



New South Wales

Workers Compensation Legislation Amendment Regulation 2026

under the

Workers Compensation Act 1987

[*The following enacting formula will be included if this regulation is made—*]

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

Minister for Customer Service and Digital Government

Explanatory note

The object of this regulation is to amend the *Workers Compensation Regulation 2016* to give effect to amendments made to the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* by the *Workers Compensation Legislation Amendment Act 2025* and the *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026*.

This regulation makes the following amendments to the *Workers Compensation Regulation 2016*—

- (a) inclusion of Part 4A, clauses 8O–8Q, which makes provision for the health related treatments and services for an injured worker that an employer or insurer is required to pay for,
- (b) inclusion of Part 8A, clauses 42C–42K, concerning claims relating to psychological injuries,
- (c) inclusion of Part 9A, clauses 49A–49D, concerning principal assessments,
- (d) inclusion of Part 9B, clauses 49E–49K, concerning the commutation of compensation,
- (e) amendments about the provision of legal costs for workers by the Independent Review Officer,
- (f) savings and transitional matters,
- (g) other miscellaneous amendments.

Workers Compensation Legislation Amendment Regulation 2026 [NSW]

Workers Compensation Legislation Amendment Regulation 2026

under the

Workers Compensation Act 1987

1 Name of regulation

This regulation is the *Workers Compensation Legislation Amendment Regulation 2026*.

2 Commencement

This regulation commences as follows—

- (a) [to be confirmed]

Schedule 1 Amendment of Workers Compensation Regulation 2016

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

- ambulance service*, for Part 4A—see clause 8O.
- class 1 cases*, for Part 9B—see clause 49F(a).
- class 2 cases*, for Part 9B—see clause 49F(b).
- commencement day*, for Part 9B—see clause 49E.
- hospital treatment*, for Part 4A—see clause 8O.
- injured worker*, for Part 4A—see clause 8O.
- medical or related treatment*, for Part 4A—see clause 8O.
- relevant conduct*, for Part 8A—see clause 42C.
- treatment or service*, for Part 4A— see clause 8O.
- workplace rehabilitation service*, for Part 4A—see clause 8O.

[2] Clause 3A

Insert after clause 3—

3A Meaning of “relevant event”—the 1987 Act, s 8G(i)

- (1) A prescribed death is a relevant event.
- (2) In this clause—
 - prescribed death*, for a worker, means the death of a person who is in the worker’s care if—
 - (a) the person dies as the result of a traumatic incident, and
 - (b) there is a real and direct connection between the person’s death and the worker’s employment, and
 - (c) the person was under the immediate and primary care of the worker, at the worker’s workplace, when the traumatic incident occurred, and
 - (d) the relationship between the person and the worker was pre-existing, ongoing and close at the time of the person’s death, and
 - (e) the relationship was a requirement of the worker’s employment.

[3] Clause 5C COVID-19—matters relating to incapacity

Insert after clause 5C(1)—

- (2) For the 1987 Act, section 19B(5), a worker is incapable of work if the worker has a total incapacity for work and no current work capacity.

[4] Clause 8C Adjustment for financially material change to earnings—Schedule 3, clause 2(3)(a) of 1987 Act

Omit “(for example, a change from full-time to part-time work)” from clause 8C(1).

[5] Clause 8K Approval of agreement—Schedule 3, clause 3(1)

Omit subclause (7), note.

[6] Clause 8K(8) and (9)

Omit “work capacity” wherever occurring.

- [7] **Clause 8M Withdrawal of pre-injury average weekly earnings agreement—Schedule 3, clause 3(2) and (3)**
Omit “is a work capacity decision and” from clause 8M(3).
- [8] **Clause 8N, heading**
Omit “work capacity decisions—section 44BAA”.
Insert instead “payment increase decisions—the 1987 Act, section 44BB”.
- [9] **Clause 8N(2)**
Omit “work capacity”.
- [10] **Part 4A**
Insert after clause 8N—

Part 4A Treatment and services for injuries

80 Definitions

In this part—

ambulance service has the same meaning as in the 1987 Act, Part 3, Division 3.

hospital treatment has the same meaning as in the 1987 Act, Part 3, Division 3.

injured worker includes the following—

- (a) an injured police officer,
- (b) an injured paramedic,
- (c) an injured firefighter,
- (d) an injured coal miner,
- (e) a person whose claim arises under the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

medical or related treatment means the following—

- (a) hospital treatment,
- (b) ambulance services,
- (c) treatment by a medical practitioner, a dentist, a dental prosthetist, a physiotherapist, a chiropractor, an osteopath, a masseur, a remedial medical gymnast or a speech therapist,
- (d) the following if supplied or provided for the worker otherwise than as hospital treatment—
 - (i) nursing,
 - (ii) medicine,
 - (iii) other medical or surgical supplies or curative apparatus,
- (e) the following given under the direction of a medical practitioner—
 - (i) therapeutic treatment,
 - (ii) care, other than nursing care, of a worker in the worker’s home,
 - (iii) the modification of a worker’s home or vehicle,
- (f) the provision of crutches, artificial body parts, eyes or teeth and other artificial aids or spectacles,

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- (g) domestic assistance services,
- (h) workplace rehabilitation services.

treatment or service means medical or related treatment.

workplace rehabilitation service has the same meaning as in the 1987 Act, Part 3, Division 3.

8P Rules for determining whether treatments and services reasonable and necessary

- (1) For the 1987 Act, section 60(2C)(a), the following rules must be applied when determining whether it is reasonable and necessary for a treatment or service to be given or provided to an injured worker—
 - (a) a primary purpose of the treatment or service must be to treat the injury that is the subject of the worker's claim,
 - (b) the treatment or service must be—
 - (i) clinically justified for the treatment of the injury that is the subject of the worker's claim, and
 - (ii) cost effective and represent value for money,
 - (c) there are no other accessible treatment or service options that can provide similar benefits to the worker at lower cost.
- (2) For this clause, a treatment or service represents **value for money** if the costs of the treatment or service are reasonable relative to—
 - (a) the benefits achieved from the treatment or service, and
 - (b) the costs of alternative treatments or services.

8Q Treatment and service costs for which employers not liable

- (1) For the Act, section 60(2C)(b), an employer is not liable to pay the cost of the following kinds of treatments or services for an injured worker—
 - (a) treatments and services provided in alternative health care fields,
Examples— aromatherapy, crystal therapy, cuddle therapy, gaming therapy, homeopathic treatments, hypnotherapy, kinesiology, neuroreflective pain therapy using Cryofos device, peptide therapy, reflexology, shockwave therapy, sound therapy, wilderness therapy
 - (b) wellness and coaching related treatments or services,
Examples— life and wellness coaching, wellness retreats
 - (c) massage, other than massage prescribed by a health practitioner,
 - (d) energy and healing practice treatments or services,
Examples— deep energy clearing, energy balanced massage, energy therapy, frequency healing, reiki therapy, shamanic healing, spinal flow technique
 - (e) cannabinoid medication and GLP-1 medication,
 - (f) other general health, fitness, social or recreational activities unless prescribed by a health practitioner,
 - (g) services associated with companion animals other than assistance animals.
Examples— food and veterinary costs
- (2) In this clause—
assistance animal has the same meaning as in the *Companion Animals Act 1998*.

companion animal has the same meaning as in the *Companion Animals Act 1998*.

health practitioner means the following—

- (a) a health practitioner registered under the Health Practitioner Regulation National Law,
- (b) a health practitioner approved or accredited by the Authority.

Health Practitioner Regulation National Law has the same meaning as in the *Health Care Complaints Act 1993*.

[11] Part 8A

Insert after section 42B—

Part 8A Primary psychological injuries

Division 1 Preliminary

42C Definition

In this part—

relevant conduct has the same meaning as in the 1998 Act, section 280AB.

42D Application of part

For the 1998 Act, section 264A, Divisions 2 and 3 prevail to the extent of an inconsistency with the 1998 Act, Chapter 7, Part 2, Divisions 1 and 2.

Division 2 Making a claim for compensation or damages—the 1987 Act, s 8Q

42E Evidence worker must give

For the 1987 Act, section 8Q(b), the following is the evidence a worker must give for a claim in relation to a primary psychological injury—

- (a) the worker's name and contact details,
- (b) the employer's name and contact details,
- (c) if the claim is notified by a person who is not the injured worker—the notifier's name, contact details and relationship to the worker,
- (d) the name and contact details of the worker's treating medical practitioner,
- (e) details of the worker's injuries, supported by a medical certificate specifying one or more mental or psychiatric disorders,
- (f) the worker's consent to use and disclose the information for purposes reasonably connected with responding to and managing the claim.

42F Additional evidence worker must give for an injury caused by relevant conduct

For the 1987 Act, section 8Q(b), the following is the additional evidence a worker must give for a claim in relation to a primary psychological injury caused by relevant conduct—

- (a) whether the relevant conduct has been the subject of proceedings in the Industrial Relations Commission and, if so—
 - (i) the case number for the proceedings, and

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- (ii) the names and contact details of the worker's legal representatives in the proceedings, and
- (iii) the orders made by the Industrial Relations Commission in the proceedings,
- (b) as far as is reasonably practicable, details of the relevant conduct causing the worker's injuries, including the following—
 - (i) the specific nature of each instance of the conduct,
 - (ii) the date, time and location of each instance of the conduct,
 - (iii) the persons involved in the conduct,
 - (iv) the names of witnesses to the conduct,
- (c) as far as is reasonably practicable, an explanation of the relationship between each instance of relevant conduct and the worker's employment.

42G Making relevant conduct claim

- (1) A claim under the 1998 Act, Chapter 7, Part 3, Division 3A is made when the worker has given the insurer—
 - (a) a completed claim form, and
 - (b) the evidence the worker must provide under clauses 42E and 42F.
- (2) An insurer that receives an incomplete claim must, within 3 business days after receiving the incomplete claim, contact the worker and explain the following in a way, and using language, the worker should reasonably be able to understand—
 - (a) the worker's claim is incomplete and cannot be progressed until the claim is complete,
 - (b) the action the worker must take to complete the claim,
 - (c) that the worker is only entitled to payments under the 1998 Act, section 280AD from the date the claim is complete and not from the date of the worker's injury,
 - (d) if the claim does not include a claim form—how the worker may obtain a claim form.
- (3) An insurer that receives a claim may require the worker to give the insurer an authorisation for the worker's relevant treatment providers to give the insurer information regarding treatments or services given to the worker.
- (4) In this clause—
 - claim form** means a claim form approved by the Authority.
 - relevant treatment provider**, for a worker, means a person who provides one or more of the following services to the worker in connection with the worker's injury—
 - (a) medical or related treatment,
 - (b) hospital treatment,
 - (c) workplace rehabilitation services.

Division 3 Dealing with claims—the 1987 Act, s 8Q

42H Insurer must give worker information after commencement of interim entitlement

Within 7 days after receiving a relevant conduct claim, the insurer must—

- (a) start paying the worker's interim entitlement payment under the 1998 Act, section 280AD(1), and
- (b) give the worker the following written information, in a way, and using language, the worker should reasonably be able to understand—
 - (i) notice that the worker's interim entitlement payment has started,
 - (ii) an explanation of the interim entitlement payment and how the payment is calculated,
 - (iii) when the worker's entitlement to the interim entitlement payment stops,
 - (iv) that the insurer must make a decision whether to accept or reject the worker's claim within 42 days after receiving the claim,
 - (v) that while deciding whether to accept or reject the worker's claim the insurer will pay the cost of reasonable and necessary medical and related treatment for the worker in accordance with the Workers Compensation Guidelines,
 - (vi) that the insurer will, if required by the 1998 Act, Chapter 3, develop an injury management plan for the worker.

42I Matters and circumstances insurer must take into account

- (1) For the 1987 Act, section 8Q(a), the following are the types of matters or circumstances an insurer must take into account when determining whether an injury is a primary psychological injury for which compensation is payable—
 - (a) the worker's account of each relevant event,
 - (b) the account of each witness to each relevant event,
 - (c) the date, time and location of each relevant event,
 - (d) if a relevant event involved the worker being subject to the conduct of another person—the nature of the relationship between the worker and the other person,
 - (e) available medical and health information,
 - (f) relevant information held by the worker's employer, including audio and video recordings,
 - (g) a report of a relevant event made to—
 - (i) the worker's employer, or
 - (ii) a union, or
 - (iii) the NSW Police Force, or
 - (iv) SafeWork NSW, or
 - (v) the Fair Work Commission, or
 - (vi) another investigative body,
 - (h) other information relevant to the claim provided to the insurer by the worker.
- (2) To avoid doubt, the absence of a report to 1 or more bodies under subclause (1)(g) is not determinative of whether or not an injury is a primary psychological injury.

42J Notice of back payment

- (1) As soon as practicable after accepting a relevant conduct claim the insurer must give the worker written notice of the following—
 - (a) that the worker is entitled to receive a back payment,

- (b) the amount of the back payment and how the amount was calculated,
 - (c) that the worker is entitled to reimbursement for reasonable and necessary medical and related treatment in accordance with the Workers Compensation Guidelines.
- (2) If an insurer is unable to give the notice within 7 days after accepting a claim because the insurer does not have the information necessary to calculate the worker's back payment, the insurer must inform the worker of the following—
- (a) the actions the insurer is taking to obtain the information,
 - (b) when the insurer expects to be able to give the notice.

Division 4 Disputes

42K Disputing liability—the 1998 Act, s 280AE(1)

- (1) If an insurer disputes liability in relation to a claim, or an aspect of a claim, for primary psychological injury associated with relevant conduct, the insurer's notice to the worker under clause 38 must include the following—
- (a) advice that the worker may ask the insurer to review the claim, or an aspect of the claim, disputed by the insurer,
 - (b) advice that the worker must ask the insurer to review the claim, or an aspect of the claim, disputed by the insurer before the dispute may be referred to the Industrial Relations Commission or the Personal Injury Commission,
 - (c) the contact details for the Industrial Relations Commission.
- (2) In this clause—
- contact details* includes the following—
- (a) telephone number,
 - (b) postal address,
 - (c) email address,
 - (d) website address.

42L Internal review procedure—the 1998 Act, s 280AE(7)

- (1) An insurer that receives a request for an internal review must, within 2 business days after receiving the request, give the worker—
- (a) information about how the review will be conducted, and
 - (b) the timetable for the review, and
 - (c) the name and contact details of a person the worker may contact about the review.
- (2) An internal review under the 1998 Act, section 280AE must be conducted by an internal reviewer who—
- (a) has relevant experience in the subject matter of the decision under review, and
 - (b) was not substantially involved in the decision under review, and
 - (c) is more senior than the person who made the decision under review.
- (3) The internal reviewer—
- (a) may request additional information from the worker and the employer, and

- (b) must consider additional information that is submitted.
- (4) The internal reviewer must give the worker written notice of the internal review decision, including—
 - (a) a concise and readily understandable statement of the reason for the insurer’s decision and of the issues relevant to the decision, and
 - (b) the information specified in clause 38(1), and
 - (c) each provision of the workers compensation legislation the internal reviewer relied on for the decision.

[12] Parts 9A and 9B

Insert after clause 49—

Part 9A Principal assessments

49A Application for assessment—the 1987 Act, s 153K(2)

An application for a principal assessment or a further principal assessment must be in writing in the form—

- (a) approved by the Authority, and
- (b) published on the Authority’s website.

49B Further principal assessments—the 1987 Act, s 153Q(5)

- (1) No more than 1 further principal assessment may be conducted for an injured worker.
- (2) An insurer that does not respond to a request for agreement under the 1987 Act, section 153Q(2)(a) about an unexpected and material deterioration in the worker’s condition within 21 days after the request is made is taken to have agreed to the request.

49C Certificate of assessment—the 1987 Act, s 153Q(5)

For a further principal assessment, the certificate of assessment must include a description of the deterioration in the worker’s condition since the worker’s last principal assessment.

49D Permanent impairment agreements—the 1987 Act, Schedule 6, Part 20, clause 1(5)

- (1) This clause applies if under a further principal assessment a worker’s degree of permanent impairment is assessed to have increased by less than 10 percentage points above the degree of permanent impairment assessed under the worker’s principal assessment.
- (2) Despite the 1987 Act, Part 6, Division 3, a permanent impairment agreement must not be entered into or varied in relation to the worker’s degree of permanent impairment as assessed under the further principal assessment.

Part 9B Commutation of compensation

49E Definitions

In this part—

class 1 cases—see clause 49F(a).

class 2 cases—see clause 49F(b).

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commencement day means the day the *Workers Compensation Legislation Amendment Act 2025*, Schedule 1.5 commenced.

49F Classes of cases for which compensation may be commuted—the 1987 Act, s 87EA(2)(a)

The following are the classes of cases in which, under the 1987 Act, Part 3, Division 9, a liability in relation to an injury may be commuted to a lump sum—

- (a) claims in which the injured worker is entitled to compensation under the 1987 Act, Part 3, Divisions 2 and 3 (*class 1 cases*),
- (b) claims in which the injured worker is entitled to compensation under the 1987 Act, Part 3, Division 3 only (*class 2 cases*).

49G Circumstances in which compensation may be commuted—the 1987 Act, s 87EA(2)(b)

- (1) A liability in relation to an injury in a class 1 case may be commuted to a lump sum under the 1987 Act, Part 3, Division 9 if—
 - (a) the injured worker’s relevant injury occurred—
 - (i) after 4pm on 30 June 1987, and
 - (ii) before 1 January 2023, and
 - (b) when the request for commutation is made, the injured worker has an existing and continuing entitlement to—
 - (i) weekly compensation under the 1987 Act, Part 3, Division 2, and
 - (ii) compensation for medical, hospital and rehabilitation expenses under the 1987 Act, Part 3, Division 3, and
 - (c) the injured worker has received payment under the 1987 Act, Part 3, Division 2 or 3 in the 52 weeks immediately before the request for commutation is made, and
 - (d) the injured worker’s degree of permanent impairment has been assessed in accordance with the *NSW workers compensation guidelines for the evaluation of permanent impairment* published by the Authority as in force at the time of the assessment, and
 - (e) the injured worker and the insurer agree about the worker’s degree of permanent impairment, and
 - (f) the injured worker’s claim does not relate to hearing loss.
- (2) A liability in relation to an injury in a class 2 case may be commuted to a lump sum under the 1987 Act, Part 3, Division 9 if—
 - (a) the injured worker’s relevant injury occurred—
 - (i) after 4pm on 30 June 1987, and
 - (ii) before 1 January 2023, and
 - (b) when the request for commutation is made, the injured worker is not entitled to weekly compensation under the 1987 Act, Part 3, Division 2 because—
 - (i) of the operation of the 1987 Act, section 38, 39 or 52, or
 - (ii) the worker no longer has an incapacity resulting in economic loss and has returned to employment, and
 - (c) when the request for commutation is made, the injured worker has an existing and continuing entitlement to compensation for medical,

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- hospital and rehabilitation expenses under the 1987 Act, Part 3, Division 3, and
- (d) the injured worker has received payment under the 1987 Act, Part 3, Division 3 in the 52 weeks immediately before the request for commutation is made, and
 - (e) the injured worker's degree of permanent impairment has been assessed in accordance with the *NSW workers compensation guidelines for the evaluation of permanent impairment* published by the Authority as in force at the time of the assessment, and
 - (f) the injured worker and the insurer agree about the worker's degree of permanent impairment, and
 - (g) the injured worker's claim does not relate to hearing loss.
- (3) For this clause, an injured worker and an insurer are taken to agree about the worker's degree of permanent impairment if—
- (a) a medical assessor has given a medical assessment certificate certifying the worker's degree of permanent impairment, and
 - (b) the medical assessment certificate is not the subject of an appeal at the time of the commutation agreement.
- (4) In this clause—
relevant injury has the same meaning as in the 1998 Act, section 280AB.

49H Expression of interest

- (1) An injured worker who wishes to enter into a commutation agreement in accordance with the 1987 Act, section 87EA(2) must, within 12 months after the commencement day, give the worker's insurer or employer an expression of interest in the form approved by the Authority.
- (2) An employer must, within 3 business days after receiving an expression of interest, give the expression of interest to the worker's insurer.
- (3) An insurer must, within 10 business days after receiving an expression of interest, give the injured worker written notice—
 - (a) confirming receipt of the expression of interest, and
 - (b) if information is missing from, or incomplete on, the expression of interest form—specifying the missing or incomplete information, and
 - (c) informing the worker a commutation agreement cannot be entered into unless the worker has received independent legal advice about—
 - (i) the full legal implications of the agreement, and
 - (ii) the desirability of the worker obtaining independent financial advice before entering into the agreement, and
 - (d) informing the worker a commutation agreement for more than \$100,000 cannot be entered into unless the worker has received independent financial advice, and
 - (e) that the insurer will pay, up to \$2,000, for the worker to receive independent financial advice, and
 - (f) advising the worker of the process the insurer will follow to process the expression of interest and the expected time for each step in the process, and

- (g) giving the worker the name and contact details of an employee of the insurer who can respond to questions and concerns the worker may have about commutation.

49I Independent financial advice—the 1987 Act, s 87F(2A)

- (1) An insurer must not enter into a commutation agreement with an injured worker for more than \$100,000 unless the worker has received independent financial advice paid for by the insurer.
- (2) If an injured worker notifies an insurer that the worker requires independent financial advice for a proposed commutation agreement for \$100,000 or less, the insurer must pay for the advice.
- (3) An injured worker who intends to obtain independent financial advice must notify the insurer of the following—
 - (a) the name and contact details of the financial advisor,
 - (b) the Australian Financial Services licence number under which the advisor operates,
 - (c) the advisor’s quotation or other estimate of the cost of the advice.
- (4) An insurer must not pay for advice under this clause unless the financial advisor giving the advice operates under an Australian Financial Services licence.
- (5) The maximum cost an insurer must pay for financial advice under this clause is \$2,000.
- (6) To avoid doubt, an insurer must pay the financial advisor directly for advice given to a worker under this clause.
- (7) In this clause—

Australian Financial Services licence means an Australian Financial Services licence issued by the Australian Securities and Investments Commission.

49J Form of commutation agreement—the 1987 Act, s 87EA(2)(b)

A commutation agreement must be in the form—

- (a) approved by the Authority, and
- (b) published on the Authority’s website.

49K Approval of commutation agreement

A commutation agreement under the 1987 Act, section 87EA(2) must not be approved under the 1987 Act, section 87H unless the injured worker has applied for the approval within 24 months after the commencement day.

[13] Clause 52 Excess recoverable from employer

Insert after clause 52(2)—

- (3) The prescribed excess amount for the 1987 Act, section 160(1) is the amount required to be paid by an insurer for—
 - (a) the first week following notification to the insurer of the worker’s injury in which the worker’s entitlement to weekly compensation is more than \$0, and
 - (b) the week immediately after the week in paragraph (a).

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- (4) For subclause (3)(a) the weekly compensation entitlement includes an additional amount of weekly compensation the insurer must pay after one or more of the following—
- (a) an internal review by the insurer,
 - (b) another review,
 - (c) an order of the Personal Injury Commission.

[14] Clauses 68(b), 69(1) and 70

Omit “Authority” wherever occurring.

Insert instead “ICNSW”.

[15] Clause 133A

Insert after clause 133—

133A Maximum costs provided by Independent Review Officer—the 1998 Act, s 337(1)(d)

The scale of maximum costs provided by the Independent Review Officer for legal and associated costs is the scale of costs set out in the *Independent Legal Assistance and Review Service Funding Guidelines* published on the NSW legislation website and in force immediately before the commencement of the *Workers Compensation Legislation Amendment Act 2025*, Schedule 2[38].

[16] Schedule 3 Mandatory provisions in employer’s insurance policy

Omit “Market Practice and Premiums Guidelines” from Schedule 3, clause 24, note 1.

Insert instead “Regulation 2016, clause 52(3)”.

[17] Schedule 5 Penalty notice offences

Omit the matter relating to section 155(1) from Schedule 5, Part 1.

Insert instead—

Section 155(1)	For a large employer—11,000
	Otherwise—5,500

[18] Schedule 5, Part 1

Insert after the matter relating to section 163A(2) and (7)—

Section 173AA(1)	For a large employer—11,000
	Otherwise—5,500

[19] Schedule 5, Part 2

Omit “1,100” from the matter relating to section 59D.

Insert instead “1,250”.

[20] Schedule 5, Part 2

Insert after the matter relating to section 268—

Section 280AE(5)	1,250
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Section 280AG(1) and (2)

1,250

[21] Schedule 6 Maximum costs—compensation matters

Omit Schedule 6, Part 2, Table 3, item D.

Insert instead—

D	Approval of commutation agreement					
1	Where agreement approved by the President, including all preparation and documentation in approved form in accordance with Rules	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500

[22] Schedule 6, Part 3, item 7

Omit “\$1,150.00”.

Insert instead “\$2,000”.

[23] Schedule 8 Savings and transitional provisions

Insert at the end of the schedule with appropriate part numbering—

Part Provisions consequent on commencement of Workers Compensation Legislation Amendment Act 2025

Division 1 Preliminary

1 Definitions

In this part—

2025 Act means the *Workers Compensation Legislation Amendment Act 2025*.

2026 Act means the *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026*.

commenced proceedings means proceedings commenced and not finally determined before the commencement of the 2025 Act, including—

- (a) an application for the Commission to exercise a function, and
- (b) an appeal against the exercise of a function by the Commission.

commencement day means the day Part 6, Divisions 2 and 3 commence.

impairment agreement means an agreement—

- (a) that states the following—

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- (i) the degree of permanent impairment the worker and the employer or insurer agree has resulted from the injury,
 - (ii) whether a proportion of permanent impairment is due to a previous injury or pre-existing condition or abnormality,
 - (iii) the nature and extent of any loss of hearing suffered by the worker,
 - (iv) whether the impairment is permanent,
 - (v) whether the degree of permanent impairment is fully ascertainable, and
- (b) in which there is a provision in which the employer or insurer certifies the employer or insurer is satisfied the worker obtained independent legal advice before entering into the permanent impairment assessment.

interim period means the period between the commencement of Part 6, Division 1 and the commencement day.

interim period assessment means an assessment of the degree of permanent impairment of an injured worker conducted—

- (a) in the interim period, and
- (b) in accordance with the Workers Compensation Guidelines for the evaluation of permanent impairment as in force when the assessment is conducted, and
- (c) by an assessor included on a register of assessors kept by the Authority.

Part 6 means the 1987 Act, Part 6 as inserted by the 2025 Act.

section 66A agreement means an agreement under the 1987 Act, section 66A before its repeal by the 2025 Act, Schedule 1.9[10].

2 Application of part

For the 1987 Act, Schedule 6, Part 20, clause 1(5) the provisions of this part prevail to the extent of an inconsistency with the Act or another provision of this regulation.

3 Unexpected and material deterioration

- (1) For this part, an unexpected and material deterioration in a worker's condition since the worker's last assessment was made occurs only if—
 - (a) at the time of the last assessment there was no reasonable cause to believe the worker's condition would deteriorate, and
 - (b) the deterioration results in an increase in the worker's degree of permanent impairment of at least a further 10 percentage points.
- (2) Age-related deteriorations must not be considered in deciding whether an unexpected and material deterioration in a worker's condition has occurred.

4 Proceedings commenced before commencement of 2025 Act

Except as otherwise provided by this part, commenced proceedings must be determined in accordance with the provisions applying to the proceedings immediately before the commencement of the 2025 Act, Schedule 1.3[5].

5 Period in which claim must be made for assessment conducted before commencement day

- (1) A worker who has the worker's degree of permanent impairment assessed before the commencement day must make a claim for compensation under the 1987 Act, section 66 before 1 July 2028.

- (2) A worker who does not make a claim in accordance with subclause (1) may not make a claim for compensation under the 1987 Act, section 66.

6 Determination on and from commencement day

- (1) Part 6 applies to all injuries, whether incurred before or after the commencement day, subject to this clause.
- (2) An injured worker with an existing claim under the 1987 Act, Part 3, who before the commencement day has received 1 or more assessments of the worker's degree of permanent impairment—
- (a) is not entitled to a principal assessment of the existing claim, and
 - (b) is not entitled to a further principal assessment of the existing claim except in accordance with the 1987 Act, section 153Q.
- (3) For an injured worker with an existing claim who on the commencement day has an assessment of the worker's degree of permanent impairment underway—
- (a) the assessment is taken to be a principal assessment, and
 - (b) the injured worker is not entitled to a further principal assessment except in accordance with the 1987 Act, section 153Q.

7 Assessments before commencement of Part 6, Division 1

- (1) A pre-reform impairment assessment undertaken before the commencement of Part 6, Division 1 is taken to be a worker's principal assessment to establish an entitlement to the following—
- (a) weekly payments,
 - (b) medical expenses compensation,
 - (c) lump sum compensation,
 - (d) commutations,
 - (e) work injury damages.
- (2) A decision made before the commencement of Part 6, Division 1, by a medical assessor to decline to make an assessment of a worker's degree of permanent impairment because the maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, is not a pre-reform impairment assessment.
- (3) In this clause—
- pre-reform impairment assessment*** means the following—
- (a) an assessment undertaken and relied upon—
 - (i) for the worker to establish an entitlement to receive weekly compensation under the 1987 Act, Part 3, Division 2, or
 - (ii) for the worker to establish an entitlement to compensation for non-economic loss under the 1987 Act, Part 3, Division 4, or
 - (iii) to determine, for the 1987 Act, section 151H, whether an injured worker's injury has resulted in permanent impairment of the worker of 15% or more,
 - (b) a medical assessment under the 1998 Act, Chapter 7, Part 7.

8 Section 66A agreement binding

A section 66A agreement made before the commencement day, and still in force, is binding on an injured worker and the insurer or employer with whom the agreement is made for all purposes relating to the following—

- (a) weekly payments,
- (b) medical expenses compensation,
- (c) lump sum compensation,
- (d) commutations,
- (e) work injury damages.

Division 2 Assessments in interim period

9 Assessments in interim period

- (1) An interim period assessment must not be made if—
 - (a) liability for the injury is in issue, and
 - (b) a determination about the liability has not been made by the Commission.
- (2) An interim period assessment is taken to be a worker's principal assessment for entering into an impairment agreement used to determine the worker's entitlement to the following—
 - (a) weekly payments,
 - (b) medical expenses compensation,
 - (c) lump sum compensation,
 - (d) commutations,
 - (e) work injury damages.
- (3) The injured worker must receive independent legal advice before entering into an impairment agreement for this clause.

10 Further assessment in interim period

- (1) An injured worker who has entered into an impairment agreement, whether before or after the commencement of this clause, may not have a further assessment unless the worker and insurer agree it appears there has been an unexpected and material deterioration in the worker's condition since the last assessment of the worker was conducted.
- (2) This clause applies to an injured worker despite clause 6.

11 Disputes about interim period assessments

- (1) If, following an interim period assessment, the injured worker and the insurer are unable to agree on the worker's degree of permanent impairment—
 - (a) the insurer must give notice of the decision not to enter into the agreement in accordance with the 1998 Act, sections 78 and 79, and
 - (b) either party may elect to have the disagreement determined by the Commission as a medical dispute under the 1998 Act, Chapter 7, Part 7.
- (2) A party electing to have the disagreement dealt with as a medical dispute must, when making the election, present medical evidence supporting the party's position.

12 Division subject to decisions of Commission

This division is subject to a decision made by the Commission determining the degree of permanent impairment and entitlements of an injured worker.

13 Costs of assessment

The 1987 Act, section 153I applies to costs incurred by a worker in undergoing an interim period assessment.

Division 3 Cessation of weekly payments

14 Existing claims

The 1987 Act, sections 39(4) and 39A(4) apply to a claim whether made before or after the commencement of—

- (a) the 2025 Act, Schedule 1.1[4], and
- (b) the 2026 Act, Schedule 2.1[4].

15 Further assessments

- (1) For the 1987 Act, section 39(4), a further principal assessment includes the following—
 - (a) a worker's first principal assessment,
 - (b) an interim period assessment.
- (2) For the 1987 Act, section 39A(4) a further assessment includes the following—
 - (a) a worker's first assessment,
 - (b) an interim period assessment.

16 Psychological injuries

The 1987 Act, sections 38, 39A and 39B, as amended by the 2025 Act, Schedule 1.1[5A]–[5C] and the 2026 Act, Schedule 2.1[1]–[6], apply to a psychological injury notified after 30 June 2026 and before the commencement of the 2025 Act, Schedule 1.8[3].

Division 4 Determination of degree of permanent impairment

17 Determination before commencement day

- (1) This clause ceases to apply on and from the commencement day.
- (2) This clause applies to all injuries whether notified before or after the commencement of Part 6, Division 1.
- (3) An injured worker's degree of permanent impairment under the 1987 Act must be assessed as provided by Part 6, Division 1.
- (4) An assessment of an injured worker's degree of permanent impairment is taken to be a principal assessment whether or not the worker received independent legal advice before the assessment.
- (5) For subclause (3), a reference in Part 6, Division 1—
 - (a) to a principal assessment is taken to be a reference to an assessment of an injured worker's degree of permanent impairment, and

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- (b) to a permanent impairment agreement is taken to be a reference to a permanent impairment agreement as provided for in the 1987 Act, section 153S as proposed to be inserted by the 2025 Act.
- (6) A second or subsequent assessment may be made only if the worker and insurer agree it appears there has been an unexpected and material deterioration in the worker's condition since the last assessment of the worker was conducted.

Division 5 Indexation and payments

18 Adjustable amounts—the 1987 Act, Schedule 6, Part 20, clause 1(5)

- (1) Section 80 of the 1987 Act, as substituted by the 2025 Act, Schedule 1.4[16], is amended by omitting “1 April 2025” and inserting “1 April 2026” instead.
- (2) Section 82B(1) of the 1987 Act, as amended by the 2025 Act, Schedule 1.4[19], is amended by omitting “1 April 2026” and inserting “1 April 2027” instead.
- (3) Section 82F(1) of the 1987 Act, as amended by the 2025 Act, Schedule 1.4[33], is amended by omitting “1 April 2026” and inserting “1 April 2027” instead.

19 Indexed amounts—the 1987 Act, Schedule 6, Part 19Q, clause 20

- (1) Each section of the 1987 Act specified in Column 1 of the table to this subsection is amended by omitting the amount specified in Column 2 for the section and inserting instead the amount specified in Column 3 for the section.

Column 1	Column 2	Column 3
Section 25(1)(a)	\$750,000	\$990,350
Section 25(1)(b)	\$66.60	\$177.30
Section 34(1)	\$1,838.70	\$2,662.10
Section 38(3)(b)	\$155	[TBC]
Section 38A(1)	\$788.32	\$1,060
Section 40(1)(d)	\$155	[TBC]
Section 41(5)(b)	\$155	[TBC]
Section 66(2)(a)	\$19,540	[TBC]
Section 66(2)(a)	\$2,940	[TBC]
Section 66(2)(b)	\$78,200	[TBC]
Section 66(2)(b)	\$4,840	[TBC]
Section 66(2)(c)	\$242,010	[TBC]
Section 66(2)(d)	\$309,020	[TBC]
Section 66(2)(e)	\$376,030	[TBC]
Section 66(2)(f)	\$443,030	[TBC]
Section 66(2)(g)	\$510,040	[TBC]
Section 66(2)(h)	\$577,050	[TBC]
Section 82B(1)	\$155	[TBC]

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Column 1	Column 2	Column 3
Section 82BA(1)	\$788.32	\$1,060
Schedule 6, Part 3, clause 2(2)	\$76,700	\$204,200
Schedule 6, Part 3, clause 2(3)(b)	\$38.30	\$102
Schedule 6, Part 3, clause 2(4)	\$76,700	\$204,200
Schedule 6, Part 3, clause 2(4)	\$38.30	\$102
Schedule 6, Part 4, clause 4(1)(b)(i)	\$44.80	\$119.30
Schedule 6, Part 4, clause 4(1)(b)(ii)	\$22.50	\$59.90
Schedule 6, Part 4, clause 4(2)	\$44.80	\$119.30
Schedule 6, Part 4, clause 4(2)	\$22.50	\$59.90
Schedule 6, Part 4, clause 4A(2)(a)	\$196.00	\$521.80
Schedule 6, Part 4, clause 4A(2)(b)	\$155.90	\$415.00
Schedule 6, Part 4, clause 4A(2)(c)	\$141.60	\$377.00
Schedule 6, Part 4, clause 4A(2)(c)	\$127.50	\$339.40
Schedule 6, Part 4, clause 4A(3)(a)	\$196.00	\$521.80
Schedule 6, Part 4, clause 4A(3)(b)	\$155.90	\$415.00
Schedule 6, Part 4, clause 4A(3)(c)	\$141.60	\$377.00
Schedule 6, Part 4, clause 4A(3)(c)	\$127.50	\$339.40
Schedule 6, Part 4, clause 7(2)(a)	\$341.30	\$908.60
Schedule 6, Part 4, clause 7(4)	\$341.30	\$908.60
Schedule 6, Part 19H, clause 2(1)	\$906.25	\$1,312.10

- (2) The 1987 Act, section 39B(2)(b)(iv), as inserted by the 2025 Act, Schedule 1.1[5A], is amended by omitting “\$225” and inserting instead [TBC]”.
- (3) The 1998 Act, section 297(2) is amended by omitting “\$7,500” and inserting instead “\$11,479.10”.

20 Adjustment date—the 1987 Act, Schedule 6, Part 20, clause 1(5)

- (1) Section 82(1) of the 1987 Act is amended by omitting “each adjustment date” and inserting “1 April each year” instead.
- (2) Section 82(1) of the 1987 Act is amended by omitting “that adjustment date until immediately before the next following adjustment date” and inserting “1 April in that year for the following 12 months” instead.

Division 6 Miscellaneous

21 Commutations approved before commencement

- (1) A prescribed commutation may continue to be dealt with under the 1987 Act, Part 3 Division 9 as in force immediately before the prescribed day if the Authority certifies that the 1987 Act, section 87EA as in force immediately before the prescribed day has been complied with.
- (2) In this clause—
prescribed commutation means a commutation of compensation under the 1987 Act, Part 3, Division 9 commenced before the prescribed day.
prescribed day means the day the 2025 Act, Schedule 1.5 commences.

22 Employers not entitled to attend medical treatment or medical examination

The 1998 Act, section 231A applies to all medical treatment and medical examinations of an injured worker occurring on or after the commencement of that section irrespective of—

- (a) the date the appointment for the treatment or examination was made, or
- (b) whether or not the appointment for treatment or examination is part of a course of treatment or examinations, or
- (c) whether or not the employer or employer’s representative has attended a previous appointment for treatment or examination of the injured worker.

23 Work capacity decisions

- (1) The 1987 Act, section 43(1)(d), as amended by the 2025 Act, Schedule 1.9[3], does not apply to a work capacity decision made before the commencement of the 2025 Act, Schedule 1.9[3].
- (2) The 1987 Act, section 43(2)(c), as inserted by the 2025 Act, Schedule 1.9[4], does not apply to a work capacity decision made before the commencement of the 2025 Act, Schedule 1.9[4].
- (3) The 1987 Act, sections 44BA and 44BB, as inserted by the 2025 Act, Schedule 1.9[5], do not apply to the following if made before the commencement of the 2025 Act, Schedule 1.9[5]—
 - (a) a work capacity decision,
 - (b) a decision about PIAWE.
- (4) The 1998 Act, section 76, definitions of *internal review*, *original decision* and *review decision* as amended by the 2025 Act, Schedule 2[4] and [5], do not apply to the following if made before the commencement of the 2025 Act, Schedule 2[4] and [5]—
 - (a) a work capacity decision,
 - (b) a decision about PIAWE.

- (5) The 1998 Act, section 78(1)(c), as inserted by the 2025 Act, Schedule 2[6], does not apply to a decision made before the commencement of the 2025 Act, Schedule 2[6].
- (6) The 1998 Act, section 83(c) and (d), as inserted by the 2025 Act, Schedule 2[8], do not apply to a decision made before the commencement of the 2025 Act, Schedule 2[8].
- (7) The 1998 Act, section 287A(a1), as inserted by the 2025 Act, Schedule 2[14] does not apply to a work capacity decision made before the commencement of the 2025 Act, Schedule 2[14].
- (8) The 1998 Act, section 289(1), as amended by the 2025 Act, Schedule 2[16] does not apply to a work capacity decision made before the commencement of the 2025 Act, Schedule 2[16].
- (9) The 1998 Act, section 289B(1), as inserted by the 2025 Act, Schedule 2[18], does not apply to a work capacity decision made before the commencement of the 2025 Act, Schedule 2[18].
- (10) The 1998 Act, section 297(1A), as inserted by the 2025 Act, Schedule 2[19], does not apply to a dispute about a decision made before the commencement of the 2025 Act, Schedule 2[19].

24 Certification of prospects of success

The 1987 Act, section 195, as inserted by the 2025 Act, Schedule 1.9[21], does not apply to proceedings commenced before the commencement of the 2025 Act, Schedule 1.9[21].

25 Reasonable and necessary medical expenses

- (1) The 1998 Act, section 289(2A) as amended by the 2025 Act, Schedule 2[17], does not apply to proceedings commenced before the commencement of the 2025 Act, Schedule 2[17].
- (2) The 1998 Act, section 297(4) as amended by the 2025 Act, Schedule 2[21], does not apply to proceedings commenced before the commencement of the 2025 Act, Schedule 2[21].

26 Vocational re-education and rehabilitation

- (1) The 1998 Act, section 53(1A) as inserted by the 2026 Act, Schedule 3[1], does not apply to a claim made before the commencement of the 2026 Act, Schedule 3[1].
- (2) The 1998 Act, section 53(5) as inserted by the 2026 Act, Schedule 3[2], does not apply to a claim made before the commencement of the 2026 Act, Schedule 3[2].
- (3) The 1998 Act, section 53A as inserted by the 2026 Act, Schedule 3[3], does not apply to a claim made before the commencement of the 2026 Act, Schedule 3[3].

27 Payment from Workers Compensation Operational Fund

The costs associated with the review, under the 1998 Act, Schedule 6, Part 19Q, clause 11, of PIRS must be paid from the Workers Compensation Operational Fund.

Schedule 2 Amendment of Personal Injury Commission Regulation 2020

Part 3A

Insert after clause 13—

Part 3A Independent Review Officer

13A Funding previously approved

(DI 40)

- (1) The Act, Schedule 5, clause 9A does not apply to an application for funding determined before the commencement of that clause whether or not the funding has been provided for the worker.
- (2) Despite subclause (1), the Act, Schedule 5, clause 9A applies to an application for additional funding.
- (3) In this clause—
additional funding includes—
 - (a) top-up funding, and
 - (b) funding for a stage of a matter if funding for the stage has not previously been approved.