

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013

Explanatory Notes

Short title

The short title of the Bill is the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013*.

Policy objectives and the reasons for them

The objectives of the Bill are to implement the Queensland Government's response to the Queensland Parliament Finance and Administration Committee's report on its inquiry into the operation of Queensland's workers' compensation scheme, and to make changes to the basis for assessment of impairment to align the assessment method between the statutory and common law provisions of the scheme. The Bill also abolishes the Workers' Compensation Regulatory Authority (trading as Q-COMP) and amends provisions relating to damages in particular circumstances.

Section 584A of the *Workers' Compensation and Rehabilitation Act 2003* (the Act) requires the Minister with responsibility for workers' compensation to ensure a review of the operation of the workers' compensation scheme is completed at least once in every five year period.

On 7 June 2012, the Legislative Assembly referred responsibility for the inaugural review to the Parliament's Finance and Administration Committee (the Committee). The Committee tabled its report and recommendations on 23 May 2013.

The structure of Queensland's workers' compensation scheme is also the most complex in Australia, given it operates as three separate agencies resulting in duplication and overlap which increases scheme costs. There is no one point of control for scheme costs as both the Workers' Compensation Regulatory Authority (the Authority) and WorkCover Queensland (WorkCover) set their own budgets.

The Authority is to be merged into the Office of Fair and Safe Work Queensland (OFSWQ), in the Department of Justice and Attorney General (DJAG). The Authority will be replaced by the Workers' Compensation Regulator (the Regulator) which will operate in a similar manner to the regulator under the *Work Health and Safety Act 2011*. On integration OFSWQ will absorb existing Authority staff, with no cost to Government.

A potential loophole for seeking certain damages has been identified following the judgment in *Foster & Anor v Cameron* [2011] QCA 48. Currently, the Act prevents a court from awarding damages for paid domestic services where they have been, are to be, or ordinarily

would be provided gratuitously to a worker by a member of the workers' family or household.

The interpretation of this provision was brought into question by *Foster & Anor v Cameron* [2011] QCA 48, where the worker had paid for some services after the accident and before trial, and had received some gratuitously. The Court of Appeal confirmed that an injured worker could convert gratuitous lawn mowing services into paid services after the trial in these circumstances, as the Court said the Act was not clear on whether damages could not be awarded where services were both paid and gratuitous.

Parliament's original policy position was to prevent a court from awarding damages for domestic services that are provided gratuitously to a worker by their family or household, and to prevent a worker converting gratuitous services received prior to the trial into paid services after the trial. Lump sum statutory compensation is intended to provide for gratuitous care.

Achievement of policy objectives

The Bill will amend the legislation to:

- replace the Authority with the Regulator;
- amend the requirements to appoint a rehabilitation and return to work coordinator;
- require insurers to mandatorily refer injured workers to an accredited return to work program;
- require a worker to provide an employer with a notification of previous injuries, if requested;
- allow for access to a prospective worker's claims history in particular circumstances;
- change the measure for determining statutory lump sum compensation from work related impairment (WRI) to degree of permanent impairment (DPI);
- close the potential loophole caused by *Foster & Anor v Cameron* [2011] QCA 48;
- introduce a more than 5% degree of permanent impairment threshold to access damages at common law;
- increase the onus of proof for compensable psychiatric or psychological injuries;
- provide that WorkCover refer all allegations of fraud-related offences to the Regulator for investigation and if necessary prosecution; and
- increase penalties for persons who defraud or attempt to defraud insurers.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated cost for government implementation

The amendments involve no cost to government but are expected to achieve significant cost savings for the workers' compensation scheme and facilitate reduced premiums for employers, which includes government departments and agencies.

The proposed structure will reduce complexity, duplication and overlap for business, and realise substantial cost savings over time.

Consistency with fundamental legislative principles

The Bill may be considered to test fundamental legislative principles by making amendments adverse to the rights and liberties of individuals retrospectively. Amendments regarding the assessment of permanent impairment and access to damages commence on the day the Bill was introduced in the Legislative Assembly. The Government considers that the only effective and least disruptive method of introducing such amendments, so as to avert a run on claims, is by making them effective as of introduction.

This Bill applies to injuries happening after introduction, and does not extend to injuries before introduction, for which a person may have formed a legitimate expectation of his or her entitlement to compensation and damages under the Act.

Consultation

The Finance and Administration Committee invited public submissions, with a total of 246 written submissions received from employer associations, individual employers, insurers, lawyers, unions, professional bodies, interest groups and individuals. The Committee also held 18 public hearings, five in-camera hearings and five briefings. A range of views were expressed by all stakeholders, which the Government has taken into account in formulating the Bill.

Consistency with legislation of other jurisdictions

All Australian jurisdictions have workers' compensation schemes which vary according to factors such as industry mix and benefit structures.

The Australian Capital Territory is the only other Australian jurisdiction with unlimited access to common law damages for work injuries. All other jurisdictions have either abolished common law rights, or have some form of injury threshold to ensure only workers with serious injuries are able to claim damages.

Notes on provisions

Chapter 1 Preliminary

Clause 1 contains the short title of the Act.

Clause 2 provides the commencement dates of various sections of the Act. Provisions regarding the assessment of permanent impairment and access to damages commence on the date the Bill for the Act was introduced into the Legislative Assembly, for injuries occurring on or after commencement. All other provisions, including the abolition of the Authority and establishment of the Regulator, commence on assent.

Chapter 2 Amendments relating to workers' compensation and rehabilitation commencing on introduction

Part 1 Amendment of Workers' Compensation and Rehabilitation Act 2003

Clause 3 provides that this part amends the *Workers' Compensation and Rehabilitation Act 2003* (the Act).

Clause 4 omits section 39 which defines work related impairment. The method of work related impairment is replaced by a method of degree of permanent impairment (DPI).

Clause 5 omits sections 127 and 128 to remove a reference to the table of injuries in relation to prescribed disfigurement.

Clause 6 renumbers chapter 3, part 3, division 5 to reflect the omission of sections 127 and 128.

Clause 7 amends section 128A to renumber a heading.

Clause 8 amends section 130 to remove a reference to work related impairment.

Clause 9 inserts new section 132A outlining the process for applying to an insurer for an assessment of the degree of permanent impairment in situations where an application for statutory compensation has not been made, for example if the applicant is seeking to lodge a notice of claim for damages.

Clause 10 amends section 160 to remove a reference to work related impairment.

Clause 11 amends the heading of chapter 3, part 10, division 2 to remove a reference to the table of injuries.

Clause 12 amends section 179 to introduce a method of assessment of degree of permanent impairment (DPI) using the Guide for Evaluation of Permanent Impairment (GEPI). If a worker sustains multiple impairments resulting from a single event, the impairments must be assessed together. A DPI resulting from a psychiatric or psychological injury must not be combined with a DPI from a physical injury.

Clause 13 amends section 180 to remove a reference to the table of injuries.

Clause 14 replaces section 183 with provisions establishing the GEPI. The Regulator must make the GEPI by gazette notice, following consultation with the Minister. The GEPI renders the table of injuries in schedule 2 of the *Workers' Compensation and Rehabilitation Regulation 2003* unnecessary.

Clause 15 amends section 185 to remove a reference to work related impairment.

Clause 16 amends section 189 to remove references to work related impairment.

Clause 17 amends section 237 to introduce a minimum DPI threshold in order to claim damages. The only persons entitled to seek damages for an injury sustained by a worker are workers with a notice of assessment where the DPI for the assessed injury is more than 5%, or who have a terminal condition. Dependents of deceased workers may seek damages if the injury resulted in the worker's death.

Clause 18 amends section 238 to provide that certain claims procedures do not apply to workers with terminal conditions.

Clause 19 amends section 239 to replace references to work related impairment with degree of permanent impairment.

Clause 20 amends section 240 to replace references to work related impairment with degree of permanent impairment.

Clause 21 replaces chapter 5, part 2, divisions 3 to 7 with a single division governing circumstances in which a person is able to preserve his or her rights at common law, for example if a time limit under the *Limitation of Actions Act 1974* is imminent. The current divisions 3 to 7 substantially duplicate each other and are replaced by a simplified provision that will apply in all circumstances.

Clause 22 amends the heading of chapter 5, part 2, division 8 to replace a reference to work related impairment with degree of permanent impairment and to renumber the division.

Clause 23 amends section 265 to replace a reference to work related impairment with degree of permanent impairment.

Clause 24 amends section 266 to replace references to work related impairment with degree of permanent impairment.

Clause 25 amends section 275 to reflect the amendment made to section 302. The amendment will also require a worker, except for a worker with a terminal condition or a dependent of a

deceased worker, to attach the notice of assessment from the insurer as evidence of the worker's entitlement to seek damages.

Clause 26 amends section 296 to extend the circumstances in which a person is able to preserve his or her rights at common law, for example if a time limit under the *Limitation of Actions Act 1974* is imminent.

Clause 27 replaces section 299 to reflect the replacement of chapter 5, part 2, divisions 3 to 7.

Clause 28 amends section 302 to allow the time limit to commence an action under the *Limitation of Actions Act 1974* to be extended by six months from the date an insurer gives a notice of assessment to a worker, in certain circumstances. A further six month extension is available, in certain circumstances, if the worker disputes the notice of assessment for DPI, allowing the matter to be determined by a medical assessment tribunal. This is to ensure that administrative delays do not prejudice a person's rights at common law.

Clause 29 amends the heading of chapter 5, part 12, division 1 to remove references to work related impairment and latent onset injury.

Clause 30 amends section 310 to remove references to work related impairment and latent onset injury. This extends special costs provisions to all damages claims involving a terminal condition, whereby an insurer must pay a claimant's costs, calculated on the standard basis, in certain circumstances.

Clause 31 replaces the heading of chapter 5, part 12, division 2 and section 315 to replace a reference to work related impairment with degree of permanent impairment.

Clause 32 amends section 500 to remove references to deleted sections and include a reference to permanent impairment.

Clause 33 amends section 501 to remove references to the table of injuries and include references to DPI.

Clause 34 amends section 502 to remove a reference to the table of injuries and include references to DPI.

Clause 35 omits section 503 as it refers to a deleted section.

Clause 36 amends section 504 to include references to DPI.

Clause 37 amends section 505 to include references to DPI.

Clause 38 amends section 507 to include references to DPI.

Clause 39 omits section 508 as it refers to a deleted section.

Clause 40 inserts transitional provisions ensuring that workers who sustain an injury prior to the introduction of the Bill will have their claims dealt with under the law as in force prior to introduction of the Bill.

Clause 41 amends the dictionary to update various definitions and remove references to the table of injuries and work related impairment.

Part 2 Amendment of Workers' Compensation and Rehabilitation Regulation 2003

Clause 42 provides that that this part amends the *Workers' Compensation and Rehabilitation Regulation 2003* (the Regulation).

Clause 43 inserts a new section 85A to specify the proof required of workers who apply for an assessment of DPI.

Clause 44 amends section 86 to include a reference to the process for applying for an assessment of DPI in situations where an application for statutory compensation has not been made.

Clause 45 replaces sections 92 to 95 to remove references to the table of injuries and work related impairment, and specifies how lump sum compensation is to be calculated under the DPI.

Clause 46 omits section 99A as a result of an amendment to section 41 of the Act. The criteria to be met by current and prospective rehabilitation and return to work coordinators is that they are "appropriately qualified", reducing the regulatory burden of requiring coordinators to complete a workplace rehabilitation course conducted by a registered training organisation. "Appropriately qualified" is defined in the *Acts Interpretation Act 1954* as "...having the qualifications, experience or standing appropriate to perform the function...".

Clause 47 amends section 99C to simplify the method of determining whether an employer is in a high risk industry. The current dollar thresholds are replaced by a multiple of Queensland Ordinary Time Earnings (QOTE). For 2013-14, QOTE is \$1,370.10. Section 99C is renumbered as section 99B.

Clause 48 deletes sections 99D and 100 which require employers to maintain and review rehabilitation and return to work policies and procedures. The amendment reduces the regulatory burden on employers. The Workers' Compensation Regulator (the Regulator) no longer requires employers to submit a declaration stating that they have a workplace rehabilitation policy and procedures. However, a template workplace rehabilitation policy and procedures remains available from the Regulator.

Clause 49 renumbers part 6, division 1A as division 2.

Clause 50 amends section 114 to replace a reference to WRI with DPI.

Clause 51 omits the table of injuries in schedule 2.

Clause 52 amends schedule 3 to replace references to WRI with DPI.

Clause 53 amends schedule 4 to replace references to WRI with DPI.

Clause 54 amends schedule 8 to replace references to WRI and whole person impairment with DPI.

Clause 55 amends the dictionary in schedule 13 to remove references to whole person impairment.

Part 3 Minor and consequential amendments

Clause 56 provides that schedule 1 amends the *Workers' Compensation and Rehabilitation Act 2003* and *Workers' Compensation and Rehabilitation Regulation 2003* to replace references to whole person impairment and work related impairment with degree of permanent impairment.

Chapter 3 Amendments relating to workers' compensation and rehabilitation commencing on assent

Part 1 Amendment of Workers' Compensation and Rehabilitation Act 2003

Clause 57 provides that this part amends the Act.

Clause 58 replaces section 6 to remove a reference to the Authority.

Clause 59 amends section 32 to require that for an injury resulting in a psychiatric or psychological disorder (or aggravation of an existing disorder), employment must be the major significant contributing factor to the injury or aggravation in order to be compensable.

Clause 60 amends section 34 to clarify that employment need not be a contributing factor to an injury sustained while a worker is temporarily absent from the place of employment during an ordinary recess and where the event causing the injury is not due to the worker voluntarily subjecting themselves to an abnormal risk of injury during the recess.

Clause 61 amends section 35 to clarify that employment need not be a contributing factor to an injury sustained during certain journeys.

Clause 62 replaces section 41 to provide that the criteria to be met by current and prospective rehabilitation and return to work coordinators is that they are appropriately qualified, rather than maintaining the existing regulatory burden of prescribing the criteria in the *Workers' Compensation and Rehabilitation Regulation 2003*. "Appropriately qualified" is defined in the *Acts Interpretation Act 1954* as "...having the qualifications, experience or standing appropriate to perform the function...".

Clause 63 amends section 54 to remove a reference to the Authority.

Clause 64 amends section 81 to remove a reference to the Authority.

Clause 65 amends section 101 to remove a reference to the Authority in relation to release of amounts from an unconditional bank guarantee or cash deposit, and renumbers a subsection.

Clause 66 amends section 105H to remove a reference to the Authority in relation to release of amounts from an unconditional bank guarantee or cash deposit, and renumbers a subsection.

Clause 67 replaces section 107 to amend the meaning of Queensland Ordinary Time Earnings (QOTE). Original series data reported by the Australian Bureau of Statistics is to be used in preference to seasonally adjusted data. This change aligns with other personal injury schemes that define average weekly earnings for compensation or damages.

Clause 68 amends section 108 to reflect the amended definition of injury.

Clause 69 amends section 210 to remove a reference to the Authority. The provision allows WorkCover to impose conditions on the provision of medical treatment under the table of costs.

Clause 70 amends section 217 to require WorkCover to consult with self-insurers when fixing the cost of hospitalisation in a private hospital. This was previously a function of the Authority.

Clause 71 amends section 218A to require WorkCover to consult with self-insurers when fixing the cost of hospitalisation in a public hospital. This was previously a function of the Authority.

Clause 72 replaces section 220 to require an insurer to refer a worker, who has lodged a notice of claim for damages, to an insurer's return to work program accredited by the Regulator. However, if the insurer is satisfied that the worker will not be able to participate in the program because of the injury, it may excuse the worker from participating.

Clause 73 omits section 221 to remove a reference to the Authority. The functions under this section are the responsibility of the Regulator.

Clause 74 amends section 222 to remove a reference to the Authority. The provision allows WorkCover to impose conditions on the provision of rehabilitation under the table of costs.

Clause 75 amends section 227 as it duplicates the requirements of section 226. A direct reference to section 226 removes the need for an unnecessary, duplicate regulatory provision. The clause also removes the requirement for employers to advise the relevant authority in writing within 30 days of reviewing their workplace rehabilitation policy and procedures.

Clause 76 amends section 231 to remove a reference to the Authority.

Clause 77 amends section 267 to remove a reference to the Authority.

Clause 78 amends section 278 to correct a drafting error.

Clause 79 replaces section 306F to address the effect of the decision in *Foster & Anor v Cameron* [2011] QCA 48 and prevents a court awarding damages for the value of any

domestic services gratuitously provided to a worker who usually performed those domestic services before sustaining the injury. These services cannot be converted to paid services in the future.

Clause 80 replaces section 306H to address the effect of the decision in *Foster & Anor v Cameron* [2011] QCA 48 and prevents a court awarding damages for the value of any domestic services gratuitously provided to a worker who did not usually require or was not usually provided with those domestic services before sustaining the injury. These services cannot be converted to paid services in the future.

Clause 81 amends section 306V to simplify a reference to “12 months” from “over the 4 quarters”.

Clause 82 replaces chapter 7 regarding the establishment of the Authority. The functions and powers of the Authority under the Act are instead invested in the Workers' Compensation Regulator, a senior public servant, who must act independently when making a decision under the Act. The Regulator may appoint a public service employee, the holder of a statutory office, or a person of a class prescribed under a regulation, to be an authorised person of the Regulator. The Regulator may delegate his or her powers to appropriately qualified public service employees, authorised persons or persons prescribed by regulation.

Clause 83 amends section 409 to provide that ministerial directions given in the public interest that are implemented by WorkCover are considered to be part of WorkCover's community service obligations.

Clause 84 amends section 424 to increase from seven to nine the maximum number of directors who can be appointed to WorkCover's board of directors.

Clause 85 amends section 427 to remove a reference to the Authority.

Clause 86 omits chapter 9, part 1 to remove references to the Authority.

Clause 87 renumbers chapter 9, parts 2 and 3 to parts 1 and 2.

Clause 88 inserts a new section 481A transferring the Minister's powers to direct certain payments from the Authority, to instead apply to WorkCover. WorkCover must make payments to organisations or bodies that the Minister considers will help in, among other things, the prevention or recognition of injury to workers, or making employers and workers aware of their rights, and procedures they need to follow, under the Act. A similar power in relation to WorkCover was in operation under section 416 of the *WorkCover Queensland Act 1996* (repealed).

Clause 89 amends section 483 to provide that a notice by WorkCover of a suspected threat to full funding because of direction or notification by the Minister is not applicable to a direction made by the Minister that WorkCover make payments to organisations or bodies that the Minister considers will help in, among other things, the prevention or recognition of injury to workers, or making employers and workers aware of their rights, and procedures they need to follow, under the Act.

Clause 90 amends section 486A to remove a reference to the Authority.

Clause 91 amends section 488 to make less prescriptive the membership of workers' compensation advisory committees and removes a reference to the Authority.

Clause 92 amends section 495 to remove a reference to the Authority.

Clause 93 amends section 517 to remove a reference to the Authority.

Clause 94 replaces chapter 12, part 1 regarding authorised persons of the Regulator. The appointment procedures, functions and powers of authorised persons are substantially identical to those of inspectors under the *Work Health and Safety Act 2011*, who are taken to be authorised persons. Inspectors appointed under the *Industrial Relations Act 1999* are also taken to be authorised persons, but only for the purposes of enforcing employment protection provisions under chapter 4, part 6.

Clause 95 amends section 533 to increase the maximum penalties for defrauding an insurer, from 400 penalty units or 18 months imprisonment to 500 penalty units or 5 years imprisonment. The increased penalties align with those dealing with fraud by WorkCover employees and are comparable to those under the *Criminal Code Act 1899* (between 5 and 12 years imprisonment).

Clause 96 amends section 536 to require WorkCover to pass on information to the Regulator regarding the defrauding of, or attempt to defraud, WorkCover.

Clause 97 amends section 537 to include a reference to WorkCover as an entity that may be represented by the Regulator in a proceeding for fraud.

Clause 98 inserts new sections 571A to 571D. Section 571A provides definitions for sections 571B to 571D. Section 571B requires prospective workers to, where requested in writing by a prospective employer, disclose all pre-existing injuries of which they are aware that could reasonably be aggravated by performing the employment related duties. The prospective employer must advise prospective workers that if they do not comply with this request, or supply false or misleading information, they will not be entitled to compensation or damages under the Act for any event that aggravates the non-disclosed pre-existing injury.

Section 571C to provide that where a prospective worker, on request, fails to disclose relevant pre-existing injuries or provides false or misleading information, the worker's entitlement to compensation and damages for an aggravation of the non-disclosed pre-existing injury ends. However, if a worker is engaged before making the disclosure (or being requested to make the disclosure), his or her rights are unaffected.

New section 571D allowing prospective employers to request a prospective worker's claims history summary from the Regulator, for a fee. The request must have the prospective worker's consent. The prospective employer must not disclose the contents of, or give access to, the document to anyone else. The fee is to be not more than the reasonable cost to the Regulator in providing a copy of the claims history summary.

Clause 99 amends section 572 to remove references to the Authority and prohibited activities under section 572A.

Clause 100 amends section 573 to remove references to the Authority and include references to the Regulator.

Clause 101 amends section 574 to remove references to the Authority and include references to the Regulator.

Clause 102 amends section 579 to remove references to the Authority.

Clause 103 amends section 580 to remove redundant text and include references to the Regulator.

Clause 104 amends section 583 to remove references to the Authority and work related impairment.

Clause 105 amends section 586 to remove a reference to the Authority.

Clause 106 inserts new section 586A and 586B to allow the Director-General of the Department of Justice and Attorney-General and the Chief Executive Officer of WorkCover to enter into a transfer agreement regarding the movement of staff between the two agencies. The transfer does not and can not:

- affect existing or accrued rights to superannuation or leave;
- interrupt continuity of service;
- constitute a termination, retrenchment or redundancy by the transferor entity; or
- entitle the transferred employee to a payment or other benefit because of the transfer.

If a transferred employee is transferred and is entitled to a higher total remuneration than the remuneration applicable under the new entity's industrial award or agreement, the transferred employee's total remuneration in that position will not increase until the total remuneration aligns with the total remuneration applicable under the industrial instrument for that position.

Clause 107 inserts a new chapter 31, part 2 containing transitional provisions for the commencement of the amendment Act.

The pre-amended Act continues to apply in relation to injuries sustained before commencement, as if the amendment Act had not been enacted.

The Authority and its board of directors are abolished as of commencement of the amendment Act. However, the Authority's board is to remain in place until 30 June 2014 with current functions and powers and any additional functions as delegated by the Regulator.

The State of Queensland is the successor in law of the Authority. All assets, liabilities and contracts held or entered into by the Authority are taken to be held or entered into by the State. Proceedings against the Authority not yet commenced may be commenced against the State, other than for an appeal against a review decision of the Authority, in which case the proceeding may be commenced against the Regulator. In proceedings against the Authority that have not yet ended, the State becomes party to the proceedings in place of the Authority, other than for an appeal against a review decision of the Authority, in which case the Regulator becomes party to the proceeding.

All employees of the Authority other than the chief executive officer are transferred to the Department of Justice and Attorney-General on assent. The transfer does not and cannot:

- prejudice existing or accrued rights to superannuation or leave;
- interrupt continuity of service;
- constitute a termination, retrenchment or redundancy by the transferor entity; or
- entitle the transferred employee to a payment or other benefit because of the transfer.

Transferred employees will be taken to be employed by the Department under the relevant industrial instrument applying to that entity. However, if a transferred employee is transferred and is entitled to a higher total remuneration than the remuneration applicable under the new entity's industrial award or agreement, the transferred employee's total remuneration in that position will not increase until the total remuneration aligns with the total remuneration applicable under the industrial instrument for that position.

Clause 108 amends the dictionary to update various definitions and remove references to the Authority.

Part 2 Amendment of Workers' Compensation and Rehabilitation Regulation 2003

Clause 109 provides that this part amends the Regulation.

Clause 110 omits section 4 to remove reference to the Authority's trading name.

Clause 111 amends section 21 to remove a reference to the Authority.

Clause 112 amends section 88 to remove a reference to the Authority.

Clause 113 amends the dictionary in schedule 13 to remove references to the Authority.

Part 3 Minor and consequential amendments

Clause 114 provides that schedule 2 amends the *Industrial Relations Act 1999*, *Integrity Act 1999*, *Public Service Act 2008*, *Right to Information Act 2009* and *Work Health and Safety Act 2011* to remove references to the Authority. Schedule 2 also amends the *Workers' Compensation and Rehabilitation Act 2003* and *Workers' Compensation and Rehabilitation Regulation 2003* to replace or remove references to the Authority.

Chapter 4 Other amendments

Part 1 Amendment of Civil Liability Act 2003

Clause 115 provides that this part amends the *Civil Liability Act 2003*.

Clause 116 amends section 75 to simplify a reference to "12 months" from "over the 4 quarters".

Clause 117 amends the definition of “average weekly earnings” in the dictionary to align with the definition of QOTE under the *Workers' Compensation and Rehabilitation Act 2003*.

Part 2 Amendment of Motor Accident Insurance Act 1994

Clause 118 provides that this part amends the *Motor Accident Insurance Act 1994*.

Clause 119 amends the section 4 definition of “affordability index” to align with the most recently published original series of the average weekly earnings publication by the Australian Statistician, and the definition of “average weekly earnings” to align with the definition of QOTE under the *Workers' Compensation and Rehabilitation Act 2003*.

Clause 120 amends section 100A to simplify a reference to “12 months” from “over the 4 quarters”.

Part 3 Amendment of Personal Injuries Proceedings Act 2002

Clause 121 provides that this part amends the *Personal Injuries Proceedings Act 2002*.

Clause 122 amends section 75A to to simplify a reference to “12 months” from “over the 4 quarters” and amend the definition of “average weekly earnings” to align with the definition of QOTE under the *Workers' Compensation and Rehabilitation Act 2003*.