefit payable to dependents of deceased workers (in place of the usual indexation increases) from \$245,700 to \$311,050 in 3 annual increases, with the first increase occurring on the commencement of the proposed Act,
- (b) to extend the Workers' Compensation (Dust Diseases) Board's (the **Board**) discretion to reduce the amount of a lump sum payable to partially dependent persons so it applies to partially and wholly dependent persons and so that the Board may take into account the age of the worker at the time of the worker's death.

The Bill also makes a consequential amendment to the *Workers Compensation Act 1987*.

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 (Dust Diseases) Act 1942 No 14

Currently, the amount of the lump sum payable by the Board to dependents of deceased workers is adjusted each year in accordance with indexation provisions of the *Workers Compensation Act 1987*. In place of the indexation increases, **Schedule 1 [2]** fixes the amount of the lump sum (which is currently \$245,700) at \$268,375 for the first 12 months after the commencement of the proposed Act, \$291,040 for the following 12 months and \$311,050 at the end of the second 12 months. As a consequence, the indexation provisions will cease to apply from the commencement of the proposed Act until 31 March 2013 and the next indexation increase will occur on 1 April 2013 (see Schedule 1 [6]). **Schedule 1 [3]** provides that the lump sum amount payable to a dependent is to be calculated by reference to the lump sum amount that is in force at the time of the worker's death. **Schedule 1 [4]** is a consequential amendment.

The Board currently has a discretion to reduce the maximum lump sum payable to a dependent person if the person was partially not wholly dependent on the deceased worker for support. In that case, the amount payable is the amount determined by the Board to be reasonable and proportionate to the injury to that person. **Schedule 1 [3]** authorises the Board to exercise that discretion for all dependent persons, whether they were wholly or partially dependent on the deceased worker, and to take into account the age of the worker at the time of the worker's death. **Schedule 1 [1]** is a consequential amendment.

Schedule 1 [5] enables savings and transitional regulations to be made as a consequence of the proposed Act.

Schedule 1 [6] inserts savings and transitional provisions to:

- (a) provide that the proposed amendments extend to the death of a person occurring on or after the date that the Bill for the proposed Act was first introduced into Parliament but before the commencement of the proposed Act, and
- (b) provide that the amount of the lump sum payable to dependents of deceased workers will not be indexed under the *Workers Compensation Act 1987* from the commencement of the proposed Act until 1 April 2013 as a consequence of the amendment in Schedule 1 [2].

Schedule 2 Amendment of Workers Compensation Act 1987 No 70

Schedule 2 makes a consequential amendment to the *Workers Compensation Act 1987* that relates to the indexation of the lump sum payable to dependents of deceased workers.

First print



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New South Wales

Workers' Compensation (Dust Diseases) Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *Workers' Compensation (Dust Diseases) Act 1942* and the *Workers Compensation Act 1987* to make further provision with respect to rates of compensation payable to dependents of deceased workers.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Workers' Compensation (Dust Diseases) Amendment Act 2010</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Workers' Compensation (Dust Diseases) Act 1942 No 14	1
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[1] Section 8 Certificate of medical authority and rates of compensation		3
	Omit "the dependent person referred to in paragraph (a) (i) was wholly dependent for support on the worker and" from section 8 (2B) (b).	4
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[2] Section 8 (2B) (b) (i)		6
	Omit the subparagraph. Insert instead:	7
	(i) subject to paragraph (d):	8
	(A) during the period of 12 months starting on the commencement of the <i>Workers' Compensation (Dust Diseases) Amendment Act 2010</i> (the first 12 months)—the amount of \$268,375, or	9
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	(B) during the period of 12 months (the second 12 months) that starts at the end of the first 12 months—the amount of \$291,040, or	14
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	(C) after the end of the second 12 months—the amount of \$311,050, and	17
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[3] Section 8 (2B) (d) and (d1)		19
	Omit section 8 (2B) (d). Insert instead:	20
	(d) The amount specified in paragraph (b) (i) is the maximum amount payable to a dependent person under that subparagraph. The amount payable in a particular case is the amount determined by the board to be reasonable and proportionate to the injury to that person, taking into account the age of the worker at the time of the worker's death.	21
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	(d1) The prescribed rate of compensation payable to a dependent person under paragraph (b) (i) is to be calculated by reference to the prescribed rate in force at the time of the worker's death.	28
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[4] Section 8 (3) (d)		32
	Omit "the amount of \$141,250".	33
	Insert instead "the amount specified in subsection (2B) (b) (i)".	34

[5] Schedule 2 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Workers' Compensation (Dust Diseases) Amendment Act 2010</i>	3
[6] Schedule 2, Part 6	4
Insert after Part 5:	5
Part 6 Provisions consequent on enactment of Workers' Compensation (Dust Diseases) Amendment Act 2010	6 7 8
13 Application of amendments	9
(1) The amendments made to this Act by the <i>Workers' Compensation (Dust Diseases) Amendment Act 2010</i> extend to the death of a person occurring on or after the date that the Bill for that Act was first introduced into Parliament (the <i>date of introduction</i>) but before the date of assent to that Act (the <i>date of assent</i>).	10 11 12 13 14 15
(2) For the purposes of the operation of section 8 (2B) (b) (i) in relation to the death of a person occurring on or after the date of introduction but before the date of assent, the death is deemed to have occurred on the date of assent.	16 17 18 19
14 Indexation of amounts of benefits	20
Section 8 (3) (d) does not apply to the amount specified in section 8 (2B) (b) (i) during the period commencing on the date of assent to the <i>Workers' Compensation (Dust Diseases) Amendment Act 2010</i> and ending on 31 March 2013.	21 22 23 24
Note. Accordingly, during that period, the amount specified in section 8 (2B) (b) (i) will not be adjusted in accordance with Division 6 of Part 3 of the <i>Workers Compensation Act 1987</i> . The next adjustment under that Division will occur on 1 April 2013.	25 26 27 28

**Schedule 2 Amendment of Workers Compensation
Act 1987 No 70**

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Section 79 Definitions

Insert after paragraph (b) of the definition of *base index number*:

- (b1) in respect of an adjustable amount that is an amount specified in section 8 (2B) (b) (i) of the *Workers' Compensation (Dust Diseases) Act 1942*—the latest index number in relation to the adjustment date of 1 October 2012, and