



**STOP THE ATTACK ON**

**WORKERS COMPENSATION**

Update – Friday 22 June 2012

## How O'Farrell's Workers Comp cuts will affect you

New laws introduced by the O'Farrell Government are the biggest attack on injured workers' rights in a generation.

### **Changes are retrospective**

According to the Government briefing, the 'changes to weekly benefits, medical costs and duration [of payments] are to apply as soon as possible to **existing** claims' and 'changes to lump sum compensation are to apply to **existing** claims from the date of the legislation's introduction'. The changes to weekly payments for existing claimants will be phased in, commencing in 3 months at the earliest. Police, paramedics and firefighters are exempt.

### **Weekly payments**

Most workers' payments will cease after 2.5 years, unless there is total incapacity for work. Payments will then cease for those with total incapacity after 5 years, unless there is *20% whole person impairment*. Previously, payments continued until you could return to work – or until retirement. Workers will also now receive reduced payments from day one (95%), with a further drop to 80% at 14 weeks (although they retain 95% if working at least 15 hours a week). Payments remain at 80% (or 95%) until they cut out altogether."

### **Cover during travel retained in limited form**

For decades, workers have been covered for injuries sustained on the way to or from work, and the Government proposed to take this away. Late amendments to the legislation retained "journey claims", however in a limited form. Workers injured when travelling are only covered 'if there is a real and substantial connection between the employment and the accident or incident out of which the personal injury arose' Previously, if you took the journey because of work (eg to or from work) you were covered. The new provisions will leave much uncertainty over which incidents are covered.

### **Cuts to cover for medical expenses**

Medical and other expenses are only paid for maximum of one year from the date a claim is made or weekly payments cease, whichever is longer.

There is an exception for 'seriously injured' workers. 'Seriously injured' is defined as a *30% whole person impairment* – which would only apply to a small number of the very worst workplace injuries.

### **Limits on lump sums for injury – compensation for pain and suffering cut**

Lump sums payments are only available for very serious permanent injuries – here defined as a *10% whole person impairment*. Lump sum payments for pain and suffering are cut altogether. The requirement for workers to have received legal advice before signing away their rights to weekly compensation and accepting a lump sum payment is removed - if the "employer or insurer is satisfied" that the worker has waived this right.

### **Limits on claims for strokes and heart attacks**

Heart attacks or strokes will not be covered unless the nature of employment gave rise to 'significantly greater risk'.

### **Restrictions on cover for occupational disease**

Disease is only to be covered where employment is "the main contributing factor", rather than previously where it could be one of a number of contributing factors.

### **Partners' claims for nervous shock abolished**

Currently the spouse, partner or direct relative of someone who has died in a workplace accident can access some cover if they are diagnosed as having nervous shock as a result, and, for example, are unable to work for a period of time. This Bill abolishes this type of claim.

### **But there's more to come!**

Premier O'Farrell told Parliament on 19 June that the Bills were just 'the first stage' and were just the matters that 'require legislative change'. The NSW Government has left open several areas where further changes can be made 'by regulation' – just by putting them up on the Government website!

**Send a message to your local MP  
that you want your rights to protection at work restored.**

**Go to: [www.nswforall.org.au](http://www.nswforall.org.au)**

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