

Workers Compensation Legislation Amendments

Workers Compensation Legislation Amendment Act 2025
*Workers Compensation Legislation Amendment (Reform
and Modernisation) Act 2026*

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- Death benefit disputes
- Medical expenses claims
- Independent allied health consultants
- Adjustable amounts and indexation

Legislation

- ***Workers Compensation Legislation Amendment Act 2025 (the 2025 Act)***
- ***Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026 (the 2026 Act)***

When do the changes come into effect?



- The amendments will take effect in stages, with the first set of amendments having commenced on **1 July 2026**.
- The change from “reasonably necessary” to “reasonable and necessary” for medical expenses claims will come into effect from **1 October 2026**.
- The amendments **largely do not apply retrospectively**.

Overview of changes for coal miners

Coal miner is defined under the *Workers Compensation Act 1987* (NSW)(the 1987 Act) as 'a worker employed in or about a mine'.

Coal miners have been excluded from several amendments to the 1987 Act. However, limited changes introduced by the 2025 Act and 2026 Act **will apply** to coal miners.

Changes include:

1. Death benefit disputes
2. Independent allied health consultants
3. Adjustable amounts and indexation
4. Medical expenses claims

Coal Services is in discussion with SIRA regarding whether changes to excess recoverable from employers under section 160 of the 1987 Act will affect Coal Mines Insurance policyholders.

Death benefit disputes

- Parties can negotiate the lump sum in respect of a death benefit where there is a reasonable basis for a liability dispute
- An agreement must be approved by the Compensation Jurisdiction of the District Court
- For the agreement to be approved:
 - The insurer must have a "reasonable basis" to dispute liability
 - The Judge must consider the proposed amount reasonable in the overall circumstances
 - All dependents must be parties to the agreement
- A "reasonable basis" to dispute liability exists when:
 - The dispute is based on facts that can be proven with available material
 - There is a reasonably arguable view of the law
- If the District Court approves the agreement, the insurer will be considered to have accepted liability for the death



Independent allied health consultants

- Section 45B has been added into the *Workplace Injury Management and Workers Compensation Act 1998*
- This allows for matters to be dealt with by **allied health professionals to assist with proactively managing claims** in accordance with the provisions introduced to the Workers Compensation Guidelines
- Specifically, the Guidelines may provide for:
 - approval processes for independent allied health consultants
 - the functions of approved consultants
 - conditions that may be imposed on their approval
 - monitoring of the services they provide
 - guidelines prescribing the maximum amount payable for their services
- SIRA will publish the names and contact details of approved consultants on its website.

Adjustable amounts and indexation

- The adjustable and indexation amounts for weekly benefits and death benefit claims have been updated.
- The indexation of weekly benefits and death benefits will now occur annually as opposed to biannually on **1 April** each year
- Ongoing indexation will continue to be reflected in the SIRA Benefits Guide as previously
- Timeline-
 - 1 July 2026 - indexation will occur under current arrangements
 - 1 October 2026 - indexation will not occur
 - 1 April 2027 – first annual indexation under new arrangements

Medical Expenses

Medical and related treatment expenses must be “**reasonable and necessary**”, replacing the previous requirement of “reasonably necessary” under section 60 of the 1987 Act.

The amendments only apply to new claims for medical expenses

Existing claim means:

- Claim for medical and related expenses made but not finally determined before the commencement.
- A claim for medical and related expenses which has been approved and in relation to which medical and related treatment expense which have been approved before the commencements but not yet provided or started but not completed.

The Draft Regulations gives effect to the changed test by setting out certain rules to be applied. They also prescribe that certain treatment and services are not reasonable and necessary.

Medical Expenses: Case Studies

Case Study 1: Physiotherapy following a soft tissue back injury

Physiotherapy may *initially* be reasonable and necessary if it is clinically justified and there is no other treatment that can provide similar benefits at lower costs. However, *ongoing* physiotherapy, may not be reasonable and necessary based on:

- Benefits achieved (e.g. functional improvement); and
- Availability of alternative treatments at lower cost (e.g. home-based exercise)

Case Study 2: PRP injections for epicondylitis or “tennis elbow”

This may not be reasonable and necessary based on:

- A lack of clinical justification, namely scientific research supporting the efficacy of this treatment; and
- Availability of alternative treatments that could achieve similar benefits at lower costs (e.g. physiotherapy)

Case Study 3: Surgery to fix kneecap instability in the absence of identifiable pathology in imaging

This may not be reasonable and necessary based on:

- Availability of alternative treatments that could achieve similar benefits at lower costs (e.g. physiotherapy)
- Medico-legal opinion that surgery is not required

Questions





Coal Mines Insurance

