

Workers' Compensation and Injury Management Amendment Bill 2017

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Act amended	2
Part 2 — Amendments about compensation for dependants of workers		
4.	Section 5 amended	3
5.	Section 18 amended	3
6.	Part III Division 5A inserted	4
Division 5A — Claims by dependants and others for compensation		
	72C. Terms used	4
	72D. Application of this Division	4
	72E. Claims for compensation for dependants and others	5
	72F. Claims procedure where employer insured	5
	72G. Claims procedure where employer is self-insured or uninsured	6
	72H. Resolution of claim	7
	72I. Manner of payment of lump sum compensation	8
	72J. Manner of payment of child's allowance	9
	72K. Effect of recovery of damages on moneys held in Trust Account	11
	72L. Application of Part XI to matters under this Division	12
7.	Section 106 amended	13
8.	Section 110 amended	13
9.	Section 218 amended	13

Contents

10.	Schedule 1 amended	14
11.	Schedule 1A inserted	15
	Schedule 1A — Compensation entitlements when worker has died	
	Division 1 — Application and terms used	
1.	Application of Schedule	15
2.	Partners, children and prescribed family members	15
3.	Dependants	16
4.	Lump sum entitlement	16
5.	Child's allowance	16
	Division 2 — Entitlements if the worker's death results from the injury	
6.	Application of this Division	17
7.	Lump sum compensation for partners, children and others	17
8.	Allowance for children	20
9.	Funeral and medical expenses	21
	Division 3 — Entitlements if the worker's death does not result from the injury	
10.	Application of this Division	21
11.	Lump sum compensation for partners and children	22
12.	Schedule 5 amended	22
13.	Schedule 8 Division 1 heading inserted	23
	Division 1 — <i>Workers' Compensation and Injury Management Amendment Act 2011</i>	
14.	Schedule 8 Division 2 inserted	23
	Division 2 — <i>Workers' Compensation and Injury Management Amendment Act 2017</i>	
9.	Terms used	23
10.	Former provisions apply to deaths before commencement day	24
	Part 3 — Minor amendments	
15.	Section 146O amended	25
16.	Schedule 1 amended	25

Western Australia

LEGISLATIVE ASSEMBLY

**Workers' Compensation and Injury
Management Amendment Bill 2017**

A Bill for

An Act to amend the *Workers' Compensation and Injury Management Act 1981*.

The Parliament of Western Australia enacts as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14

Part 1 — Preliminary

1. Short title

This is the *Workers' Compensation and Injury Management Amendment Act 2017*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) Part 3 — on the day after that day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act amends the *Workers' Compensation and Injury Management Act 1981*.

1 **Part 2 — Amendments about compensation for**
2 **dependants of workers**

3 **4. Section 5 amended**

4 (1) In section 5(1) delete the definitions of:

5 *child's allowance*

6 *de facto partner*

7 *dependants*

8 *member of a family*

9 *notional residual entitlement*

10 *NRE amount*

11 *spouse*

12 (2) In section 5(1) insert in alphabetical order:

13

14 *dependant* of a deceased worker has the meaning given
15 in Schedule 1A clause 3;

16

17 **5. Section 18 amended**

18 (1) In section 18 delete “If an injury” and insert:

19

20 (1) If an injury

21

22 (2) At the end of section 18 insert:

23

24 (2) If an injury of a worker occurs and the worker dies, the
25 employer shall, subject to this Act, be liable to pay
26 compensation in accordance with Schedule 1A.

s. 6

- 1 (3) Subsection (2) does not limit the application of
2 Schedule 5 in relation to the death of the worker.
3

4 Note: The heading to amended section 18 is to read:
5 **Employers liable to pay compensation for injuries to workers**

6 **6. Part III Division 5A inserted**

7 After Part III Division 5 insert:
8

9 **Division 5A — Claims by dependants and others for**
10 **compensation**

11 **72C. Terms used**

12 In this Division —

13 *approved* means approved by the chief executive
14 officer;

15 *claim* means a claim for compensation made under
16 section 72E;

17 *claimant* means a person claiming to be entitled to
18 compensation under clause 7, 8, 9 or 11;

19 *clause* means a clause of Schedule 1A.

20 **72D. Application of this Division**

21 (1) This Division applies to compensation that an
22 employer of a worker is liable to pay to or for a person
23 in accordance with Schedule 1A.

24 (2) A provision of this Division prevails to the extent, if
25 any, that it is inconsistent with a provision of this Act
26 that is not in this Division.

1 **72E. Claims for compensation for dependants and others**

- 2 (1) A claim for compensation may be made on the
3 employer by, or on behalf of, a claimant.
- 4 (2) Compensation for 2 or more claimants can be the
5 subject of 1 claim.
- 6 (3) A claim must be made in the approved form and must
7 be accompanied by supporting information and
8 documents in accordance with guidelines issued from
9 time to time by WorkCover WA.

10 **72F. Claims procedure where employer insured**

- 11 (1) This section applies if —
- 12 (a) a claim is made on an employer in accordance
13 with section 178(1); and
- 14 (b) the employer is indemnified under a policy of
15 insurance against liability to pay the
16 compensation claimed.
- 17 (2) Before the expiration of 5 full working days after the
18 claim is made the employer must give the claim to the
19 insurer to be dealt with under and in accordance with
20 the policy of insurance.
- 21 Penalty for this subsection: a fine of \$1 000.
- 22 (3) On receiving the claim the insurer must give a copy of
23 it to WorkCover WA.
- 24 (4) As soon as is practicable after receiving the claim the
25 insurer must —
- 26 (a) give the claimant and the employer notice that
27 liability is accepted in respect of the
28 compensation claimed; or
- 29 (b) give the claimant and the employer notice that
30 liability is disputed in respect of some or all of
31 the compensation claimed; or

s. 6

- 1 (c) give the claimant notice that additional
2 information or documents specified in the
3 notice are required in order for a decision to
4 accept or dispute liability for compensation to
5 be made.
- 6 (5) As soon as is practicable after receiving information or
7 documents required under subsection (4)(c) the insurer
8 must give the claimant and the employer —
- 9 (a) notice that liability is accepted in respect of the
10 compensation claimed; or
- 11 (b) notice that liability is disputed in respect of
12 some or all of the compensation claimed.
- 13 (6) A notice given under subsection (4) or (5) must be in
14 the approved form and the insurer must give a copy of
15 the notice to WorkCover WA.
- 16 **72G. Claims procedure where employer is self-insured or**
17 **uninsured**
- 18 (1) This section applies if —
- 19 (a) a claim is made on an employer in accordance
20 with section 178(1); and
- 21 (b) the employer (whether in contravention of
22 section 160, in accordance with an exemption
23 under section 164, as a result of the insurer
24 declining to indemnify the employer, or
25 otherwise) is not indemnified by a policy of
26 insurance against liability to pay the
27 compensation claimed.
- 28 (2) On receiving the claim the employer must give a copy
29 of it to WorkCover WA.

- 1 (3) As soon as is practicable after receiving the claim the
2 employer must give the claimant —
- 3 (a) notice that liability is accepted in respect of the
4 compensation claimed; or
- 5 (b) notice that liability is disputed in respect of
6 some or all of the compensation claimed; or
- 7 (c) notice that additional information or documents
8 specified in the notice are required in order for
9 a decision to accept or dispute liability for
10 compensation to be made.
- 11 (4) As soon as is practicable after receiving information or
12 documents required under subsection (3)(c) the
13 employer must give the claimant —
- 14 (a) notice that liability is accepted in respect of the
15 compensation claimed; or
- 16 (b) notice that liability is disputed in respect of
17 some or all of the compensation claimed.
- 18 (5) A notice given under subsection (3) or (4) must be in
19 the approved form and the employer must give a copy
20 of the notice to WorkCover WA.

21 **72H. Resolution of claim**

- 22 (1) In this section —
- 23 *response* means a notice under section 72F(4)
24 or 72G(3);
- 25 *response period* means the period of 30 days after the
26 day on which the claim is made on the employer.
- 27 (2) Except as provided in subsection (8), compensation in
28 accordance with Schedule 1A is to be paid only as
29 specified in an order made under subsection (7).

s. 6

- 1 (3) An application may be made to the Registrar by or on
2 behalf of the claimant for the claim to be determined
3 by an arbitrator.
- 4 (4) The application may be made —
5 (a) at any time after the claimant receives a
6 response; or
7 (b) if the claimant does not receive a response
8 during the response period, at any time after the
9 end of the response period.
- 10 (5) If the application is made before the claimant receives
11 a response, the application does not affect the
12 continued operation of section 72F(2) to (6) or 72G(2)
13 to (5), whichever are applicable, in relation to the
14 claim.
- 15 (6) If the application is made after the claimant receives a
16 response under section 72F(4)(c) or 72G(3)(c), the
17 application does not affect the continued operation of
18 section 72F(5) or 72G(4), whichever is applicable, in
19 relation to the claim.
- 20 (7) An arbitrator must determine the claim and make an
21 order specifying whether the claimant is entitled to
22 compensation in accordance with Schedule 1A and, if
23 so, the amount of compensation to which the claimant
24 is entitled.
- 25 (8) If an insurer or employer accepts liability in respect of
26 compensation to which a person is entitled under
27 clause 9, the compensation can be paid to the person
28 without an order having been made under
29 subsection (7).
- 30 **72I. Manner of payment of lump sum compensation**
- 31 (1) If an order (the *compensation order*) is made under
32 section 72H(7) for the payment of compensation to

- 1 which a dependant of a deceased worker (the
2 *dependant*) is entitled under clause 7 or 11, the
3 compensation order must specify whether
4 compensation for the dependant is to be —
- 5 (a) paid to WorkCover WA and applied in the
6 manner specified in the order; or
- 7 (b) paid to the dependant as specified in the order.
- 8 (2) Subsection (3) applies after the making of the
9 compensation order if the compensation order includes
10 provisions of the kind mentioned in subsection (1)(a).
- 11 (3) On application being made to the Registrar, an
12 arbitrator may make an order specifying that the
13 compensation is to be —
- 14 (a) applied otherwise than in the manner specified
15 in the compensation order; or
- 16 (b) paid to the dependant.

17 **72J. Manner of payment of child's allowance**

- 18 (1) This section applies if an order (the *compensation*
19 *order*) is made under section 72H(7) for the payment of
20 compensation to which a dependant of a deceased
21 worker (the *dependant*) is entitled under clause 8 (the
22 *child's allowance*).
- 23 (2) The compensation order must provide for amounts in
24 respect of the child's allowance to be paid to
25 WorkCover WA by the insurer or employer weekly or
26 at such other intervals as are specified in the order.
- 27 (3) WorkCover WA must make periodic payments of the
28 child's allowance to the dependant as specified in the
29 compensation order but no payment is to be made in
30 advance of a periodic payment or by way of
31 commutation.

s. 6

- 1 (4) Payments to and by WorkCover WA under
2 subsections (2) and (3) are to continue as long as the
3 dependant remains entitled to the child's allowance
4 but, subject to clause 8(6), if the entitlement is based
5 on the dependant being a full-time student payments
6 may be suspended if proof of participation in full-time
7 study is not provided when and in the manner required
8 by WorkCover WA.
- 9 (5) Despite subsections (2) and (4), the liability to make
10 payments under subsection (2) may be fully discharged
11 by the payment to WorkCover WA of an amount
12 calculated in accordance with the regulations as being
13 the full amount of the child's allowance that will be
14 payable on the assumption that the child's allowance
15 will be payable to the dependant until the dependant
16 attains the age of 21 years.
- 17 (6) An application by the insurer or employer to pay an
18 amount under subsection (5) may be made to
19 WorkCover WA in the approved form when, or at any
20 time after, the compensation order is made.
- 21 (7) If an amount paid to WorkCover WA under
22 subsection (2) or (5) has been credited to the Trust
23 Account under section 110(2)(b) and the entitlement of
24 the dependant to the child's allowance ends before the
25 amount has been exhausted by periodic payments
26 under subsection (3), any surplus moneys standing to
27 the credit of the Trust Account must be transferred to
28 the General Account.
- 29 (8) On application being made to the Registrar by or on
30 behalf of the claimant, an arbitrator may make an order
31 varying the terms of the compensation order in relation
32 to a matter mentioned in subsection (2) or (3).

-
- 1 **72K. Effect of recovery of damages on moneys held in**
2 **Trust Account**
- 3 (1) In this section —
4 **damages** means —
- 5 (a) damages due or payable to, or claimed by, a
6 dependant of a deceased worker under the *Fatal*
7 *Accidents Act 1959* for an injury causing the
8 death of the worker; or
- 9 (b) damages due or payable to, or claimed on
10 behalf of, the estate of a deceased worker under
11 the *Law Reform (Miscellaneous Provisions)*
12 *Act 1941* for an injury causing the death of the
13 worker;
- 14 **judgment** includes an acceptance of an offer to consent
15 to judgment;
- 16 **settlement** includes —
- 17 (a) a settlement by the acceptance of money paid
18 into court; and
- 19 (b) a memorandum of the terms of a settlement that
20 has been filed under section 92(f);
- 21 **trust moneys** of a dependant means moneys credited to
22 the Trust Account under section 110(2)(a) or (b) in
23 respect of the dependant.
- 24 (2) Despite anything in this Act, in paying or otherwise
25 applying or dealing with trust moneys of a dependant
26 WorkCover WA must have regard to, and take into
27 account, any judgment or settlement under which
28 damages are payable to the dependant.
- 29 (3) Without limiting subsection (2), a judgment in or
30 settlement of an action for damages may include
31 directions to WorkCover WA as to how trust moneys
32 of a dependant are to be paid or otherwise applied or

s. 6

- 1 dealt with and WorkCover WA must give effect to a
2 direction so given.
- 3 (4) Notice must be given to WorkCover WA by or on
4 behalf of the claimant if —
- 5 (a) an action for damages is commenced; or
6 (b) judgment is given or settlement takes place in
7 an action for damages.
- 8 (5) A notice given under subsection (4) must be in the
9 approved form.
- 10 **72L. Application of Part XI to matters under this**
11 **Division**
- 12 (1) In this section —
- 13 *application* means an application under section 72H(3),
14 72I(3) or 72J(8) or clause 8(6) or (7);
15 *order* means an order under section 72H(7), 72I(3)
16 or 72J(8).
- 17 (2) An application must be made in accordance with this
18 Act and the arbitration rules and may be rejected by the
19 Registrar if it does not comply.
- 20 (3) An application can be made and received, and an order
21 can be made, whether or not there is a dispute about
22 liability or the payment of compensation.
- 23 (4) Without limiting section 72D(2), the following
24 provisions do not apply to a claim, application or
25 order —
- 26 (a) Part XI Division 3 Subdivision 2;
27 (b) sections 182ZT, 182ZU, 189 and 211(2);
28 (c) the conciliation rules.
29

1 **7. Section 106 amended**

2 In section 106(2):

3 (a) in paragraph (e) delete “section 101(caa).” and insert:

4

5 section 101(caa); and

6

7 (b) after paragraph (e) insert:

8

9 (f) any moneys required to be transferred to the
10 General Account under section 72J(7).

11

12 **8. Section 110 amended**

13 Delete section 110(2) and insert:

14

15 (2) There shall be credited to the Trust Account —

16 (a) all moneys paid to WorkCover WA under
17 section 72I(1)(a); and

18 (b) all moneys paid to WorkCover WA under
19 section 72J(2) or (5); and

20 (c) all moneys paid to WorkCover WA under
21 section 218.

22

23 **9. Section 218 amended**

24 (1) Delete section 218(1) and insert:

25

26 (1) A question as to the payment of compensation that is
27 payable to a worker under a legal disability to give an
28 effective discharge for payment may be determined on
29 application under this Division as a dispute.

30

s. 10

1 (2) In section 218(2) delete “person” and insert:

2

3 worker

4

5 (3) Delete section 218(3).

6 (4) Delete section 218(4) and insert:

7

8 (4) After it has been ordered under subsection (2) that
9 compensation be paid to WorkCover WA, a question as
10 to whether the compensation should be applied
11 differently may be determined on application under this
12 Division as a dispute.

13

14 Note: The heading to amended section 218 is to read:

15 **Payment of compensation to person under legal disability**

16 **10. Schedule 1 amended**

17 (1) Delete the reference after the heading to Schedule 1 and insert:

18

19 [s. 18(1)]

20

21 (2) In Schedule 1 delete clauses 1 to 5.

22 (3) In Schedule 1 delete clause 17(2).

23 (4) In Schedule 1 clause 19(3) delete “dependants, unless a” and
24 insert:

25

26 person mentioned in Schedule 1A clause 2 who is dependent on the
27 earnings of the worker, unless the

28

1 **11. Schedule 1A inserted**

2 After Schedule 1 insert:

3

4 **Schedule 1A — Compensation entitlements when**
5 **worker has died**

6

[s. 18(2)]

7

Division 1 — Application and terms used

8

1. Application of Schedule

9

This Schedule applies if —

10

(a) an *injury* of a *worker* occurs; and

11

(b) the worker dies on or after the day on which the
12 *Workers' Compensation and Injury Management*
13 *Amendment Act 2017* section 6 comes into
14 operation.

15

2. Partners, children and prescribed family members

16

(1) A person is a *partner* if —

17

(a) the worker is the spouse or de facto partner of the
18 person; or

18

19

(b) the worker has previously been a spouse or de facto
20 partner of the person.

20

21

(2) A person, of any age, is a *child* if —

22

(a) the worker is a parent of the person; or

23

(b) the worker is a step-parent of the person (whether
24 the person was legally adopted by the worker or
25 not),

24

25

26

and *children* has a corresponding meaning.

27

(3) A person is a *prescribed family member* if —

28

(a) the person is a parent of the worker; or

29

(b) the person is a step-parent of the worker (whether
30 the worker was legally adopted or not); or

30

s. 11

- 1 (c) the worker stands in the place of a parent to the
- 2 person; or
- 3 (d) the person stands in the place of a parent to the
- 4 worker; or
- 5 (e) the person is a sibling or half-sibling of the worker;
- 6 or
- 7 (f) the worker is a grandparent of the person; or
- 8 (g) the person is a grandparent of the worker.

9 **3. Dependants**

10 A person who is a partner, child or prescribed family
11 member is a *dependant* if the person —

- 12 (a) was wholly or in part dependent upon the earnings
- 13 of the worker at the time of the worker's death; or
- 14 (b) would have been wholly or in part dependent upon
- 15 the earnings of the worker at the time of the
- 16 worker's death if the injury had not occurred.

17 **4. Lump sum entitlement**

18 The *lump sum entitlement (LSE)* is the amount equal to
19 250% of the prescribed amount calculated as at the date of
20 the worker's death.

21 **5. Child's allowance**

22 The *child's allowance* is —

- 23 (a) the amount of \$133 per week; or
- 24 (b) if regulations made for the purposes of this clause
- 25 prescribe a different amount per week or provide for
- 26 a different amount per week to be determined in
- 27 accordance with the regulations, that amount.

Division 2 — Entitlements if the worker's death results from the injury

6. Application of this Division

This Division applies if the worker's death results from the injury.

7. Lump sum compensation for partners, children and others

(1) If the worker dies leaving —

- (a) a person described in column 1 of item 1 or 9 in the Table who is a dependant; or
- (b) persons described in column 1 of item 2, 3, 4, 5, 6, 7, 8 or 10 in the Table each of whom is a dependant,

the person or each of those persons is entitled to, or to a portion of, the lump sum entitlement as determined in accordance with column 2 of that item.

Table

Item	Column 1 Dependant or dependants	Column 2 Compensation
1.	Partners: 1 Children: 0	100% of the LSE to the partner
2.	Partners: 1 Children: 1	90% of the LSE to the partner 10% of the LSE to the child
3.	Partners: 1 Children: 2 to 5	5% of the LSE to each child Balance of the LSE to the partner

Workers' Compensation and Injury Management Amendment Bill 2017

Part 2

Amendments about compensation for dependants of workers

s. 11

Item	Column 1 Dependant or dependants	Column 2 Compensation
4.	Partners: 1 Children: 6 or more	75% of the LSE to the partner 25% of the LSE divided equally between the children
5.	Partners: 2 or more Children: None	100% of the LSE divided so that each partner receives an amount proportionate to the loss of financial support suffered by that partner
6.	Partners: 2 or more Children: 1	90% of the LSE divided between the partners so that each partner receives an amount proportionate to the loss of financial support suffered by that partner 10% of the LSE to the child
7.	Partners: 2 or more Children: 2 to 5	5% of the LSE to each child Balance of the LSE divided between the partners so that each partner receives an amount proportionate to the loss of financial support suffered by that partner

Item	Column 1 Dependant or dependants	Column 2 Compensation
8.	Partners: 2 or more Children: 6 or more	75% of the LSE divided between the partners so that each partner receives an amount proportionate to the loss of financial support suffered by that partner 25% of the LSE divided equally between the children
9.	Partners: None Children: 1	100% of the LSE to the child
10.	Partners: None Children: 2 or more	100% of the LSE divided equally between the children

- 1 (2) The compensation for a partner or child under subclause (1)
 2 applies whether or not the worker dies also leaving any
 3 prescribed family member who is a dependant.
- 4 (3) If the worker dies not leaving a partner or child who is a
 5 dependant but leaving 1 prescribed family member who is a
 6 dependant, that prescribed family member is entitled to an
 7 amount that is reasonable and proportionate to the loss of
 8 financial support suffered by the prescribed family member,
 9 but not exceeding the lump sum entitlement.
- 10 (4) If the worker dies not leaving a partner or child who is a
 11 dependant but leaving 2 or more prescribed family members
 12 who are dependants, each of those prescribed family
 13 members is entitled to an amount that is reasonable and
 14 proportionate to the loss of financial support suffered by the
 15 prescribed family member, but not exceeding, in total, the
 16 lump sum entitlement.

s. 11

- 1 **8. Allowance for children**
- 2 (1) This clause applies to a child left by the worker when the
- 3 worker dies.
- 4 (2) An *eligible child* is a child who is a dependant and —
- 5 (a) is under the age of 16 years; or
- 6 (b) has attained the age of 16 years but is under the age
- 7 of 21 years and is a full-time student; or
- 8 (c) is the subject of a determination that is in force
- 9 under subclause (5) or (6).
- 10 (3) Each eligible child is entitled to the child's allowance.
- 11 (4) The child's allowance is in addition to, and does not affect,
- 12 any compensation for the eligible child under clause 7(1) of
- 13 this Schedule.
- 14 (5) An arbitrator may, in the arbitrator's absolute discretion,
- 15 determine in an order referred to in section 72J(1) that a
- 16 child who is under the age of 21 years but has attained the
- 17 age of 16 years and is not a full-time student should receive
- 18 the child's allowance by reason of circumstances.
- 19 (6) If —
- 20 (a) the eligibility of a child who has attained the age of
- 21 16 years to receive the child's allowance under an
- 22 order referred to in section 72J(1) ceases because
- 23 the child is not a full-time student; and
- 24 (b) the child is under the age of 21 years,
- 25 on application being made to the Registrar an arbitrator
- 26 may, in the arbitrator's absolute discretion, determine that
- 27 the child should continue to receive the child's allowance by
- 28 reason of circumstances.
- 29 (7) On application being made to the Registrar an arbitrator
- 30 may, in the arbitrator's absolute discretion, revoke a
- 31 determination made under subclause (5) or (6).

- 1 **9. Funeral and medical expenses**
- 2 (1) In this clause —
- 3 *funeral expenses* means expenses properly incurred in
4 relation to the funeral and burial or cremation of the worker
5 and includes fees and charges paid or payable to the Board
6 or local government in which the care, control and
7 management of a cemetery is vested under the *Cemeteries*
8 *Act 1986*;
- 9 *medical expenses* means expenses properly incurred from
10 the time of the injury until the worker's death in relation to a
11 matter of a kind mentioned in Schedule 1 clause 17(1).
- 12 (2) A person who has incurred funeral expenses is entitled to
13 the amount of the expenses incurred but not exceeding —
- 14 (a) the amount of \$9 813; or
- 15 (b) if regulations made for the purposes of this
16 subclause prescribe a different amount or provide
17 for a different amount to be determined in
18 accordance with the regulations, that amount.
- 19 (3) A person who has incurred medical expenses is entitled to
20 the amount of the expenses incurred to the extent that those
21 expenses are reasonable and have not been the subject of
22 compensation paid in accordance with Schedule 1 clause 17.

23 **Division 3 — Entitlements if the worker's death does not**
24 **result from the injury**

25 **10. Application of this Division**

- 26 This Division applies if —
- 27 (a) the worker's death does not result from the injury;
28 and
- 29 (b) the worker has been in receipt of, or was entitled to
30 receive, weekly payments for not less than 6 months
31 immediately preceding the worker's death; and
- 32 (c) no order for payment of a lump sum in redemption
33 has been made under section 67; and

s. 12

- 1 (d) no memorandum of agreement for payment of a
2 lump sum in redemption has been recorded under
3 section 76; and
4 (e) no memorandum of the terms of a settlement has
5 been filed under section 92(f).

6 **11. Lump sum compensation for partners and children**

- 7 (1) In this clause —
8 *aggregated amount* means the aggregate of weekly
9 payments for total incapacity of the worker at a rate
10 calculated and varied as at the date of the worker's death for
11 a period of 1 year after the worker's death;
12 *eligible person* means a person who is a partner or child and
13 is a dependant.
14 (2) If the worker dies leaving 1 eligible person, that eligible
15 person is entitled to the aggregated amount.
16 (3) If the worker dies leaving 2 or more eligible persons, each
17 of those eligible persons is entitled to a portion of the
18 aggregated amount determined as if —
19 (a) item 2, 3, 4, 5, 6, 7, 8 or 10 in the Table to
20 clause 7(1) of this Schedule, whichever is relevant,
21 applied; and
22 (b) any reference to the LSE in column 2 of that item
23 was a reference to the aggregated amount.
24

25 **12. Schedule 5 amended**

- 26 (1) In Schedule 5 clause 1(1) insert in alphabetical order:
27
28 *de facto partner* includes a former de facto partner of a
29 worker;
30 *spouse* includes a former spouse of a worker;
31

1 (2) In Schedule 5 clause 6(c) delete “clauses 1, 2, 3, 4, 5 and 17(2) of
2 Schedule 1 shall” and insert:

3

4 Schedule 1A does

5

6 (3) In Schedule 5 clause 7(c) delete “clauses 1, 2, 3, 4, 5 and 17(2) of
7 Schedule 1 do” and insert:

8

9 Schedule 1A does

10

11 **13. Schedule 8 Division 1 heading inserted**

12 At the beginning of Schedule 8 insert:

13

14 **Division 1 — *Workers' Compensation and Injury***
15 ***Management Amendment Act 2011***

16

17 **14. Schedule 8 Division 2 inserted**

18 In Schedule 8 after clause 8 insert:

19

20 **Division 2 — *Workers' Compensation and Injury***
21 ***Management Amendment Act 2017***

22 **9. Terms used**

23 In this Division —

24 *commencement day* means the day of the coming into
25 operation of the *Workers' Compensation and Injury*
26 *Management Amendment Act 2017* section 6;

s. 14

- 1 *former provisions* means the following as in force before
2 the commencement day —
- 3 (a) the definitions in section 5(1) of *child's allowance*,
4 *de facto partner*, *dependants*, *member of a family*,
5 *notional residual entitlement*, *NRE amount* and
6 *spouse*;
- 7 (b) sections 18 and 218;
- 8 (c) Schedule 1 heading and clauses 1 to 5 and 17(2);
- 9 (d) Schedule 5 clauses 6(c) and 7(c).
- 10 **10. Former provisions apply to deaths before**
11 **commencement day**
- 12 (1) Except as provided in subclause (2), if an injury of a worker
13 occurred and the worker died before the commencement
14 day, the former provisions apply in relation to the injury and
15 death as if they were still in force.
- 16 (2) On and from the commencement day the child's allowance
17 that a person is entitled to receive under the former
18 provisions as applied by subclause (1) is the child's
19 allowance as defined in Schedule 1A clause 5.
- 20 Note for this clause:
- 21 The former provisions are set out in Reprint 11 of the
22 *Workers' Compensation and Injury Management Act 1981*
23 as at 13 February 2015.
- 24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Part 3 — Minor amendments

15. Section 146O amended

In section 146O(8):

(a) delete “any” and insert:

either

(b) delete “(1) or”.

16. Schedule 1 amended

In Schedule 1 clause 19(1) delete “such treatment, massage,” and insert:

treatment, attendance,
