**Workers Compensation Regulation 2016**

Current version for 17 April 2020 to date (accessed 18 May 2020 at 14:57)

Schedule 8

**Schedule 8 Savings and transitional provisions**

**Part 1 Workers Compensation Legislation Amendment Act 2012**

1 Interpretation

(1) Words and expressions used in this Part have the same meaning as in Part 19H of Schedule 6 to the 1987 Act.

(2) The provisions of Part 19H of Schedule 6 to the 1987 Act are deemed to be amended to the extent necessary to give effect to this Part.

2 Weekly payments amendments—workers with highest needs

(1) If a worker is a worker with highest needs and a claim for compensation in respect of the worker’s injury was made before 17 September 2012, the following provisions apply—

(a) the weekly payments amendments apply to the compensation payable to the worker in respect of the injury (while the worker is a worker with highest needs) on and from 17 September 2012,

(b) the amount of the weekly payments of compensation payable to the worker pursuant to the weekly payments amendments is not to be less than the amount of the weekly payments of compensation that would have been payable to the worker had the weekly payments amendments not applied to the worker (having regard to the period for which the worker has been entitled to weekly payments and the effect this has on entitlement to weekly payments or the amount of weekly payments),

(c) the adjustment of the transitional amount (which the worker’s pre-injury average weekly earnings are deemed to equal) under section 80 of the 1987 Act that occurs on 1 October 2012 is backdated to have effect on and from 17 September 2012 in respect of the compensation payable to the worker on and from 17 September 2012,

(d) the amount of the weekly payments of compensation that would have been payable to the worker had the weekly payments amendments not applied to the worker is to be determined as if the adjustment of any relevant amount under Division 6 of Part 3 of the 1987 Act that occurs on 1 October 2012 were backdated to have effect on and from 17 September 2012 in respect of the compensation payable to the worker on and from 17 September 2012.

(2) For the purposes of the application of the weekly payments amendments to a worker with highest needs whose claim for compensation was made before 1 October 2012, the worker’s pre-injury average weekly earnings are deemed to be equal to the transitional amount whether or not the worker is an existing recipient of weekly payments.
3 Weekly payments amendments—other than workers with highest needs

(1) If a claim for compensation in respect of a worker’s injury was made before 1 October 2012, the weekly payments amendments and the relevant transitional arrangements do not apply to the compensation payable in respect of the injury until 1 January 2013.

**Note.** In the case of a claim made on or after 1 October 2012, the weekly payments amendments apply to the claim from when the claim is made.

(2) This clause does not apply to a worker with highest needs.

(3) In this clause—

*relevant transitional arrangements* means the provisions of Division 2 (Weekly payments) of Part 19H of Schedule 6 to the 1987 Act.

4 5 year limit on weekly payments

For the purposes of the application of section 39 (Cessation of weekly payments after 5 years) of the 1987 Act, as substituted by the 2012 amending Act, in respect of a claim made before 1 October 2012, no regard is to be had to any weekly payment of compensation paid or payable to the worker before 1 January 2013 (for the purpose of determining the aggregate period in respect of which a weekly payment has been paid or is payable to the worker).

**Note.** Section 39 limits the payment of weekly payments of compensation to a period of 5 years. This clause ensures that for claims made before 1 October 2012, weekly payments made before 1 January 2013 will not be counted towards the 5 years.

5 Limit on payment of medical, hospital and rehabilitation expenses

In the application of section 59A (Limit on payment of compensation) of the 1987 Act in respect of a claim for compensation made before 1 October 2012—

(a) the claim is deemed to have been made immediately before 1 January 2013, and

(b) no regard is to be had to any weekly payment of compensation paid or payable to the worker before 1 January 2013 (for the purpose of determining when a worker ceased to be entitled to weekly payments of compensation).

**Note.** Section 59A limits the payment of compensation to a period of 12 months after a claim for compensation is made or 12 months after weekly payments of compensation cease. This clause ensures that for claims made before 1 October 2012 the 12 month period will commence no earlier than 1 January 2013.

6 Compensation for medical and other expenses for existing claimants

(1) Compensation is payable in accordance with Division 3 of Part 3 of the Act to an existing injured worker for any of the following treatments, services or assistance if approved by the insurer before 1 January 2014—

(a) treatment by a medical practitioner, a registered dentist or a dental prosthetist,

(b) hospital treatment and any related workplace rehabilitation services,

(c) any nursing, medicines, medical or surgical supplies or curative apparatus, supplied or provided for the worker otherwise than as hospital treatment,
(d) the provision of artificial members, hearing aids, hearing aid batteries, crutches, spectacles, eyes or teeth and other artificial aids.

(2) This clause has effect despite any provision of section 59A of the Act but does not affect the operation of section 151A of the Act.

(3) In this clause—

existing injured worker means a worker who was in receipt of compensation under Part 3 of the Act before the commencement of section 59A of the Act.

7 Giving of notice when liability disputed

Despite the substitution of section 74 of the 1998 Act by the 2012 amending Act, that section as in force before 1 October 2012 continues to apply to a notice given under that section before 1 January 2013 in respect of a claim for compensation made before 1 October 2012.

8 Awarding of costs by Commission

Division 3 (Special provisions for costs in compensation and damages assessment matters) of Part 8 of the 1998 Act continues to apply (as in force immediately before the amendment of that Division by the 2012 amending Act) to costs in relation to a claim for compensation made before 1 October 2012 if proceedings on the claim are commenced in the Commission before 31 March 2013.

9 Nervous shock claims

An amendment made by Schedule 3 to the 2012 amending Act extends to a claim for damages in respect of harm arising from mental or nervous shock suffered before 19 June 2012 but does not apply to a claim for damages if the claimant commenced court proceedings for the recovery of those damages before 19 June 2012.

10 Lump sum compensation

(1) The amendments made by Schedule 2 to the 2012 amending Act extend to a claim for compensation made before 19 June 2012, but not to a claim that specifically sought compensation under section 66 or 67 of the 1987 Act.

(2) Clause 15 of Part 19H of Schedule 6 to the 1987 Act is to be read subject to subclause (1).

11 Lump sum compensation: further claims

(1) A further lump sum compensation claim may be made in respect of an existing impairment.

(2) Only one further lump sum compensation claim can be made in respect of the existing impairment.

(3) Despite section 66(1) of the 1987 Act, the degree of permanent impairment in respect of which the further lump sum compensation claim is made is not required to be greater than 10%.

(4) For the purposes of subclauses (1) and (2)—

(a) a further lump sum compensation claim made, and not withdrawn or otherwise finally dealt with, before the commencement of subclause (1) is to continue and be dealt with as if section 66(1A) of the 1987 Act had never been enacted, and
(b) no regard is to be had to any further lump sum compensation claim made in respect of the existing impairment—
   (i) that was withdrawn or otherwise finally dealt with before the commencement of subclause (1), and
   (ii) in respect of which no compensation has been paid, and
(c) section 322A of the 1998 Act does not operate to prevent an assessment being made under section 322 of that Act for the purposes of a further lump sum compensation claim.

(5) The following provisions are to be read subject to this clause—
   (a) section 66 of, and clause 15 of Part 19H of Schedule 6 to, the 1987 Act,
   (b) section 322A of the 1998 Act,
   (c) clauses 10 and 19 of this Schedule.

(6) In this clause—

   existing impairment means a permanent impairment resulting from an injury in respect of which a lump sum compensation claim was made before 19 June 2012.

   further lump sum compensation claim means a lump sum compensation claim made on or after 19 June 2012 in respect of an existing impairment.

   lump sum compensation claim means a claim specifically seeking compensation under section 66 of the 1987 Act.

12 Employer improvement notices

Part 3 of Chapter 3 of the 1998 Act applies only in relation to a contravention of Chapter 3 of the 1998 Act that occurs after the commencement of that Part.

13 Determination of degree of permanent impairment—Table of Disabilities

(1) The fact that a worker’s injury was received before the commencement of the 2001 lump sum compensation amendments does not prevent the degree of permanent impairment of the injured worker from being assessed for the purpose of determining whether the worker is a worker with highest needs under Division 2 of Part 3 of the 1987 Act.

(2) In this clause, the 2001 lump sum compensation amendments means the amendments made by Schedule 3 to the Workers Compensation Legislation Amendment Act 2001 and Schedule 2 to the Workers Compensation Legislation Further Amendment Act 2001.

14 Maximum legal costs

Parts 2 and 3 of Schedule 6 (Maximum costs—compensation matters) to the Workers Compensation Regulation 2010 as in force immediately before the substitution of those Parts by the Workers Compensation Amendment (Transitional) Regulation 2012 continue to apply in respect of legal services provided before 1 October 2012.
15 1926 Act claims—weekly payments amendments do not apply

The amount of weekly payment of compensation payable under Division 2 of Part 3 of the 1987 Act in respect of any period of incapacity that resulted from an injury received before the commencement of that Division is to be determined as if the weekly payments amendments had not been made.

16 Continuation of weekly payments after second entitlement period—exemptions from application requirement

(1) Section 38(3)(a) of the 1987 Act does not apply in respect of a claim for compensation made before 1 October 2012 if the second entitlement period for the claim expires before, or less than 1 month after, the weekly payments amendments first apply in respect of the claim.

Note. Section 38(3)(a) requires a worker to apply before the end of the second entitlement period for the continuation of weekly payments after the second entitlement period. Subclause (1) removes the need for such an application if the second entitlement period ends less than 1 month before section 38(3)(a) would become applicable to the claim.

(2) Section 38(3)(a) of the 1987 Act does not apply in respect of a worker who is an existing recipient of weekly payments if—

(a) the second entitlement period for the claim expires less than 1 month after the insurer notifies the worker (as required by the WorkCover Guidelines) of the requirement under section 38 of the 1987 Act that the worker must apply to the insurer in writing before the end of the second entitlement period for continuation of weekly payments after the second entitlement period, or

(b) the insurer fails to notify the worker of that requirement as required by the WorkCover Guidelines.

(3) A worker who, by virtue of subclause (1) or (2), is not required to apply before the end of the second entitlement period for continuation of weekly payments after the second entitlement period is, within 18 months of being assessed as having current work capacity, required to apply to the insurer in writing (in the form approved by the Authority) for continuation of weekly payments in order for the worker to continue to be entitled to weekly payments compensation.

17 Weekly payments amendments to apply where work capacity assessment not conducted

(1) On and from 1 September 2015, the weekly payments amendments apply to the compensation payable under Division 2 of Part 3 of the 1987 Act (in respect of any period of incapacity occurring on and after that date) to an existing recipient of weekly payments in respect of whom a work capacity assessment has not been conducted before that date.

(2) For the purposes of the application under this clause of the weekly payments amendments to an existing recipient of weekly payments who is in receipt of weekly payments of compensation immediately before 1 September 2015, the worker is taken (until a work capacity assessment is conducted in respect of the worker) to have been assessed by the insurer as having no current work capacity.

18 Lump sum compensation for hearing loss—injury before 1.1.2002

Section 69A of the 1987 Act (as in force before its repeal by the 2012 amending Act) continues to apply, despite its repeal, to a claim for compensation made on or after 19 June 2012 for loss of
hearing resulting from an injury received before 1 January 2002.

19 Only one claim for permanent impairment compensation—injuries received before 1.1.2002

(1) In the application of section 66(1A) of the 1987 Act to a claim resulting from an injury received before 1 January 2002—

(a) a reference in that subsection to permanent impairment compensation is taken to be a reference to lump sum compensation payable under Division 4 of Part 3 of the 1987 Act (as in force immediately before 1 January 2002), and

(b) a reference in that subsection to permanent impairment is taken to be a reference to an injury of a kind to which any such lump sum compensation applies.

(2) Section 66(1A) of the 1987 Act is deemed to be amended to the extent necessary to give effect to this clause.

20 Discontinuation of certain entitlements

An existing recipient of weekly payments who has an entitlement arising under clause 9(2) or 11 of Part 19H of Schedule 6 to the 1987 Act ceases to have that entitlement if, at any time after the commencement of the weekly payments amendments—

(a) the worker ceases to be entitled to weekly payments of compensation, or

(b) the worker no longer meets the criteria to be paid weekly payments of compensation under the provisions of Division 2 of Part 3 of the 1987 Act (as in force immediately before the commencement of the weekly payments amendments) in respect of which weekly payments of compensation were paid to the worker.

21 Application of weekly payments amendments to existing recipients of weekly payments

(1) On the expiration of a period of 3 months after an insurer makes a work capacity decision arising from the first work capacity assessment (as required by Division 2 of Part 19H of Schedule 6 to the 1987 Act) of an existing recipient of weekly payments, the weekly payments amendments apply to the compensation payable under Division 2 of Part 3 of the 1987 Act to the worker in respect of any period of incapacity after the expiration of that period.

Note. Clause 9(1) of Part 19H of Schedule 6 to the 1987 Act provides that the weekly payments amendments apply to an existing recipient of weekly payments 3 months after an insurer first conducts a work capacity assessment of the worker. Subclause (1) provides instead for the amendments to apply to such a worker 3 months after the insurer makes a work capacity decision in respect of the worker.

(2) However, if, in the case of an existing recipient of weekly payments, the worker returns to work before the expiration of the 3-month period referred to in subclause (1), the weekly payments amendments apply, as from the date on which the worker returns to work, to the compensation payable under Division 2 of Part 3 of the 1987 Act to the worker in respect of any period of incapacity after that return to work.

22 Work capacity decision to be made as soon as practicable after assessment

An insurer must, for the purposes of Division 2 of Part 19H of Schedule 6 to the 1987 Act, make a work capacity decision in respect of an existing recipient of weekly payments as soon as practicable after the first work capacity assessment of the worker is conducted by the insurer as required by that
Division.

23 Existing recipients of weekly payments who reach retiring age

An existing recipient of weekly payments who reaches the retiring age (within the meaning of section 52 of the 1987 Act) on or after 1 October 2012 but before 1 January 2013 is, subject to meeting the requirements under Subdivision 2 of Division 2 of Part 3 of the 1987 Act, entitled to 12 months’ weekly payments from the date on which the person reaches that age.

Part 2 Special provisions for existing claims—2012 amendments

24 Interpretation

(1) In this Part—

existing claim means a claim for compensation in respect of an injury made before 1 October 2012.

(2) Words and expressions used in this Part have the same meaning as in Part 19H of Schedule 6 to the 1987 Act.

(3) The provisions of Part 19H of Schedule 6 to the 1987 Act and Part 1 of this Schedule are deemed to be amended to the extent necessary to give effect to this Part.

25 Application of Part

This Part remakes Part 2 of Schedule 8 to the Workers Compensation Regulation 2010 which took effect on 1 October 2012.

26 Termination of weekly payments on retiring age

The amendment made to section 52 of the 1987 Act by the 2012 amending Act does not apply in respect of an existing claim.

27 Medical and related expenses

(1) An existing claim is exempt from the operation of section 59A (Limit on payment of compensation) of the 1987 Act in respect of the following compensation until the injured worker reaches retiring age—

(a) compensation payable to an injured worker under Division 3 of Part 3 of the 1987 Act if the worker’s injury has resulted in permanent impairment of greater than 20%,

(b) compensation payable in respect of the provision of crutches, artificial members, eyes or teeth and other artificial aids or spectacles (including hearing aids and hearing aid batteries),

(c) compensation payable in respect of the modification of a worker’s home or vehicle.

(2) A worker’s injury is considered to have resulted in permanent impairment of greater than 20% only if the injury has resulted in permanent impairment and—

(a) the degree of permanent impairment has been assessed for the purposes of Division 4 of Part 3 of the 1987 Act to be greater than 20%, or
(b) an assessment of the degree of permanent impairment is pending and has not been made because an approved medical specialist has declined to make the assessment on the basis that maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, or

Note. Paragraph (b) no longer applies once the degree of permanent impairment has been assessed.

(c) the insurer is satisfied that the degree of permanent impairment is likely to be greater than 20%.

(3) In this clause—

retiring age has the same meaning as in section 52 of the 1987 Act.

28 Secondary surgery

(1) An existing claim is exempt from the operation of section 59A (Limit on payment of compensation) of the 1987 Act in respect of compensation for the cost of secondary surgery.

(2) Surgery is secondary surgery if—

(a) the surgery is directly consequential on earlier surgery and affects a part of the body affected by the earlier surgery, and

(b) the surgery is approved by the insurer within 2 years after the earlier surgery was approved (or is approved later than that pursuant to the determination of a dispute that arose within those 2 years).

(3) This clause does not affect the requirements of section 60 of the 1987 Act (including, for example, the requirement for the prior approval of the insurer for secondary surgery).

Note. This clause only creates an exception from section 59A of the 1987 Act in respect of compensation for secondary surgery that would have been payable (had it not been for section 59A) as part of the original claim for compensation. It does not relate to surgery for an injury that gives rise to a separate claim for compensation.

Part 2A Special provisions for existing recipients of weekly payments—2012 amendments

28A Interpretation

(1) Words and expressions used in this Part have the same meaning as in Part 19H of Schedule 6 to the 1987 Act.

(2) The following provisions are deemed to be amended to the extent necessary to give effect to this Part—

(a) section 39 of the 1987 Act,

(b) Part 19H of Schedule 6 to the 1987 Act,

(c) section 322A of the 1998 Act.

28B Application and operation of Part

(1) This Part takes effect on and from 1 October 2012.
(2) This Part applies to an injured worker who is an existing recipient of weekly payments.

28C  5 year limit on weekly payments

Section 39 of the 1987 Act (as substituted by the 2012 amending Act) does not apply to an injured worker if the worker’s injury has resulted in permanent impairment and—

(a) an assessment of the degree of permanent impairment for the purposes of the Workers Compensation Acts is pending and has not been made because an approved medical specialist has declined to make the assessment on the basis that maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, or

(b) the insurer is satisfied that the degree of permanent impairment is likely to be more than 20% (whether or not the degree of permanent impairment has previously been assessed).

28D  Further permanent impairment assessments

(1) This clause applies to an injured worker if the degree of permanent impairment resulting from the worker’s injury is or has been assessed for the purposes of the Workers Compensation Acts.

(2) Section 322A of the 1998 Act does not operate to prevent a further assessment being made of the degree of permanent impairment resulting from the worker’s injury for the purposes of Part 3 of the 1987 Act.

(3) However, only one further assessment may be made of the degree of permanent impairment resulting from the worker’s injury.

Part 3  Workers Compensation Amendment Act 2015

Note. Consequent on the amendment made to section 52 of the 1987 Act by the 2015 amending Act, certain workers who were injured before reaching the retiring age (and who reached the retiring age during the period commencing on 1 October 2012 and ending on 15 October 2015) may be eligible for weekly payments of compensation after the day on which they reached the retiring age. As a result of this extension of eligibility for weekly payments of compensation, the period during which certain workers are eligible for compensation for medical and related expenses may also be extended. See section 59A of the 1987 Act for the effect of weekly payments of compensation on eligibility for compensation for medical and related expenses.

29  Interpretation

(1) In this Part—

retirement period, in relation to a worker who reached the retiring age during the transition period, means the period commencing on the day immediately following the day on which the worker reached the retiring age and ending on 15 October 2015 (inclusive).

retiring age has the same meaning as in section 52 of the 1987 Act.

transition period means the period commencing on 1 October 2012 and ending on 15 October 2015 (inclusive).

(2) A worker is a retiring-age worker for the purposes of this Part if—

(a) the worker received an injury before reaching the retiring age, and

(b) the worker reached the retiring age during the transition period, and
(c) weekly payments of compensation are payable to the worker under Division 2 of Part 3 of the 1987 Act, as amended by the 2015 amending Act, in respect of any period of incapacity occurring during the retirement period.

(3) Words and expressions used in this Part have the same meaning as in Part 19I of Schedule 6 to the 1987 Act.

(4) The provisions of the 1987 Act, including Part 19I of Schedule 6 to that Act, are deemed to be amended to the extent necessary to give effect to this Part.

30 Medical and related expenses

(1) Section 59A of the 1987 Act (as substituted by the 2015 amending Act) extends to the compensation payable to any injured worker in respect of any period before 4 December 2015 but not before 17 September 2012.

(2) The following provisions of the 1987 Act do not apply with respect to any exempt medical treatment—
   (a) section 60(2A)(a),
   (b) sections 61(2), 62(1) and 63A(2).

(3) However, subclause (1) does not affect the operation of section 60A of the 1987 Act.

(4) In this clause—

   exempt medical treatment means any treatment, service or assistance referred to in Division 3 of Part 3 of the 1987 Act in respect of which compensation has become payable under that Division—
   (a) to a retiring-age worker by reason of the amendment made to section 52 of the 1987 Act by the 2015 amending Act, or
   (b) to any injured worker by reason of the substitution of section 59A of the 1987 Act by the 2015 amending Act.

31 Certificates of capacity

A certificate of capacity provided under section 44B of the 1987 Act may relate to a period that is more than 90 days before the certificate is provided if—
   (a) the worker to whom the certificate relates is a retiring-age worker, and
   (b) the period to which the certificate relates occurred wholly during the retirement period.

32 Lump sum compensation

The amendments made to section 66 of the 1987 Act by the 2015 amending Act extend to an injury received by a worker on or after 5 August 2015.

33 Workers with highest needs

A worker to whom paragraph (b) of the definition of seriously injured worker in section 32A of the
1987 Act applied immediately before 4 December 2015 is taken to be a worker with highest needs for the purposes of Division 2 of Part 3 of that Act (as amended by the 2015 amending Act) until the degree of permanent impairment is assessed in respect of the worker’s injury.

34 Continuation of weekly payments after second entitlement period

(1) The section 38 amendments do not apply to the determination of the compensation payable in respect of any period of incapacity occurring before 17 September 2012.

(2) The requirement under section 38(3A) of the 1987 Act that any application for continuation of weekly payments after the second entitlement period must be made no earlier than 52 weeks before the end of the second entitlement period does not apply in respect of a worker to whom compensation has become payable by reason of the section 38 amendments (and clause 9(1) of Part 19I of Schedule 6 to the 1987 Act in its application to those amendments) in respect of any period of incapacity occurring before 4 December 2015.

Note. A worker to whom subclause (2) and section 38(3A) of the 1987 Act applies must apply to the insurer in writing (in the form approved by the Authority) to be entitled to compensation under section 38 of that Act.

(3) A certificate of capacity provided under section 44B of the 1987 Act may relate to a period that is more than 90 days before the certificate is provided if—

(a) compensation has become payable to the worker to whom the certificate relates by reason of the section 38 amendments (and clause 9(1) of Part 19I of Schedule 6 to the 1987 Act in its application to those amendments), and

(b) the period to which the certificate relates occurred wholly during the period commencing on 17 September 2012 and ending on 3 December 2015 (inclusive).

(4) In this clause—


35 Weekly payments—workers with highest needs

(1) Section 38A of the 1987 Act does not apply to the determination of the compensation payable in respect of any period of incapacity occurring before 17 September 2012.

(2) Section 38A of the 1987 Act does not apply to a worker whose pre-injury average weekly earnings have been deemed to be equal to the transitional amount for the purposes of the application under clause 9 or 10 of Part 19H of Schedule 6 to the 1987 Act of the weekly payments amendments (within the meaning of that Part) to the worker.

36 Return to work assistance—education and training

Section 64C of the 1987 Act (as inserted by the 2015 amending Act) does not apply to education or training provided before the commencement of that section.

Part 4 Special provision for death benefits—2015 amendments

37AA Operation of amendments

This Part ceases to have effect on the commencement of the amendments made to the 1987 Act by

37 Application of death benefits amendment to fire, emergency and rescue services volunteers

(1) To the extent that clause 3 of Part 19I of Schedule 6 to the 1987 Act applies in respect of the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987, that clause does not apply to the amendment made by the 2015 amending Act to section 25 of the 1987 Act (or to clause 5 of that Part in its application to that amendment).

Note. The effect of this subclause is that a reference in the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 to section 25 of the 1987 Act is (in respect of deaths occurring on or after 5 August 2015) a reference to that provision as amended by the 2015 amending Act.

(2) The provisions of Part 19I of Schedule 6 to the 1987 Act are deemed to be amended to the extent necessary to give effect to this clause.

(3) In this clause, 2015 amending Act means the Workers Compensation Amendment Act 2015.

37A Application of death benefits amendments to coal miners

(1) Clause 15 of Part 19I of Schedule 6 to the 1987 Act does not apply, and is taken never to have applied, to the amendments made by Schedule 1 to the Workers Compensation Amendment Act 2015 to sections 25 and 26 of the 1987 Act.

Note. The effect of this subclause is that sections 25 and 26 of the 1987 Act, as amended by Schedule 1 to the Workers Compensation Amendment Act 2015, apply in respect of deaths of coal miners occurring on or after 5 August 2015.

(2) The provisions of Part 19I of Schedule 6 to the 1987 Act are deemed to have been amended as necessary to give effect to this clause.

Part 5 Provisions consequent on making of Workers Compensation Amendment (Premiums) Regulation 2016

38 Insurance premiums orders

Any amendment (other than this clause) made by the Workers Compensation Amendment (Premiums) Regulation 2016 that applies in relation to insurance premiums orders in force immediately before the commencement of the amendment does not apply in relation to any insurance premiums orders referred to in clause 2(1) of Part 19J of Schedule 6 to the 1987 Act.

Part 6 Provision consequent on repeal of Workers Compensation Regulation 2010

39 Saving and transitional provision

(1) Any act, matter or thing that, immediately before the repeal of the Workers Compensation Regulation 2010, had effect under that Regulation continues to have effect under this Regulation.

(2) Without limiting subclause (1), clauses 6–10, 46(1)(g) and (i) and 180, and Part 5, of the Workers Compensation Regulation 2010, as in force immediately before the repeal of that Regulation, continue to apply to or in respect of claims to which Division 2 of Part 3 of the 1987 Act continues to apply as if that Division had not been amended by the Workers Compensation Regulation
Legislation Amendment Act 2012 (by virtue of clause 4, 6, 25 or 26 of Part 19H of Schedule 6 to the 1987 Act).

Note. Clauses 4, 6, 25 and 26 of Part 19H of Schedule 6 to the 1987 Act provide, among other things, that certain amendments made to Division 2 of Part 3 of the 1987 Act by the Workers Compensation Legislation Amendment Act 2012 do not apply to certain injured workers. Accordingly, the relevant clauses of the Workers Compensation Regulation 2010 continue to have effect with respect to those injured workers.

Part 7 Provision consequent on making of Workers Compensation Amendment (Premiums, Large Claim Limits and Policy Cancellation) Regulation 2017

40 Payment of premiums by instalments

The substitution of Division 6 of Part 18 by the Workers Compensation Amendment (Premiums, Large Claim Limits and Policy Cancellation) Regulation 2017 does not affect the payment of premiums by an employer who had elected to pay the premiums under a policy of insurance by instalments for the financial year ending on 30 June 2017.

Part 8 Provision consequent on enactment of Workers Compensation Legislation Amendment Act 2018

41 Meaning of “latest index number”

For the purposes of paragraph (b) of the definition of latest index number in section 79 of the 1987 Act (as in force before the commencement of Schedule 5 to the Workers Compensation Legislation Amendment Act 2018), the latest index number in respect of an adjustment date is the number specified in the Table to this clause.

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