

c2025-269I
Ind (TM)--Independent (Taylor Martin)

LEGISLATIVE COUNCIL

Workers Compensation Legislation Amendment Bill 2025

Second print

Proposed amendments

- No. 1 **Commencement—whole person impairment for psychological injury**
Page 2, clause 2, line 5. Omit all words on the line. Insert instead—
This Act commences as follows—
(a) for Schedule 1.1[2], [6], [12], [16] and [18]—on 1 July 2026,
(b) for Schedule 1.1[3], [7], [17] and [19]—on 1 July 2027,
(c) for Schedule 1.1[3A], [7A], [17A] and [19A]—on 1 July 2029,
(d) otherwise—on a day or days to be appointed by proclamation.
- No. 2 **Whole person impairment for psychological injury—more than 26%**
Page 3, Schedule 1.1[3], line 17. Omit “25%”. Insert instead “at least 25%”.
- No. 3 **Whole person impairment for psychological injury—more than 26%**
Page 3, Schedule 1.1[3], line 17. Omit “31%”. Insert instead “more than 26%”.
- No. 4 **Whole person impairment for psychological injury—at least 28%**
Page 3, Schedule 1.1. Insert after line 17—
[3A] Section 38(9), as inserted by item [2] and amended by item [3]
Omit “more than 26%” wherever occurring. Insert instead “at least 28%”.
- No. 5 **Whole person impairment—injuries other than primary psychological injuries**
Page 3, Schedule 1.1[5], line 23. Omit all words on the line. Insert instead—
injury must be assessed under—
(a) Part 6, or
(b) the 1998 Act, Chapter 7, Part 7.
- No. 6 **Whole person impairment for psychological injury—more than 26%**
Page 4, Schedule 1.1[7], line 16. Omit “25%”. Insert instead “at least 25%”.
- No. 7 **Whole person impairment for psychological injury—more than 26%**
Page 4, Schedule 1.1[7], line 16. Omit “31%”. Insert instead “more than 26%”.

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- No. 8 **Whole person impairment for psychological injury—at least 28%**
Page 4, Schedule 1.1. Insert after line 16—
 [7A] Section 39A(2), as inserted by item [6] and amended by item [7]
 Omit “more than 26%” wherever occurring. Insert instead “at least 28%”.
- No. 9 **Whole person impairment—limit on payment of compensation**
Page 4, Schedule 1.1[8], line 22. Insert “or the 1998 Act, Chapter 7, Part 7” after “Part 6”.
- No. 10 **Whole person impairment—limit on payment of compensation**
Page 4, Schedule 1.1[8], lines 23 and 24. Omit “that part”. Insert instead “either of the parts”.
- No. 11 **Whole person impairment—limit on payment of compensation**
Page 4, Schedule 1.1[8], line 34. Insert “or the 1998 Act, Chapter 7, Part 7” after “Part 6”.
- No. 12 **Lump sum payments for permanent impairment**
Page 5, Schedule 1.1[13] and [14], lines 21–24. Omit all words on the lines.
- No. 13 **Whole person impairment for psychological injury—more than 26% and at least 28%**
Page 5, Schedule 1.1[17], lines 38 and 39. Omit all words on the lines. Insert instead—
 [17] Section 151DA(1)(a)(i), as inserted by item [16]
 Omit the subparagraph. Insert instead—
 (i) whether the degree of permanent impairment of the
 injured worker is—
 (A) at least 15% for a physical injury, or
 (B) more than 26% for a psychological injury,
 [17A] Section 151DA(1)(a)(i)(B), as inserted by item [17]
 Omit “more than 26%”. Insert instead “at least 28%”.
- No. 14 **Whole person impairment**
Page 6, Schedule 1.1[18], proposed section 151H(1)(b), note, line 9. Omit “provides”. Insert
instead “and the 1998 Act, Chapter 7, Part 7 provide”.
- No. 15 **Degree of permanent impairment/whole person impairment for psychological injury—more
than 26%**
Page 6, Schedule 1.1[19], line 27. Omit “25%”. Insert instead “at least 25%”.
- No. 16 **Degree of permanent impairment/whole person impairment for psychological injury—more
than 26%**
Page 6, Schedule 1.1[19], line 27. Omit “31%”. Insert instead “more than 26%”.
- No. 17 **Degree of permanent impairment/whole person impairment for psychological injury—at
least 28%**
Page 6, Schedule 1.1. Insert after line 27—
 [19A] Section 151H(2)(b), as inserted by item [18] and amended by item [19]
 Omit “more than 26%”. Insert instead “at least 28%”.
- No. 18 **Weekly payments**
Page 8, Schedule 1.3[2], line 8. Insert “or the 1998 Act, Chapter 7, Part 7” after “Part 6”.
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- No. 19 **Costs of permanent impairment assessment**
Page 12, Schedule 1.3[5], proposed section 153I(1), line 25. Omit “An employer is not liable to pay the costs of or”. Insert instead “Costs are not payable”.
- No. 20 **Preconditions to commutation**
Page 24, Schedule 1.5[4], line 17. Omit “assessed, under Part 6, as at least 15%”. Insert instead “assessed, under Part 6 or the 1998 Act, Chapter 7, Part 7, as at least 15%”.
- No. 21 **Enforceable undertakings**
Page 27, Schedule 1.6, proposed section 209F(3), line 41. Omit “to the State”. Insert instead “into the Workers Compensation Operational Fund”.
- No. 22 **Large employers**
Page 37, Schedule 1.9[20], proposed section 173AA, heading, line 1. Omit “large”.
- No. 23 **Large employers**
Page 37, Schedule 1.9[20], proposed section 173AA(1), line 3. Omit “A large”. Insert instead “An”.
- No. 24 **Insurers**
Page 37, Schedule 1.9. Insert after line 21—
- [21] Section 195**
Insert after section 194—
- 195 Insurers to certify reasonable prospects of success**
- (1) This section applies if an insurer is a party to proceedings in the Commission, or before a court or tribunal, in relation to a claim.
- (2) The insurer must give to the Commission, court or tribunal, in accordance with the rules of the Commission, court or tribunal, a certificate signed by an Australian legal practitioner acting for the insurer that states—
- (a) the insurer’s case has reasonable prospects of success based on—
- (i) provable facts, and
- (ii) a reasonably arguable view of the law, and
- (b) the cost of the insurer’s action in commencing or defending the proceedings is proportionate to—
- (i) the claim, and
- (ii) the significance of the issues in dispute.
- No. 25 **Application of amendments to exempt workers**
Page 38, Schedule 1.10. Insert after line 33—
- Note—** See also Part 19H, clause 25, which provides for the saving of the base rates of the amounts of compensation payable for exempt workers.
- No. 26 **Application of amendments to claims for dust diseases**
Page 39, Schedule 1.10, line 10. Omit all words on the line.
- No. 27 **Application of amendments to claims for dust diseases**
Page 39, Schedule 1.10, line 11. Insert “and” after “Schedule 1.4[15],”.
- No. 28 **Transitional provisions—entitlement to weekly payments**
Page 40, Schedule 1.10. Insert after line 16—

Whole person impairment—at least 25%

The amendment to section 38 made by Schedule 1.1[2], and section 39A as inserted by Schedule 1.1[6], apply only to a notification or claim for a primary psychological injury made on or after 1 July 2026.

Whole person impairment—more than 26%

The amendments to sections 38 and 39A made by Schedule 1.1[3] and [7] apply only to a notification or claim for a primary psychological injury made on or after 1 July 2027.

Whole person impairment—at least 28%

The amendments to sections 38 and 39A made by Schedule 1.1[3A] and [7A] apply only to a notification or claim for a primary psychological injury made on or after 1 July 2029.

No. 29 **Transitional provisions—application of amendments to section 59A**

Page 40, Schedule 1.10, lines 15 and 16. Omit “a claim to which Part 1, Division 2, as inserted by the amendment Act, Schedule 1.8[3], applies”. Insert instead “a primary psychological injury for which a notification or claim is made on or after 1 January 2027”.

No. 30 **Degree of permanent impairment for psychological injury—consequential amendment**

Pages 40 and 41, Schedule 1.10, line 41 on page 40 to line 8 on page 41. Omit all words on the lines.

No. 31 **Existing claims for primary psychological injuries—work injury damages**

Page 41, Schedule 1.10, lines 21–32. Omit all words on the lines. Insert instead—

Claims for work injury damages made before 1 January 2027

- (1) This clause applies if, before 1 January 2027, an injured worker—
 - (a) makes a claim for lump sum compensation for the injury, and
 - (b) serves a pre-filing statement for the injury.
- (2) Section 151H, as in force before the commencement of the amendment Act, Schedule 1.1[18], applies to the worker’s injury.

Note— In the event of a dispute about a defective pre-filing statement served before 1 January 2027, if there is a finding in favour of the worker, the pre-filing statement is taken to have been served before 1 January 2027.
- (3) In this clause—

claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

Claims for work injury damages made before 1 January 2027

- (1) This clause applies if, before 1 January 2027—
 - (a) an injured worker makes a claim for lump sum compensation for the injury, and
 - (b) a threshold dispute is lodged in the Commission in relation to the claim.
 - (2) Section 151H, as in force before the commencement of the amendment Act, Schedule 1.1[18], applies to the worker’s injury.
 - (3) For the purposes of calculating when the injured worker must serve a pre-filing statement for the injury, any period during which the threshold dispute is unresolved is not to be included.
 - (4) In this clause—
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claim for lump sum compensation means a claim specifically seeking compensation under Part 3, Division 4.

threshold dispute means—

- (a) a medical dispute about whether the degree of impairment of the injured worker is at least 15%, or
- (b) a medical dispute about whether the degree of permanent impairment of the injured worker is fully ascertainable, or
- (c) an appeal in relation to an assessment under—
 - (i) Part 6, or
 - (ii) the 1998 Act, Chapter 7, Part 7.

No. 32 **Review of assessment of psychological injuries**

Page 42, Schedule 1.10. Insert after line 27—

Review by Chief Psychiatrist

- (1) The Chief Psychiatrist must conduct a review to assess, and report to the Minister and Treasurer about, the effectiveness and appropriateness of PIRS, and alternatives to PIRS, for assessing whole person impairment within the workers compensation scheme.
- (2) The review must be conducted in accordance with terms of reference—
 - (a) determined by the Minister and Treasurer, and
 - (b) tabled in each House of Parliament.
- (3) Without limiting subclause (2), the review must—
 - (a) consider the appropriateness of PIRS as a tool to determine the degree of permanent impairment of injured workers, and
 - (b) develop an alternative tool to determine the degree of permanent impairment of injured workers.
- (4) In undertaking the review, the Chief Psychiatrist must consider—
 - (a) the reliability, robustness and consistency of PIRS and other tools in assessing the degree of permanent impairment of injured workers, and
 - (b) any other matter the Chief Psychiatrist considers relevant.
- (5) The review must commence as soon as practicable after the date of assent to the amendment Act.
- (6) A final report on the outcome of the review must be—
 - (a) tabled in each House of Parliament within 18 months after the date of assent to the amendment Act, and
 - (b) given to the expert panel conducting a review under this part.
- (7) In this clause—

Chief Psychiatrist means the person appointed to the role of Chief Psychiatrist within the Ministry of Health.

PIRS means the assessment tool known as the psychiatric impairment rating scale that is—

 - (a) used to assess the level of functional impairment caused by psychiatric conditions and provide a structured approach to evaluating the impact of mental health disorders on an individual's daily life and ability to work, and
 - (b) set out in guidelines developed in consultation with relevant medical colleges, other relevant colleges and associations under the 1998 Act, section 377.

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- No. 33 **Review of workers compensation to include consideration of Chief Psychiatrist's report**
Page 43, Schedule 1.10, line 11. Omit "appropriate." Insert instead—
appropriate,
(c) the Chief Psychiatrist's report about the effectiveness and appropriateness of PIRS and alternatives to PIRS.
- No. 34 **Review of workers compensation to include consideration of Chief Psychiatrist's report**
Page 43, Schedule 1.10, line 19. Insert " , including the expert panel's consideration of the Chief Psychiatrist's report about the effectiveness and appropriateness of PIRS and alternatives to PIRS" after "expert panel".
- No. 35 **Independent allied health consultants**
Page 44, Schedule 2[2], proposed section 45B(5), line 28. Omit "an employer is liable to pay". Insert instead "payable".
- No. 36 **Industrial Relations Commission's power to resolve industrial disputes about injured workers returning to work**
Page 45, Schedule 2. Insert after line 26—
[8A] Section 105 Jurisdiction of Commission and Compensation Court
Insert after section 105(3)—
(3A) Subsection (1) does not prevent the Industrial Relations Commission from dealing with an industrial matter referred to in the *Industrial Relations Act 1996*, section 6(2)(e1) relating to the return to work of an employee who has received a workplace injury.
- No. 37 **Entitlements during determination period**
Page 47, Schedule 2[12], proposed section 280AD(1), line 9. Omit "While". Insert instead "Subject to subsection (1A), while".
- No. 38 **Entitlements during determination period**
Page 47, Schedule 2[12], proposed section 280AD. Insert after line 17—
(1A) If the interim entitlement payment calculated under subsection (1)(a) or (b) would be more than the maximum weekly compensation amount under the 1987 Act, section 34, the interim entitlement payment is the maximum weekly compensation amount.
- No. 39 **Entitlements during determination period**
Page 47, Schedule 2[12], proposed section 280AD(4)(a), line 31. Omit "the worker's PIAWE". Insert instead "the amount to which the worker would have been entitled under the 1987 Act, section 36".
- No. 40 **Appeal against medical assessment**
Page 52, Schedule 2[35], lines 40 and 41. Omit "principal assessment was made under the 1987 Act, Part 6". Insert instead "medical assessment was made under this part".
- No. 41 **Appeal against medical assessment**
Page 53, Schedule 2[36], line 4. Omit "principal assessment". Insert instead "medical assessment".
- No. 42 **Appeal against medical assessment**
Page 53, Schedule 2[36], line 5. Omit "principal assessment". Insert instead "medical assessment".
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No. 43 **Guidelines**

Page 54, Schedule 2[41], lines 4 and 5. Omit all words on the lines. Insert instead—

- (4) This section does not apply to Workers Compensation Guidelines made under the 1987 Act, Part 6 to the extent the Guidelines are about the assessor or assessors for a principal assessment under that part.

No. 44 **Personal Injury Commission—publication of decisions**

Page 55, Schedule 3. Insert after line 23—

[1A] Section 58 Publication of decisions

Omit “The” from section 58(1). Insert instead “Subject to section 58A, the”.

[1B] Section 58A

Insert after section 58—

58A President may restrict disclosures about certain decisions

- (1) The President may make a relevant order if the President is satisfied it is desirable to make the order—
 - (a) because of the confidential nature of evidence or another matter, or
 - (b) for another reason.
- (2) A relevant order—
 - (a) may be made on the President’s own motion or on the application of a party to proceedings, and
 - (b) must be made in accordance with the Commission rules.
- (3) In this section—

relevant order means the following orders—

 - (a) an order prohibiting or restricting the publication or disclosure of details of a decision referred to in section 58(1),
 - (b) an order prohibiting or restricting the publication or disclosure of the following, whether or not the person is a party to proceedings in the Commission or a witness appearing before the Commission—
 - (i) a person’s name,
 - (ii) information, a picture or other material that identifies or is likely to lead to the identification of the person,
 - (c) an order prohibiting or restricting the publication or broadcast of a report, including a sound recording, video recording or transcript, of proceedings in the Commission,
 - (d) an order prohibiting or restricting the publication of evidence given before the Commission, whether in public or private, or of matters contained in documents lodged with the Commission or received in evidence by the Commission,
 - (e) an order prohibiting or restricting the disclosure of the following to some or all of the parties to the proceedings—
 - (i) evidence given before the Commission,
 - (ii) the contents of a document lodged with the Commission or received in evidence by the Commission in relation to the proceedings.

[1C] Section 69

Insert after section 68—

69 Review of operation of section 58 in relation to workers compensation matters

- (1) The Minister must review the operation of section 58 in relation to workers compensation matters to determine whether—
 - (a) the policy objectives of the section remain valid, and
 - (b) the terms of the section remain appropriate for achieving the objectives.
- (2) The review must be undertaken as soon as practicable after the commencement of this section.
- (3) A report about the outcome of the review must be tabled in each House of Parliament within 12 months after the commencement of this section.

No. 45 **Definition of injured workers for ILARS—consequential amendment**

Page 55, Schedule 3[3], line 29. Insert “and (3)” after “clause 9(2)”.

No. 46 **Definition of injured workers for ILARS**

Page 55, Schedule 3[3]. Insert after line 36—

- (3) In this clause—

injured workers includes, for injured workers who have died—

 - (a) relevant family members of the injured workers, and
 - (b) the estates of the injured workers.

No. 47 **Application of Evidence Act 1995, section 128 to evidence given in proceedings in Commission**

Page 57, Schedule 4. Insert after line 1—

4.1A Industrial Relations Act 1996 No 17

Section 163 Rules of evidence and legal formality

Insert after section 163(2)—

- (3) The *Evidence Act 1995*, section 128 is taken to apply to evidence given in proceedings in the Commission, even when the Commission is not required to apply the rules of evidence in the proceedings.
- (4) If it appears to the Commission that a witness or party may have grounds for making an objection under the *Evidence Act 1995*, section 128, as applied by subsection (3), the Commission may satisfy itself that the witness or party is aware of the effect of that section.