

SIRA

NSW Workers Compensation Reform Regulations and Guidelines – Consultation Guide

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1. About this Consultation Guide

1.1. Purpose

In November 2025 and February 2026, the NSW Parliament passed legislation to reform the NSW Workers Compensation Scheme.

To support the implementation of these legislative changes, stakeholders are invited to provide feedback on proposed changes to Workers Compensation Regulations, Guidelines and related materials that give practical effect to the legislative amendments.

This Consultation Guide explains how the proposed Regulations and Guidelines align with the legislative amendments. It is intended to help scheme participants understand the broader legislative changes and proposed regulatory instruments to provide informed feedback during the consultation.

Note: The information set out in this guide is to be used for the purpose described in this guide and not for any other purpose. It is not an operational document and does not set out binding requirements.

1.2. Consultation documents

The following documents are available on the [NSW Workers Compensation Reform Regulations and Guidelines Have Your Say consultation website](#) for stakeholder consideration and feedback:

- Draft Workers Compensation Legislation Amendment Regulation 2026 (Amendment Regulation)
- Draft Workers Compensation Guidelines 2026 (draft Guidelines)
- Summary table of changes –Workers Compensation Guidelines 2026
- Draft Workers Compensation Market Practice and Premium Guidelines 2026 (draft MPPGs)
- Summary table of changes – Market Practice and Premium Guidelines 2026
- Draft Commutation Agreement form
- Draft Commutation Worker Expression of Interest (EOI) form
- Draft Worker's Injury Claim form
- Draft Decision Summary Notice

These documents should be read in conjunction with:

- *Workers Compensation Legislation Amendment Act 2025* (Amendment Act 2025)
- *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026* (Amendment Act 2026)
- *Workers Compensation Act 1987* (1987 Act)
- *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act)
- *Personal Injury Commission Act 2020*
- *Workers Compensation Regulation 2016* (2016 Regulation)
- *Personal Injury Commission Regulation 2020*

2. Primary psychological injury

New eligibility requirements and amended entitlements for people with psychological injuries.

2.1. Legislative context – changes to primary psychological injury

The Workers Compensation Reforms introduce new eligibility requirements and thresholds for workers compensation benefits for primary psychological injuries. The reforms introduce a new claims process for certain psychological injuries, referred to as ‘**relevant injuries**’.

A ‘relevant injury’ (as defined by new [section 280AB](#) of the 1998 Act), is a primary psychological injury caused by being subjected to bullying, sexual harassment, racial harassment or excessive work demands. This conduct is defined as ‘relevant conduct’ under new [section 280AB](#) of the 1998 Act.

Key changes include:

- Compensation for a primary psychological injury can only be paid if the injury is caused by a **relevant event** or series of relevant events. See new [sections 8A to 8Q](#) of the 1987 Act.
- **Claims for relevant injuries caused by being subjected to relevant conduct** (also described in more simple terms in the Amendment Regulation and for the purposes of this guide as ‘relevant conduct claims’) will be subject to a different claims process. This includes:
 - insurers determining whether to accept or dispute liability within 42 days of a claim being made (**the determination period**). A failure by the insurer to make a decision within the determination period deems the claim accepted.
 - during the determination period, workers are entitled to:
 - interim entitlement weekly payment of 75% of Pre-Injury Average Weekly Earnings (PIAWE), less current weekly earnings, and
 - reasonable and necessary medical treatment up to a total value of \$7,500.
 - the Industrial Relations Commission resolving disputes about whether the conduct was relevant conduct.

See new [sections 280AA to 280AK](#) of the 1998 Act.

- New permanent impairment thresholds apply to claims for primary psychological injury for access to weekly payments, medical and related treatment and work injury damages – see summary table in [Appendix A](#).
- No compensation is payable if the significant cause of the psychological injury was:
 - reasonable management action taken or proposed by the employer, or
 - the worker’s expectation or perception of reasonable management action taken or proposed by the employer.

See amendments to [section 11A](#) of the 1987 Act. See also new [section 8F](#) of the 1987 Act.

2.1.1. Who do the changes apply to?

These changes apply to all workers except exempt workers (police officers, paramedics and firefighters), coal miners, volunteers, and claims for dust diseases.

2.1.2. When do the changes start?

The changes apply to primary psychological injuries first notified to the employer after commencement of the legislative provisions (expected to occur from July 2026).

2.2. What amendments are proposed to the Regulations and Guidelines to support changes to psychological injury?

The proposed [Amendment Regulation](#) and [draft Guidelines](#) support the psychological injury reforms, incorporating the reform changes into existing and new claims management processes. Schedule 1[2] of the Amendment Regulation proposes:

- An additional category of relevant event called a ‘prescribed death’ ([clause 3A](#)).

Schedule 1[11] of the Amendment Regulation proposes:

- Mandating the use of a claim form and the provision of minimum information to make a relevant conduct claim ([clauses 42E, 42F and 42G](#)).
- Requiring insurers to notify a worker when interim entitlement payments commence for a relevant conduct claim ([clause 42H](#)).
- Specifying matters to be taken into account in determining whether an injury is a primary psychological injury for which compensation is payable ([clause 42I](#)).
- Requiring insurers to notify a worker of any entitlement to back payment once a relevant conduct claim is accepted ([clause 42J](#)).
- Prescribing the information to be included in a decision notice to dispute liability for a relevant conduct claim ([clause 42K](#)).
- Establishing the internal insurer review process for relevant conduct claims ([clause 42L](#)).

The draft Guidelines propose:

- Requiring the nomination of one or more relevant event categories when making an initial notification of a primary psychological injury ([Table 1.1 in Part 1](#) of the draft Guidelines)
- Specifying reimbursement entitlements for medical treatment paid for by a worker during the determination period ([Part 4.6](#) of the draft Guidelines).

2.3. Further information on the amendments

2.3.1. Additional relevant event

New [section 80](#) of the 1987 Act prescribes that for a primary psychological injury to be compensable under the Workers Compensation Scheme it must be caused by one or more of the relevant events listed at new [section 8G](#) of the 1987 Act, including ‘any other event prescribed by the regulations’.

Proposed [clause 3A](#) (Schedule 1[2] of the Amendment Regulation) establishes a ‘prescribed death’ as an additional relevant event under [section 8G](#).

2.3.2. Initial notification of injury and making a claim for primary psychological injuries (other than relevant injuries caused by being subject to relevant conduct)

The process for making a claim for a primary psychological injury will remain broadly consistent with the existing claims process, with the exception of when the injury is a relevant injury caused by being subjected to relevant conduct. The process for making a claim for a relevant injury (a ‘relevant conduct claim’) is described at 2.3.3 below.

[Clause 42E](#) (Schedule 1[11] of the Amendment Regulation) lists the evidence a worker must give for a claim relating to a primary psychological injury. However, the special provisions for commencement of weekly payments after initial notification of injury, set out in Division 1 of Part 3, Chapter 7 of the 1998 Act, continue to apply to primary psychological injuries (other than a relevant injury). This includes the requirement for insurers to commence weekly payments within 7 days of initial notification of injury, unless a reasonable excuse applies ([section 267](#) of the 1998 Act).

It is also proposed that an initial notification of a primary psychological injury will require the nomination of one or more relevant event category as the cause of the injury. To give effect to this requirement, [Table 1.1, in Part 1](#) of the draft Guidelines is amended to require nomination of a relevant event when making an initial notification of injury for a primary psychological injury.

2.3.3. Making a relevant conduct claim

As stated above, the reforms establish a different claim process for relevant injuries.

Divisions 1 to 3 of Chapter 7, Part 3 of the 1998 Act, does not apply to relevant conduct claims (new [section 264B](#) of the 1998 Act). As a result, weekly payments are not required to commence within 7 days of notification of injury, provisional liability of up to 12 weeks does not apply, and instead a claim must be made for weekly payments to commence under new [section 280AC and 280AD](#) of the 1998 Act.

Division 3A of Part 3, Chapter 7 of the 1998 Act (new [sections 280AA to 280AK](#)) sets out the key elements of the relevant conduct claim process. The Regulations and Guidelines prescribe additional requirements for the making and management of these claims.

The diagram in [Appendix B](#) provides an overview of how the amended legislation and proposed provisions in the Amendment Regulation operate together to establish a complete claim process.

Note: Workers and employers must continue to give notice of all injuries. Workers are required to notify the employer as soon as possible after the injury occurs, and employers must notify the insurer within 48 hours of becoming aware that a worker has sustained a workplace injury. See sections 44 and 254 of the 1998 Act.

2.3.4. Claim form and minimum requirements

To make a relevant conduct claim, [clause 42G](#) (Schedule 1[11] of the Amendment Regulation) requires a claim form to be completed and submitted to the insurer. A relevant conduct claim is only taken to be made once the completed claim form and the minimum information set out in [clauses 42E and 42F](#) (Schedule 1[11] of the Amendment Regulation) have been provided to the insurer.

Updates have been made to the SIRA [Worker's Injury Claim form](#) to capture the additional information required for relevant conduct claims.

Under [clause 42G\(3\)](#) (Schedule 1[11] of the Amendment Regulation), an insurer may also require a worker to provide an authority allowing the insurer to obtain information from the worker's medical treatment and services providers about the injury.

Where an insurer receives a relevant conduct claim, but the claim is incomplete or does not otherwise include all required claim information, the insurer must contact the worker within 3 business days and explain the information required under [clause 42G\(2\)](#) (Schedule 1[11] of the Amendment Regulation).

2.3.5. Starting interim payments for relevant conduct claims

New [section 280AC](#) of the 1998 Act provides that insurers have up to 42 days from the date a completed claim is received to determine whether to accept or dispute liability (the determination period). During this period, workers are entitled to weekly interim entitlement payments and reasonable and necessary medical treatment (new [section 280AD](#) of the 1998 Act).

Note: Interim entitlement payments cannot be "reasonably excused".

[Clause 42H](#) (Schedule 1[11] of the Amendment Regulation) requires insurers to, within 7 days of receiving a completed relevant conduct claim:

- commence interim entitlement payments, and
- notify the worker, in writing, that interim entitlement payments have commenced, including the information specified in [clause 42H\(b\)](#) (Schedule 1[11] of the Amendment Regulation).

2.3.6. Accepting liability for relevant conduct claims

After accepting liability for a relevant conduct claim:

- weekly payments of compensation must commence as soon as practicable, and no later than 7 days, after a decision is made (or deemed to have been made) to accept the claim (new [section 280AF\(1\)](#) of the 1998 Act).
- the worker is entitled to back payment and reimbursement for reasonable and necessary medical treatment paid by the worker before the claim was accepted (new [section 280AD\(4\)](#) of the 1998 Act).
- any back payment must be made as soon as practicable, and no later than 21 days after the claim is accepted (new [section 280AF\(2\)](#) of the 1998 Act).

[Clause 42J](#) (Schedule 1[11] of the Amendment Regulation) requires insurers to provide the worker with written notice of their entitlement to back payment, including how the back payment has been calculated, and reimbursement for reasonable and necessary medical treatment.

Part 4.6 of the Guidelines provides that the reimbursement for medical treatment paid for by the worker during the determination period is subject to the same rules for reasonable and necessary treatment under section 60 of the 1987 Act.

2.3.7. Disputing liability for relevant conduct claims

New section 280AE(1) of the 1998 Act provides that, if an insurer disputes liability for a relevant conduct claim, or an aspect of the claim, the insurer must issue a decision notice in accordance with section 78 of the 1998 Act. A notice of dispute must be given to the worker within 42 days of the date of claim (new section 280AE(2) of the 1998 Act).

Information that must be included in a section 78 notice is prescribed under existing clause 38 of the Regulation. If an insurer disputes liability for a relevant conduct claim, the notice given to the worker must also include the additional information specified in clause 42K (Schedule 1[11] of the Amendment Regulation).

Updates have also been made to the [Decision Summary Notice](#) required for section 78 notices.

2.3.8. Internal review for relevant conduct claims

New section 280AE(3) of the 1998 Act provides that a worker who disagrees with a decision of the insurer on their claim, or an aspect of their claim, may ask the insurer to review the decision. For relevant conduct claims, a request for an internal insurer review is mandatory before a worker may refer the dispute to either the Industrial Relations Commission (for disputes about whether the conduct was relevant conduct) or the Personal Injury Commission (for any other dispute) (new section 280AE(4) of the 1998 Act).

The Amendment Regulation proposes that if a worker requests an internal review of a decision relating to a relevant conduct claim, the insurer must, within 2 business days, provide the worker with the information specified in clause 42L(1) (Schedule 1[11] of the Amendment Regulation).

Under section 280AE(5) of the 1998 Act, the internal review must be conducted and the outcome notified to the worker within 14 days of the request for review. Clause 42L (Schedule 1[11] of the Amendment Regulation) also prescribes:

- who within the insurer must conduct the internal review,
- that the internal reviewer may request, and must consider, additional information from the worker and employer, and
- requirements for giving notice of the internal review decision.

A failure by the insurer to conduct an internal review within 14 days is an offence under new section 280AE(5) of the 1998 Act.

2.3.9. Matters to be taken into account when determining whether a primary psychological injury claim is compensable

Section 8Q of the 1987 Act provides that the regulations may provide for the type 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.

Clause 42I (Schedule 1[11] of the Amendment Regulation) sets out a proposed list of specific matters and circumstances the insurer is required to take into account for this purpose.

3. Permanent impairment assessment

A single permanent impairment assessment will be used to determine eligibility for all workers compensation entitlements.

3.1. Legislative context – changes to permanent impairment assessment

The Workers Compensation Reforms establish a new framework for obtaining a single principal assessment of permanent impairment. There are two distinct components of the framework.

Provisions proposed to commence from July 2026	Injured workers will only be eligible for one single assessment to assess the degree of permanent impairment for their injury or injuries, to be used to determine all workers compensation entitlements. A further assessment will only be available in limited circumstances. Part 6, Division 1 of the 1987 Act is anticipated to commence from July 2026.
Provisions proposed to commence in 2027	A worker's single assessment, referred to as a principal assessment, will be a joint assessment conducted by an assessor agreed between the worker and the insurer. If the worker and insurer cannot agree on an assessor but otherwise agree on the scope of the assessment (e.g. the body parts to be assessed or the health information to be considered), SIRA will appoint an assessor. Where the worker and insurer cannot agree on the scope of the assessment, the matter can be referred to the Personal Injury Commission as a medical dispute. Part 6, Divisions 2 and 3 of the 1987 Act will commence from 2027.

Key changes from July 2026 include:

- New [section 153L](#) of the 1987 Act makes it clear that an injured worker is eligible for only one single assessment to determine the degree of permanent impairment for injury or injuries arising from the same incident
- Injured workers are required to obtain legal advice on the full legal implication of an assessment. See [new section 153A](#) of the 1987 Act.
- A further assessment is only permitted where there is an unexpected and material deterioration in the worker's condition, resulting in an increase of at least 10 additional percentage points in the degree of permanent impairment. Age-related deterioration must not be taken into account. See new [section 153Q](#) of the 1987 Act.
- An agreement following an assessment is used to establish and determine entitlements to weekly payments, medical and related treatment expenses, lump sum compensation, access to commutations and work injury damages. See new [section 153V](#) of the 1987 Act.
- If the injured worker and insurer are unable to enter into an agreement, the disagreement may be referred to the Personal Injury Commission as a medical dispute for determination. Notice of a decision not to enter into an impairment agreement must be given under sections 78 and 79 of the 1998 Act. See new [section 153T](#) of the 1987 Act.
- For medical disputes before the Personal Injury Commission, only one medical assessment of the degree of permanent impairment may be made by the Personal Injury Commission. See new [section 322A\(1A\)](#) of the 1998 Act.

3.1.1. Who do the changes apply to?

These changes apply to all workers, except exempt workers (police officers, paramedics and firefighters), coal miners, volunteers and claims for dust diseases.

3.1.2. When do the changes start?

The changes will commence from July 2026 and, subject to 3.1.1, will apply to all claims, regardless of the date of claim.

3.2. What amendments are proposed to the Regulations and Guidelines to support permanent impairment assessment changes?

The proposed [Amendment Regulation](#) provides for the commencement and operation of single assessments and provisions to support the establishment of joint principal assessments.

To give effect to the staged commencement of the changes, and subject to the outcome of consultation, it is intended to commence the provisions as follows:

- From July 2026 – commencement of new [Part 6, Division 1](#) of the 1987 Act and related amendments to the 1998 Act, in line with other Workers Compensation Reforms
- From 2027 – commencement of new [Part 6, Divisions 2 and 3](#) of the 1987 Act
- During the ‘interim period’ (between commencement of Part 6, Division 1 and Part 6, Divisions 2 and 3) – commencement of the [Amendment Regulation](#) to apply the relevant new [Part 6, Divisions 2 and 3](#) provisions and to clarify the application of the commenced provisions.

3.2.1. Interim period

[Divisions 1, 2 and 4](#) in Schedule 1[23] of the Amendment Regulation provide for how the existing and new legislative framework will operate during the interim period. This includes:

- defining the interim period – which starts on commencement of new [Part 6, Division 1](#) of the 1987 Act and ends on commencement of new [Part 6, Divisions 2 and 3](#) (corresponding with the commencement of the joint principal assessment process described at section 3.1 above)
- how the changes apply to workers with an existing claim who have already had an assessment of permanent impairment
- how an interim period assessment is to be conducted, entering into an impairment agreement and the dispute process where agreement is not reached
- when a subsequent or second assessment may be conducted
- the application of the framework to claims where one or more assessments of permanent impairment have already occurred
- the timeframe for making a lump sum compensation claim after a pre-reform impairment assessment or an interim period assessment
- the treatment of pre-reform impairment assessments and interim period assessments once new [Part 6, Divisions 2 and 3](#) commences in 2027.

Further information on how these provisions operate together can be found in section 3.3 below.

3.2.2. From 2027

Schedule 1[12] to the draft Amendment Regulation provides that:

- an application for a principal assessment must be made in writing using the form approved by SIRA, which will be published on SIRA’s website ([clause 49A](#)).
- no more than one further principal assessment may be conducted for an injured worker ([clause 49B\(1\)](#)).
- where an insurer is requested to agree that a worker’s condition appears to have unexpectedly and materially deteriorated by at least 10 percentage points, and the insurer does not respond within 21 days, the insurer is taken to have agreed to the request ([clause 49B\(2\)](#)).
- the certificate of assessment for a further principal assessment must include a description of the unexpected and material deterioration in the worker’s condition since the last principal assessment ([clause 49C](#)).
- a permanent impairment agreement must not be varied or entered into after a further principal assessment if the unexpected and material deterioration is assessed to be less than 10 percentage points ([clause 49D](#)).

Updates to the Workers Compensation Guidelines will be required to support implementation of joint assessments in 2027. These updates are not included in the current draft Guidelines and will be the subject of further consultation at a later date.

3.3. Further information on the amendments

3.3.1. Worker with an existing claim - assessments before commencement of Part 6, Division 1

[Schedule 8, Part TBC, Divisions 1 and 4](#) (Schedule 1[23] of the Amendment Regulation) sets out how the new framework applies to workers with an existing claim who have already had an assessment of permanent impairment before the commencement of Part 6, Division 1 (from July 2026). These assessments are defined as *pre-reform impairment assessments* ([Schedule 8, Part TBC, clause 7\(3\)](#) [Schedule 1[23] of the Amendment Regulation]).

If a worker has already had one or more pre-reform impairment assessment, the Amendment Regulation provides that those assessments are to be used to establish entitlements to weekly payments, medical expenses compensation, lump sum compensation, commutations and work injury damages ([Schedule 8, Part TBC, clause 7](#) [Schedule 1[23] of the Amendment Regulation]). The worker is not entitled to another principal assessment for the same claim ([Schedule 8, Part TBC, clause 6\(2\)](#) [Schedule 1[23] of the Amendment Regulation]).

A pre-reform impairment assessment does not include an assessment where the medical assessor declined to assess the worker's degree of permanent impairment because maximum medical improvement had not been reached ([Schedule 8, Part TBC, clause 7\(2\)](#) [Schedule 1[23] of the Amendment Regulation]).

If a worker with an existing claim has not had an assessment before the interim period, the interim period assessment provisions below apply. After joint assessments commence in 2027, the worker must be assessed in accordance with the principal assessment process.

3.3.2. Permanent impairment assessments during the interim period

An *interim period assessment* is an assessment of the injured worker's degree of permanent impairment conducted in the interim period by an assessor on the current register of assessors maintained by SIRA. Schedule 1[23] to the [Amendment Regulation](#) provides that an interim period assessment is:

- still to be conducted according to the *NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment* in force at the time of the assessment ([Schedule 8, Part TBC, clause 1](#))
- not to be made when liability for the injury has not yet been determined ([Schedule 8, Part TBC, clause 9\(1\)](#)),
- taken to be a principal assessment and used for the purpose of entering into an *impairment agreement* to determine entitlement to weekly payments, medical expenses compensation, lump sum compensation, commutations and work injury damages ([Schedule 8, Part TBC, clause 9\(2\)](#)).

During the interim period, a second or subsequent assessment may only be made if the worker and insurer agree that the worker's condition appears to have unexpectedly and materially deteriorated by at least 10 percentage points since the last assessment ([Schedule 8, Part TBC, clauses 3 and 17\(6\)](#) [Schedule 1[23] of the Amendment Regulation]).

The new [section 153I](#) of the 1987 Act applies to costs incurred in undergoing an interim period assessment ([Schedule 8, Part TBC, clause 13](#) [Schedule 1[23] of the Amendment Regulation]).

3.3.3. Legal advice during the interim period

New [section 153A](#) of the 1987 Act provides that an injured worker must receive independent legal advice to understand the full legal implications of an assessment before being seen by a permanent impairment assessor.

During the interim period, [Schedule 8, Part TBC, clause 9\(3\)](#) [Schedule 1[23] of the Amendment Regulation] also proposes that an injured worker must receive independent legal advice before entering into an impairment agreement.

3.3.4. Disputes during the interim period

Following an interim period assessment, if the injured worker and the insurer are unable to agree on the worker's degree of permanent impairment, the insurer must give notice of its decision not to

enter into an agreement ([Schedule 8, Part TBC, clause 11\(1\)\(a\)](#) [Schedule 1[23] of the Amendment Regulation]). An application may then be made to the Personal Injury Commission as a medical dispute.

Either the insurer or the worker may elect to have the disagreement determined by the Personal Injury Commission as a medical dispute under the 1998 Act, Chapter 7, Part 7 ([Schedule 8, Part TBC, clause 11\(1\)\(b\)](#) [Schedule 1[23] of the Amendment Regulation]). The party bringing the dispute to the Personal Injury Commission must present medical evidence supporting their position ([Schedule 8, Part TBC, clause 11\(2\)](#) [Schedule 1[23] of the Amendment Regulation]).

3.3.5. Section 66A agreements (complying agreements)

During the interim period, a worker and insurer or employer may continue to enter into a complying agreement under section 66A of the 1987 Act. If a complying agreement is entered into before the end of the interim period, the agreement is binding for the purposes of weekly payments, medical expenses compensation, lump sum compensation, commutations and work injury damages ([Schedule 8, Part TBC, clause 8](#) [Schedule 1[23] of the Amendment Regulation]).

3.3.6. Claim for lump sum compensation

A worker whose degree of permanent impairment is assessed before the end of the interim period must make a claim for lump sum compensation under section 66 of the 1987 Act before 1 July 2028 ([Schedule 8, Part TBC, clause 5](#) [Schedule 1[23] of the Amendment Regulation]).

3.3.7. Existing assessments after the interim period

When the principal assessment process commences from 2027:

- an injured worker who has received one or more assessments is not entitled to a principal assessment for the same claim unless in accordance with the further principal assessments provision in section 153Q ([Schedule 8, Part TBC, clause 6\(2\)](#) [Schedule 1[23] of the Amendment Regulation]).
- a pre-reform impairment assessment undertaken before July 2026 is taken to be a principal assessment ([Schedule 8, Part TBC, clause 7\(1\)](#) [Schedule 1[23] of the Amendment Regulation]).
- an interim period assessment is taken to be a principal assessment ([Schedule 8, Part TBC, clause 9\(2\)](#) [Schedule 1[23] of the Amendment Regulation]).

If there is an assessment underway when new [Part 6, Divisions 2 and 3](#) commences from 2027, the assessment is taken to be a principal assessment ([Schedule 8, Part TBC, clause 6\(3\)](#) [Schedule 1[23] of the Amendment Regulation]).

4. Commutations

Expanded access to commutations for certain cohorts of workers.

4.1. Legislative context - expanded access to commutations

The Workers Compensation Reforms provide for greater access to commutations to an expanded class of workers in certain circumstances. These changes allow eligible claims to be commuted without meeting all existing pre-conditions, subject to oversight and approval by the Personal Injury Commission.

[Schedule 1.5](#) of the Amendment Act 2025 amends [section 87EA](#) of the 1987 Act to permit the regulations to specify classes of claims that may be commuted to a lump sum, despite not meeting all pre-conditions specified in [section 87EA\(1\)](#) of the 1987 Act.

4.1.1. Who do the changes apply to?

These changes apply to all workers, including exempt workers.

4.1.2. When do the changes start?

The expression of interest process is expected to commence from October 2026.

4.2. What amendments are proposed to the regulations to support expanded access to commutations?

Schedule 1[12] to the [Amendment Regulation](#) provides for a temporary expansion of access to commutations for specified classes of claims and sets out the process that applies, including:

- identifying two classes of claims for which compensation may be commuted and the circumstances in which those claims may be commuted ([clauses 49F and 49G](#)).
- establishing an expression of interest process, including prescribed time limits and notification requirements for insurers after receiving an expression of interest ([clause 49H](#)).
- setting requirements for independent financial advice, including when such advice is mandatory before entering into an agreement and what costs the insurer must pay ([clause 49I](#)).
- requiring the commutation agreement to be in the form approved and published by SIRA ([clause 49J](#)).
- providing a period of 24 months for an agreement made under this temporary expansion to be submitted to the Personal Injury Commission for approval ([clause 49K](#)).

Schedule 1[22-23] of the Amendment Regulation proposes increased amounts payable under [Schedule 6](#) to the 2016 Regulation for approval of a Commutation Agreement and the provision of financial advice.

New SIRA approved forms for a Worker Expression of Interest and Commutation Agreement are also proposed to support the implementation of these reforms.

4.3. Further information on the amendments

4.3.1. Eligible classes of claims

[Clauses 49G](#) (Schedule 1[12] to the Amendment Regulation) defines the classes of claims that are exempt from the existing pre-conditions.

Class 1 provides for claims where there is a continuing entitlement to *both weekly payments and medical expenses*.

Class 2 provides for claims where there is a continuing entitlement to *medical expenses only*, and entitlement to weekly payments has ceased due to either reaching a maximum entitlement threshold or the worker returning to work with no further incapacity.

For both classes:

- the worker's degree of permanent impairment must have been assessed and agreed upon by the worker and insurer
- the date of injury must be after 4pm on 30 June 1987 and before 1 January 2023
- a compensation payment must have been made on the claim in the previous 52 weeks, and
- hearing loss claims are excluded.

4.3.2. Application process

[Clause 49H](#) (Schedule 1[12] of the Amendment Regulation) provides for an expression of interest (EOI) process, where eligible workers will have 12 months from the commencement date (from October 2026) to lodge their EOI, in the approved form, with their employer or insurer. A proposed [Worker Expression of Interest form](#) is available for stakeholder feedback.

Once the insurer receives a worker's EOI, the insurer has 10 business days to respond in writing and provide the information specified in [clause 49H\(3\)](#).

4.3.3. Agreement to commutation

Following submission of an EOI and the insurer's written response, the insurer and worker (and their legal representatives) may proceed to negotiate the value of the commutation lump sum.

[Section 87F](#) of the 1987 Act requires that, before entering into a commutation agreement, the worker has received independent legal advice on the full implications of entering into a commutation agreement and on the desirability of obtaining financial advice. For agreements made under these expanded classes, [clause 49I](#) (Schedule 1[12] of the Amendment Regulation) proposes that where the value of the agreement is more than \$100,000 independent financial advice must be provided to the worker, and paid for by the insurer, before entering into the agreement. If the value is \$100,000 or less, the worker may still request independent financial advice to be paid for by the insurer by providing the information specified in [clause 49I\(3\)](#) (Schedule 1[12] of the Amendment Regulation).

Once agreed, a commutation agreement form must be completed and signed by the insurer, employer and worker. The worker's legal advisor and financial advisor (if applicable) must also sign the form to confirm that each has provided their respective advice. A proposed [Commutation Agreement form](#) is available for stakeholder feedback.

Once signed, approval for the agreement must be sought from the Personal Injury Commission. [Clause 49K](#) (Schedule 1[12] of the Amendment Regulation) provides a 24-month period for an application for approval to be made to the Personal Injury Commission for an agreement under this expanded program - starting from the commencement of the amendments to section 87AE of the 1987 Act (from October 2026).

5. Employer excess

Increased employer excess on weekly payment claims.

5.1. Legislative context – changes to the employer excess

As part of the Workers Compensation Reforms, changes were announced to the employer excess payable when a worker makes a claim for workers compensation.

The Amendment Act 2025 amends [section 160](#) of the 1987 Act to:

- provide that the employer excess amount, and the circumstances relating to the payment of the amount, are to be prescribed in the Workers Compensation Regulation 2016 (rather than set by the Workers Compensation Market Practice and Premium Guidelines (MPPGs)), and
- remove the exemption from paying an employer excess that previously applied to small businesses.

5.1.1. Who do the changes apply to?

The changes apply to:

- all employers insured with the Nominal Insurer or a specialised insurer, including Coal Mines Insurance, and
- each claim with a weekly compensation component.

The following exemptions continue to apply:

- exempt employer policies under section 155AA of the 1987 Act,
- policies covering domestic or similar workers, and
- journey and recess claims.

5.1.2. When do the changes start?

The new excess requirements apply to all claims for weekly compensation made against a policy issued or renewed after 4pm on 30 June 2026.

5.2. What amendments are proposed to the Regulations and Guidelines to support changes to the employer excess?

The proposed [Amendment Regulation](#) sets out how the employer excess is to be calculated.

Amendments to [clause 52](#) (Schedule 1[13] to the Amendment Regulation) provide that the new employer excess for a weekly payment claim is the amount of an injured worker's **first two weeks** of weekly benefits after they first become entitled to a weekly payment.

[Part 6.3](#) of the draft [MPPGs](#) have been amended to reflect the changes to the excess, with [Annexure B](#) removed.

5.3. Further information on the amendments

5.3.1. How the new excess will be calculated

New [clause 52\(3\)](#) (Schedule 1[13] to the Amendment Regulation) provides that the excess amount payable by an employer is calculated as the sum of the amount paid by the insurer:

- in the first week following notification of the worker's injury in which the worker's entitlement to weekly compensation is more than \$0, and
- in the week immediately following that first week.

If the amounts payable to a worker in these weeks are amended following a claim review or an order of the Personal Injury Commission, [clause 52\(4\)](#) (Schedule 1[13] to the Amendment Regulation) provides that the excess amount is also to be adjusted.

No waiving of the excess will apply for early notification of injury, as provided for claims in the current MPPGs.

6. Reasonable and necessary

To be compensable under the Workers Compensation Scheme, medical and related treatment must be reasonable *and* necessary.

6.1. Legislative context – changes to compensable medical and related treatment

The Workers Compensation Reforms have changed the threshold test for determining whether a treatment or service is compensable from ‘**reasonably necessary**’ to ‘**reasonable and necessary**’. See amendments to [section 60 and 60AA](#) of the 1987 Act.

6.1.1. Who do the changes apply to?

These changes apply to all workers, including exempt workers, coal miners and volunteers. The changes do not apply to dust disease claims.

6.1.2. When do the changes start?

The ‘reasonable and necessary’ test will apply to new claims for medical and related expenses made on or after the commencement of the legislative provisions (expected in October 2026).

Existing claims for medical and related expenses made before commencement will continue to be assessed using the ‘reasonably necessary’ test where:

- the claim has been made but liability has not been determined before the commencement date, and
- the claim has been approved, but treatment has not commenced and / or been completed.

6.2. What amendments are proposed to the Regulations and Guidelines to support changes to reasonable and necessary medical treatment?

The proposed [Amendment Regulation](#) supports the reforms by providing rules at [clause 8P](#) (Schedule 1[10] to the Amendment Regulation) that must be applied when determining whether a treatment or service is reasonable and necessary.

[Clause 8Q](#) (Schedule 1[10] to the Amendment Regulation) also provides a list of specific treatments that an employer is not liable to pay for.

Related amendments have also been made to [Part 4.2](#) and [Table 4.2](#) of the draft [Guidelines](#) to update relevant references.

7. Other changes to the Regulation

The proposed [Amendment Regulation](#) includes several other minor amendments to support the Workers Compensation Reforms.

7.1. When are the changes starting?

The changes set out in section 7.2 are expected to commence from July 2026.

7.2. What are the other proposed changes in the Amendment Regulation?

Other changes to the Regulation include:

Proposed change	Amendment Regulation
Amendments to reflect that pre-injury average weekly earnings (PIAWE) decisions are no longer work capacity decisions and to remove the example in clause 8C(1) of the Workers Compensation Regulation 2016.	Clauses 8C, 8K, 8M, 8N (Schedule 1[4]-[9]) Schedule 8, Part TBC, clause 23 (Schedule 1[23])
Changes from “the Authority” to “ICNSW” to reflect the transfer of management and responsibility for the Insurer Guarantee Fund (IGF) from SIRA to icare.	Clauses 68, 69, 70 (Schedule 1[14])
Clarification that the maximum legal and associated costs payable by the Independent Review Office are those set out in the ILARS Funding Guidelines in force immediately before commencement of the amendments to section 337 of the 1998 Act.	Clause 133A (Schedule 1[15])
Clarification to sections 39 and 39A of the 1987 Act that if a worker’s weekly payments cease under those sections, compensation is payable again from the date of the worker’s permanent impairment assessment at the requisite threshold.	Schedule 8, Part TBC, clauses 14, 15, 16 (Schedule 1[23])
Various transitional provisions to provide for commencement and application of certain reforms. This includes amendments to the 1987 Act to enable annual indexation, with the first annual indexation to occur on 1 April 2027.	<ul style="list-style-type: none"> • Employers not entitled to attend medical treatment or medical examination – Schedule 8, Part TBC, clause 22 (Schedule 1[23]) • Certification of prospects of success – Schedule 8, Part TBC, clause 24 (Schedule 1[23]) • Vocational re-education and rehabilitation – Schedule 8, Part TBC, clause 26 (Schedule 1[23]) • Payment from Workers Compensation Operational Fund – Schedule 8, Part TBC, clause 27 (Schedule 1[23])
Amendment to the Personal Injury Commission Regulation 2020 to clarify that the ILARS merit test does not apply to funding previously approved, but does apply to applications for additional funding.	Clause 13A (Schedule 2[1])

7.3. What are the changes to penalty notice offences?

Changes to penalty notices in [Schedule 5](#) (Schedule 1[17]-[20] of the Amendment Regulation) have been made to align with new and amended penalties in the Amendment Act 2025, as set out below:

Section and description	Penalty notice amount
Non-insurance by employers – section 155 of the 1987 Act (as amended by the 2025 Amendment Act)	<ul style="list-style-type: none"> • New amount of \$11,000 for large employers • Increase from \$1,100 to \$5,500 for all other employers
Failure by an employer to give insurers information relevant to under-insurance – section 173AA of the 1987 Act (as inserted by the Amendment Act 2025)	<ul style="list-style-type: none"> • New amount of \$11,000 for large employers • \$5,500 for all other employers
Non-compliance with an employer improvement notice – section 59D of the 1987 Act	Increase from \$1,100 to \$1,250
Failure by an insurer to conduct a review of a relevant conduct claim or to notify a decision about a review within 14 days of a request – section 280AE(5) of the 1998 Act (as inserted by the Amendment Act 2025)	New amount of \$1,250
Failure by an insurer to commence weekly payments within 7 days after accepting a relevant conduct claim – section 280AG(1) of the 1998 Act (as inserted by the Amendment Act 2025)	New amount of \$1,250
Referral of a dispute that is not genuine for the purposes of delaying, without good cause, the commencement of weekly payments – section 280AG(2) of the 1998 Act (as inserted by the Amendment Act 2025)	

8. Appendix

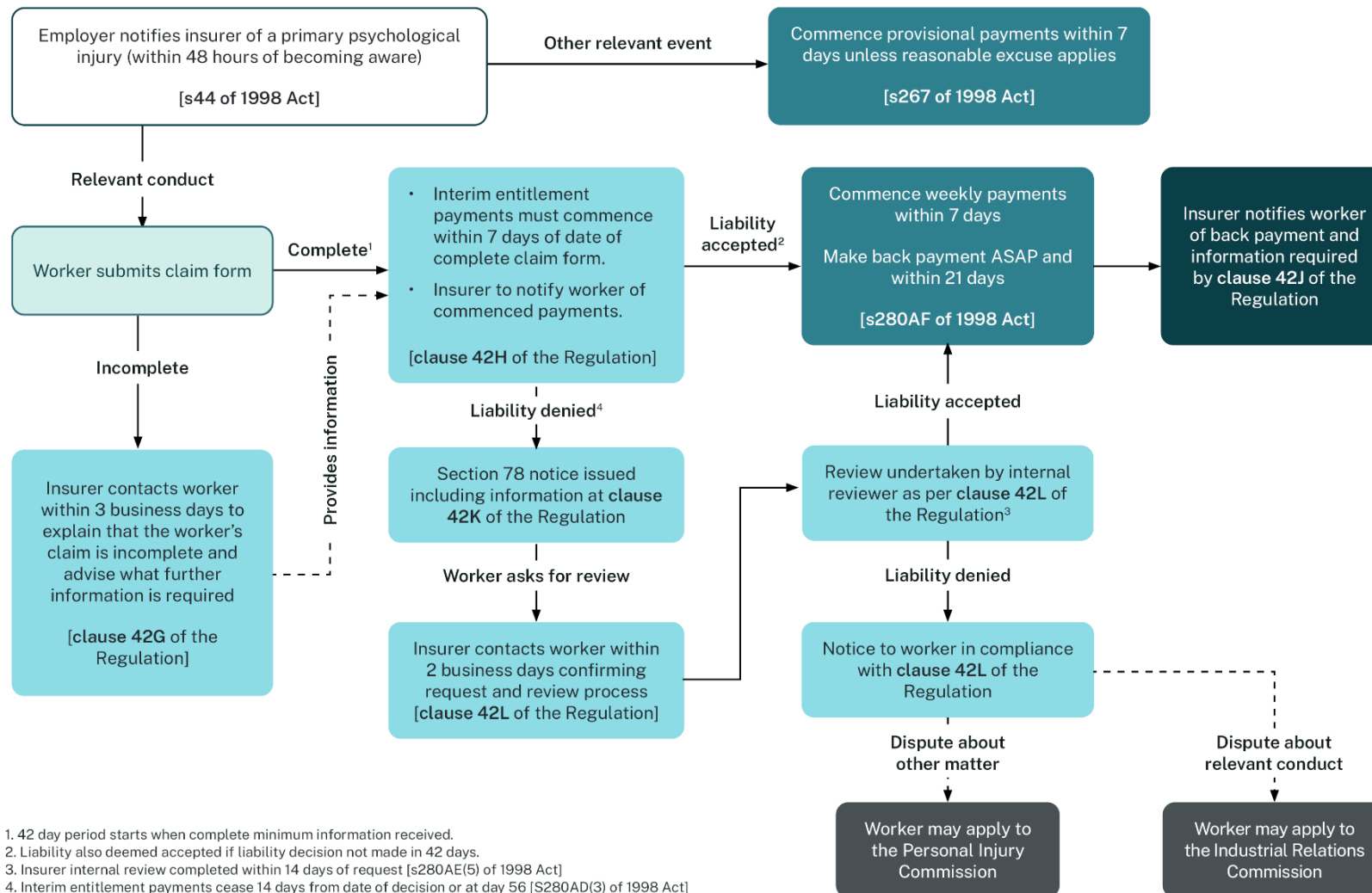
8.1. Appendix 1 – Primary psychological injuries: summary of entitlements by WPI threshold

Percentage of WPI	Weekly payments	Medical and related treatment	Work injury damages
0 to 20%* (1 July 2026)	Up to 130 weeks.	1 year after cessation of weekly payments (or from date of claim if no weekly payments).	No entitlement.
21 to 24%* (1 July 2026) 21 to 26%* (1 July 2027) 21 to 27%* (1 July 2029)	Up to 130 weeks Additional 52 weeks at 60% of PIAWE where: <ul style="list-style-type: none"> no capacity for work, OR current work capacity, working at least 15hrs and earning at least \$225. 	1 year after cessation of weekly payments (or from date of claim if no weekly payments). Access to return-to-work intensive support program for no more than 12 months (post 130 weeks).	No entitlement.
25* to 30% (1 July 2026) 27* to 30% (1 July 2027) 28* to 30% (1 July 2029)	Entitled to receive weekly payments to retiring age ⁺ .	1 year after cessation of weekly payments (or from date of claim if no weekly payments).	May be entitled to bring a work injury damages claim.
31% or more	Entitled to receive weekly payments to retiring age.	Lifetime access to reasonable and necessary medical and related services.	May be entitled to bring a work injury damages claim.

*Threshold applies to claims where notification or claim is made on or after the listed date.

+Subject to meeting section 38 requirements for entitlement to weekly payments beyond the second entitlement period.

8.2. Appendix 2 – Relevant conduct claim process



Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident compulsory third party (CTP) insurance and home building compensation in NSW. This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice.

SIRA, Level 14-15, 231 Elizabeth Street, Sydney NSW 2000

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