

South Australia

**Workers Rehabilitation and Compensation
(Changes to Scheme Review Provisions)
Amendment Bill 2009**

A BILL FOR

An Act to amend the *Workers Rehabilitation and Compensation Act 1986*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Workers Rehabilitation and Compensation (Changes to Scheme Review Provisions) Amendment Act 2009*.

5 2—Commencement

- (1) Subject to subsections (2) and (3), this Act will come into operation on assent.
- (2) If paragraph (e) of section 42(2) of the principal Act, to be inserted by the 2008 Amendment Act, has not been brought into operation by the relevant date, section 10 of this Act will come into operation immediately after that paragraph comes into operation under the 2008 Amendment Act.
- (3) If section 76AA of the principal Act, to be inserted by the 2008 Amendment Act, has not been brought into operation by the relevant date, section 12 of this Act will come into operation immediately after that section comes into operation under the 2008 Amendment Act.
- 15 (4) In this section—

principal Act means the *Workers Rehabilitation and Compensation Act 1986*;

relevant date means the date on which this Act is assented to by the Governor;

2008 Amendment Act means the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.

3—Amendment provisions

5 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

4—Amendment of section 2—Objects of Act

- (1) Section 2(3)—after "return to work" insert:
- 10 with a particular emphasis on undertaking the retraining of a disabled worker who would otherwise have difficulty in obtaining employment
- (2) Section 2(3)—after "requirements of this Act" insert:
- and the extent of the worker's disability

5—Amendment of section 35—Preliminary

- 15 Section 35 (8)(a), (b) and (c)—delete paragraphs (a), (b) and (c) and substitute:
- (a) *designated entitlement period* means an aggregate period not exceeding 104 weeks (whether consecutive or not) in respect of which a worker has an incapacity for work and is entitled to the payment of compensation under this Act on account of the
- 20 incapacity;

6—Amendment of section 35A—Weekly payments over initial entitlement period

- (1) Section 35A(1)—delete "first" and substitute:
- designated
- 25 (2) Section 35A(2) and (3)—delete subsections (2) and (3)

7—Amendment of section 35B—Weekly payments after expiry of designated entitlement period—no work capacity

- (1) Section 35B(1)—delete "third" and substitute:
- designated
- 30 (2) Section 35B(2)—delete "80% of"
- (3) Section 35B(2)—delete "third" and substitute:
- designated
- (4) Section 35B(4)—delete "section 35A(3)" and substitute:
- section 35A(1)
- 35 (5) Section 35B(5)—delete "third" and substitute:
- designated

8—Amendment of section 35C—Weekly payments after expiry of designated periods—current work capacity

(1) Section 35C(1)—delete "section 35A(3)(b)" and substitute:

section 35A(1)(b)

(2) Section 35C(1)—delete "third" and substitute:

designated

(3) Section 35C(2)—delete subsection (2) and substitute:

(2) The Corporation is to determine that the worker's entitlement to weekly payments under this Division does not cease, as contemplated by subsection (1), if the Corporation is satisfied—

(a) that the worker is in employment and that because of the compensable disability the worker is incapable of undertaking further or additional employment or work which would increase the worker's current weekly earnings; or

(b) that the worker is in employment and that the worker is taking reasonable steps to secure further or additional employment or work up to his or her level of work capacity.

(4) Section 35C(3)(b)—delete "subsection (2) on the ground that the Corporation is not satisfied under the requirements of that subsection" and substitute:

paragraph (a) of subsection (2) on the ground that the Corporation is not satisfied under the requirements of that paragraph

(5) Section 35C(4)—delete "80% of"

(6) Section 35C—after subsection (5) insert:

(6) Furthermore, the Corporation may not determine that a worker's entitlement to weekly payments under this Division will cease at the end of the designated entitlement period under section 35A or at the expiry of an entitlement under section 35B (as the case may be), including after taking into account the operation of a preceding subsection, unless or until the Corporation can demonstrate that it has—

(a) taken reasonable steps to find suitable employment for the worker over a reasonable period of time; and

(b) taken reasonable steps to prepare the worker for a return to employment up to his or her level of work capacity (including, if relevant, by providing reasonable access to retraining).

9—Amendment of section 36—Discontinuance of weekly payments

Section 36(3a)(ba) and (bb)—delete paragraphs (ba) and (bb) and substitute:

(ba) where a decision to discontinue weekly payments is made on account of the end of the designated entitlement period under section 35A; or

10—Amendment of section 42—Redemption of liabilities

Section 42—after subsection (2) insert:

- (2a) Subsection (2)(e) does not apply if the agreement under this section is to be between a worker and a self-insured employer.

11—Amendment of section 66—Imposition of levies

Section 66—after subsection (6) insert:

- (6a) However, the Corporation must not increase a percentage applicable to a particular class of industry unless—

(a) the Minister has—

(i) released to the public a paper prepared by the Corporation outlining the proposed increase and the Corporation's reasons for proposing the increase; and

(ii) invited, by notice in a newspaper circulating generally throughout the State, the public to make written submissions on the proposed increase within a period (of at least 4 weeks) specified in the notice; and

(iii) prepared and caused to be laid before both Houses of Parliament a report summarising the submissions received within the period specified under subparagraph (ii) and outlining the extent of the increase being proposed by the Corporation as a result of these processes; and

(b) the increase has been approved by a resolution passed by both House of Parliament.

12—Repeal of section 76AA

Section 76AA—delete the section

Schedule 1—Transitional provisions

1—Interpretation

in this Schedule—

principal Act means the *Workers Rehabilitation and Compensation Act 1986*;

relevant day means the day on which this Act comes into operation.

2—Weekly payments

- (1) The amendments effected by sections 5 to 9 (inclusive) of this Act apply to workers who suffer compensable disabilities on or after the relevant day.

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Schedule 1—Transitional provisions

- (2) In addition, the amendments effected by those sections extend to workers who suffered compensable disabilities on or after 1 July 2008 so as to increase any entitlement to weekly payments under the principal Act from the relevant day to the extent provided by those amendments (but not so as to provide for any retrospective entitlement).

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