



Queensland

Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016



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2016

A Bill

for

An Act to amend the *Workers' Compensation and Rehabilitation Act 2003* and the *Workers' Compensation and Rehabilitation Regulation 2014* for particular purposes

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Act 2016*. 4
5
6

Part 2 Amendment of Workers' Compensation and Rehabilitation Act 2003 7
8
9

Clause 2 Act amended 10

This part amends the *Workers' Compensation and Rehabilitation Act 2003*. 11
12
Note— 13
See also the amendments in schedule 1. 14

Clause 3 Amendment of s 5 (Workers' compensation scheme) 15

Section 5(2)— 16
insert— 17
(aa) implementation of the national injury 18
insurance scheme for serious personal 19
injuries resulting from workplace incidents 20
connected with Queensland; 21

Clause 4 Amendment of s 9 (Meaning of *compensation*) 22

Section 9, 'and 4'— 23

insert—

- | | |
|--|----|
| | 1 |
| (3A) If, for a single employer, the Regulator is not | 2 |
| satisfied of the matter mentioned in subsection | 3 |
| (1)(a) only, the Regulator may still issue a licence | 4 |
| to be a self-insurer to the employer if— | 5 |
| (a) the employer held a licence (the <i>former</i> | 6 |
| <i>licence</i>) to be a self-insurer under this | 7 |
| section within the previous 5 years; and | 8 |
| (b) the former licence was not cancelled under | 9 |
| this Act; and | 10 |
| (c) after the former licence ended, the employer | 11 |
| was not at any time a related body corporate | 12 |
| with another employer for the purpose of the | 13 |
| grant of a licence to be a self-insurer under | 14 |
| section 72; and | 15 |
| (d) the Regulator is satisfied the number of | 16 |
| full-time workers employed in Queensland | 17 |
| by the employer is at least the number of | 18 |
| full-time workers that were required under | 19 |
| subsection (1)(a) as in force when the | 20 |
| former licence was granted. | 21 |
| (3B) Also, the Regulator may renew a licence to be a | 22 |
| self-insurer issued to a single employer under | 23 |
| subsection (4) who fails to satisfy the Regulator | 24 |
| only of the matter mentioned in subsection (1)(a) | 25 |
| if the Regulator is still satisfied of the matter | 26 |
| mentioned in subsection (4)(d). | 27 |
| (3) Section 71(3A) to (5)— | 28 |
| <i>renumber</i> as section 71(4) to (7). | 29 |

Clause 8 Amendment of s 84 (Bank guarantee or cash deposit) 30

- | | |
|--------------------------|----|
| (1) Section 84, heading— | 31 |
| <i>omit, insert—</i> | 32 |

84 Security	1
(2) Section 84(1), from 'an' to 'deposit'—	2
<i>omit, insert—</i>	3
a security	4
(3) Section 84(2)—	5
<i>omit, insert—</i>	6
(2) The security must be—	7
(a) in favour of WorkCover; and	8
(b) 150% of the self-insurer's estimated claims liability.	9 10
(2A) Also, if the security is a bank guarantee or financial guarantee, the security—	11 12
(a) must be irrevocable and unconditional, including not being conditional on—	13 14
(i) another right or obligation contained in another document; or	15 16
(ii) WorkCover proving that a demand has been made; and	17 18
(b) must be payable immediately on demand; and	19 20
(c) must not be given by an entity that is a related body corporate to the self-insurer; and	21 22 23
(d) must be satisfactory to the Regulator.	24
(4) Section 84(4), from 'guarantee' to 'deposit'—	25
<i>omit, insert—</i>	26
security must remain in force or, if it is a cash deposit, the Regulator must hold the cash deposit	27 28
(5) Section 84(5), 'guarantee or deposit'—	29
<i>omit, insert—</i>	30

security	1
(6) Section 84—	2
<i>insert—</i>	3
(5A) If a self-insurer lodges a financial guarantee under subsection (1) and the insurance company that gave the guarantee stops being an approved security provider, the self-insurer must—	4
(a) notify the Regulator of the matter without delay; and	5
(b) lodge another security under this section within 20 business days after the date of the notice given under paragraph (a).	6
(7) Section 84(6)—	7
<i>insert—</i>	8
<i>approved security provider</i> means an approved security provider as defined under the <i>Financial and Performance Management Standard 2009</i> , section 36.	9
<i>bank guarantee</i> means a guarantee given by a bank or the Queensland Treasury Corporation.	10
<i>financial guarantee</i> means a security given by an insurance company that is an approved security provider.	11
<i>security</i> means—	12
(a) a bank guarantee; or	13
(b) a financial guarantee; or	14
(c) a cash deposit.	15
(8) Section 84(2A) to (6)—	16
<i>renumber</i> as section 84(3) to (8).	17

Clause 9	Amendment of s 92 (Powers of self-insurers)	1
	(1) Section 92(1)(a)—	2
	<i>insert—</i>	3
	(iiia) chapter 4A;	4
	(2) Section 92(1)(a)(iia) to (iv)—	5
	<i>renumber</i> as section 92(1)(a)(iii) to (v).	6
Clause 10	Amendment of s 92A (Powers of local government self-insurers)	7
	Section 92A(1), 'and (iv)'—	8
	<i>omit, insert—</i>	9
	, (iii) and (v)	10
		11
Clause 11	Replacement of s 107 (Meaning of QOTE)	12
	Section 107—	13
	<i>omit, insert—</i>	14
	107 Meaning of QOTE	15
	(1) QOTE , for a financial year, is—	16
	(a) the amount of Queensland full-time adult	17
	persons ordinary time earnings declared by	18
	the Australian Statistician in the original	19
	series of the statistician's average weekly	20
	earnings publication most recently	21
	published before the start of the financial	22
	year; or	23
	(b) if the amount mentioned in paragraph (a) is	24
	less than QOTE for the previous financial	25
	year—the amount that is QOTE for the	26
	previous financial year.	27
	(2) The Regulator must, before the start of a financial	28
	year, notify—	29

	(a) QOTE for the financial year; and	1
	(b) the percentage difference in QOTE for the financial year compared to QOTE for the previous financial year.	2 3 4
	(3) The Regulator's notice is subordinate legislation.	5
Clause 12	Amendment of s 116 (Entitlement ends if compensated under corresponding laws)	6 7
	(1) Section 116, heading, 'Entitlement ends'— <i>omit, insert—</i>	8 9
	Effect on entitlement	10
	(2) Section 116(1), from 'a law'— <i>omit, insert—</i>	11 12
	another law.	13
	(3) Section 116— <i>insert—</i>	14 15
	(3) However, if the person's entitlement under the other law relates only to payments corresponding to compensation under chapter 4A, subsection (2) applies only to stop the person's entitlement to compensation under chapter 4 or 4A.	16 17 18 19 20
	<i>Examples of payments to which subsection (3) may apply—</i>	21
	Payments under any of the following schemes—	22
	(a) the scheme under the <i>National Disability Insurance Scheme Act 2013</i> (Cwlth);	23 24
	(b) the scheme under the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> ;	25 26
	(c) a scheme corresponding to the scheme mentioned in paragraph (b) under a law of a place other than Queensland.	27 28 29

Clause 13	Amendment of s 117 (Compensation recoverable if later paid under corresponding laws)	1 2
	(1) Section 117(1)(b), from 'a law' to 'Queensland'—	3
	<i>omit, insert—</i>	4
	another law	5
	(2) Section 117—	6
	<i>insert—</i>	7
	(3) However, if the payments made to, or on account of, the person under the other law correspond only to compensation under chapter 4A, subsection (2) applies only to the extent of compensation paid under chapter 4 or 4A.	8 9 10 11 12
Clause 14	Amendment of s 118 (Condition on compensation application if compensation available under this Act and corresponding law)	13 14 15
	(1) Section 118(1)(b), from 'a law' to 'Queensland'—	16
	<i>omit, insert—</i>	17
	another law	18
	(2) Section 118(2)(a), from 'law' to 'Queensland'—	19
	<i>omit, insert—</i>	20
	other law	21
	(3) Section 118—	22
	<i>insert—</i>	23
	(3) However, if the person's entitlement under the other law relates only to payments corresponding to compensation under chapter 4A—	24 25 26
	(a) subsection (2) does not apply; and	27
	(b) an application for compensation under this Act is duly made, and is to be acted on, only if the claimant gives the insurer the claimant's statutory declaration about—	28 29 30 31

- (i) whether or not the claimant has made a claim for payment for the injury under the entitlement under the other law; and
- (ii) if the claimant has not made a claim for payment for the injury under the entitlement under the other law—whether or not the claimant intends to make the claim.

Clause 15 Amendment of s 119 (Entitlement to compensation ends if damages claim is finalised)

(1) Section 119—

insert—

(2A) However, an entitlement to compensation under chapter 4A for an injury ends only if—

(a) the damages include treatment, care and support damages; and

(b) the worker accepts the treatment, care and support damages within the acceptance period.

(2B) To remove any doubt, it is declared that the ending, under subsection (3), of an entitlement to compensation under chapter 4A for an injury also stops any entitlement to compensation under chapter 4 for the injury.

(2) Section 119(3)—

insert—

accept, for treatment, care and support damages, see section 232U.

acceptance period, for treatment, care and support damages, see section 232U.

(3) Section 119(2A) to (3)—

renumber as section 119(3) to (5). 1

Clause 16 Amendment of s 130 (Injuries caused by misconduct) 2

(1) Section 130(1)— 3

insert— 4

Note— 5

See, however, section 232H in relation to compensation
payable under chapter 4A. 6
7

(2) Section 130(4), definition *serious and wilful misconduct*— 8

relocate to schedule 6. 9

(3) Section 130(4)— 10

omit. 11

**Clause 17 Amendment of s 132A (Applying for assessment of DPI if
no application made for compensation) 12
13**

(1) Section 132A— 14

insert— 15

(1A) However, this section does not apply to a worker
who is, or may be, entitled to compensation under
chapter 4A. 16
17
18

(2) Section 132A(7)— 19

insert— 20

(c) is, or may be, entitled to compensation
under chapter 4A because— 21
22

(i) the worker has sustained a serious
personal injury that meets the chapter
4A eligibility criteria; and 23
24
25

(ii) section 116 does not apply to the
injury. 26
27

Clause 18	Amendment of s 138 (Compensation not payable during suspension)	1 2
	Section 138—	3
	<i>insert</i> —	4
	<i>Note</i> —	5
	See also section 232ZH in relation to suspension of compensation under chapter 4A.	6 7
Clause 19	Amendment of s 140 (Maximum entitlement)	8
	Section 140(4), definition <i>compensation</i> , after ‘part 8’—	9
	<i>insert</i> —	10
	or chapter 4A	11
Clause 20	Amendment of s 141 (Time from which compensation is payable)	12 13
	(1) Section 141—	14
	<i>insert</i> —	15
	(2A) Also, any entitlement to payments under chapter 4A starts when the period mentioned in section 232L(3) or 232ZD(8) starts for the worker.	16 17 18
	(2) Section 141(3), ‘and (2)’—	19
	<i>omit, insert</i> —	20
	to (3)	21
	(3) Section 141(2A) to (4)—	22
	<i>renumber</i> as section 141(3) to (5).	23
Clause 21	Amendment of s 144A (When weekly payments of compensation stop)	24 25
	(1) Section 144A—	26
	<i>insert</i> —	27

	(2A) Subsection (2) does not apply to the worker's entitlement to compensation under chapter 4A.	1 2
	(2) Section 144A(2A) and (3)— <i>renumber</i> as section 144A(3) and (4).	3 4
Clause 22	Amendment of s 168 (Review of compensation and associated payments)	5 6
	Section 168—	7
	<i>insert</i> —	8
	<i>Note</i> —	9
	See also chapter 4A, part 4 for reviews of entitlement to compensation under chapter 4A.	10 11
Clause 23	Amendment of s 173 (Redemption—worker moves abroad)	12 13
	Section 173—	14
	<i>insert</i> —	15
	(4) Subsection (2) does not apply to compensation under chapter 4A.	16 17
	<i>Note</i> —	18
	See section 232L(4)(b) and chapter 4A, part 6 for what happens in relation to a worker's compensation under chapter 4A if the worker is absent from Australia.	19 20 21
Clause 24	Amendment of s 176 (No compensation after redemption payment made)	22 23
	Section 176—	24
	<i>insert</i> —	25
	(2) Subsection (1) does not apply to compensation under chapter 4A.	26 27

Clause 25	Amendment of s 190 (No further compensation after fixed time)	1 2
	Section 190(3)—	3
	<i>insert</i> —	4
	(c) compensation under chapter 4A.	5
Clause 26	Amendment of s 205 (Variation of payments for injuries)	6
	(1) Section 205(3), 'by gazette notice'—	7
	<i>omit.</i>	8
	(2) Section 205—	9
	<i>insert</i> —	10
	(4) The Regulator's notice is subordinate legislation.	11
Clause 27	Amendment of s 207B (Insurer's charge on damages for compensation paid)	12 13
	(1) Section 207B—	14
	<i>insert</i> —	15
	(2A) Subsection (2) applies to compensation paid under chapter 4A only if the damages include treatment, care and support damages.	16 17 18
	(2) Section 207B(4), 'subsection (3)'—	19
	<i>omit, insert</i> —	20
	subsection (4)	21
	(3) Section 207B(6), 'subsection (5)'—	22
	<i>omit, insert</i> —	23
	subsection (6)	24
	(4) Section 207B(8), 'subsection (7)'—	25
	<i>omit, insert</i> —	26
	subsection (8)	27

- (5) Section 207B(2A) to (10)— 1
renumber as section 207B(3) to (11). 2

- Clause 28 Amendment of s 209 (Application of pt 2)** 3
Section 209— 4
insert— 5
(2) However, this part, other than section 219, does 6
not apply to medical treatment provided to, or 7
hospitalisation of, a worker during a period for 8
which the worker is entitled to compensation 9
under chapter 4A for the injury, including any 10
period for which the entitlement is suspended 11
under section 232ZH. 12

- Clause 29 Insertion of new s 221A** 13
Chapter 4, part 3, division 2— 14
insert— 15
221A Application of division 16
This division does not apply to rehabilitation 17
provided to a worker during a period for which the 18
worker is entitled to compensation under chapter 19
4A for the injury, including any period for which 20
the entitlement is suspended under section 21
232ZH. 22

- Clause 30 Insertion of new ch 4A** 23
After chapter 4— 24
insert— 25
Chapter 4A Serious personal 26
injuries 27

Part 1	Preliminary	1
232H	Application and object of chapter	2
(1)	This chapter applies if a worker sustains an injury for which compensation under chapter 3 is payable.	3 4 5
(2)	However, this chapter does not apply if the injury—	6 7
(a)	is an injury only because it is sustained in the circumstances mentioned in section 34(1)(c) or 35; or	8 9 10
(b)	is caused by the worker's serious and wilful misconduct.	11 12
(3)	The object of this chapter is to ensure that a worker who sustains a serious personal injury receives necessary and reasonable treatment, care and support.	13 14 15 16
232I	Definitions for chapter	17
	In this chapter—	18
	<i>approved service</i> , for an eligible worker, means—	19
(a)	if a support plan has not been made for the worker—treatment, care or support that is the subject of a service request relating to the worker and approved by the insurer under section 232P; or	20 21 22 23 24
(b)	if a support plan has been made for the worker—	25 26
(i)	a treatment, care and support need resulting from the worker's serious personal injury stated in the support plan to be a need the insurer considers	27 28 29 30

is necessary and reasonable in the circumstances; and	1 2
(ii) any treatment, care or support resulting from another injury resulting from the same event as the serious personal injury stated in the support plan to be treatment, care or support the insurer considers is necessary and reasonable in the circumstances; and	3 4 5 6 7 8 9
(iii) other treatment, care or support stated in the support plan to be treatment, care or support the insurer agrees to, wholly or partly, pay for under this chapter.	10 11 12 13
<i>attendant care and support services</i> means services to help a person with everyday tasks.	14 15
<i>Examples—</i>	16
domestic, home maintenance, nursing or personal assistance services	17 18
<i>eligibility criteria</i> see section 232M(2)(a).	19
<i>eligibility period</i> , for an eligible worker, see section 232L(3).	20 21
<i>eligible worker</i> means a worker who an insurer decides, under section 232M, is entitled to treatment, care and support payments for the worker's injury.	22 23 24 25
<i>excluded treatment, care or support</i> see section 232K.	26 27
<i>funding agreement</i> see section 232Q(2).	28
<i>interim period</i> , for an eligible worker, means a period of 2 years from the day the insurer decides, under section 232M, the worker is entitled to treatment, care and support payments for the worker's injury.	29 30 31 32 33
<i>payment request</i> see section 232Q(3).	34

<i>service request</i> see section 232P(1).	1
<i>support plan</i> see section 232O(1)(b).	2
<i>treatment, care and support damages</i> , in relation to a worker, means damages relating to the worker's treatment, care and support needs resulting from the worker's injury.	3 4 5 6
<i>treatment, care and support needs</i> , of a worker, see section 232J.	7 8
<i>treatment, care and support payments</i> , for a worker who has sustained an injury, means payments under this chapter for the worker's treatment, care or support resulting from the injury.	9 10 11 12 13

232J Meaning of *treatment, care and support needs* 14
15

The *treatment, care and support needs*, of a worker who has sustained an injury, are the worker's needs for, or relating to, 1 or more of the following resulting from the injury— 16
17
18
19

- (a) medical treatment; 20
- (b) hospitalisation; 21
- (c) dental treatment; 22
- (d) rehabilitation; 23
- (e) ambulance transportation; 24
- (f) respite care; 25
- (g) attendant care and support services; 26
- (h) aids and appliances, other than ordinary personal or household items; 27
28

Examples of ordinary personal or household items— 29

an air conditioner, a laptop, linen, a mobile phone, 30
a personal computer or a washing machine 31

-
- (i) prosthesis; 1
 - (j) education or vocational training; 2
 - (k) home, transport or workplace modification. 3

232K Meaning of *excluded treatment, care or support* 4
5

- (1) Treatment, care or support is *excluded treatment, care or support* if it— 6
7
 - (a) is provided without charge; or 8
 - (b) for a child—ordinarily falls within the ordinary costs of raising a child; or 9
10
 - (c) must be provided by a registered provider but is provided by a person who, at the time of provision, is not a registered provider; or 11
12
13
 - (d) is provided as part of a medical trial or on another experimental basis; or 14
15
 - (e) is provided by State emergency services, including the Queensland Ambulance Service or the Queensland Fire and Emergency Service; or 16
17
18
19
 - (f) is prescribed by regulation. 20
- (2) For subsection (1)(c), the following treatment, care or support must be provided by a registered provider— 21
22
23
 - (a) attendant care and support services that are personal assistance services or services to assist a person to participate in the community; 24
25
26
27
 - (b) any other treatment, care or support prescribed by regulation. 28
29
- (3) However, subsection (2)(a) does not apply if the treatment, care or support is being provided to a person at a hospital (whether as an in-patient or an 30
31
32

outpatient) as part of the services provided by the hospital. 1
2

(4) In this section— 3

registered provider, of a service, means an entity 4
registered in the register of providers as a provider 5
of the service. 6

register of providers means the register of 7
providers kept by the Regulator and made 8
available on the department's website. 9

Part 2 Liability for treatment, 10 care and support 11 payments 12

232L Insurer's liability for treatment, care and 13 support payments 14

(1) The insurer must pay for the worker's treatment, 15
care and support arising from the worker's 16
injury— 17

(a) if the insurer decides, under section 232M, 18
the worker is entitled to treatment, care and 19
support payments for the injury; and 20

(b) as provided under this chapter. 21

(2) An eligible worker's entitlement to treatment, 22
care and support payments applies to treatment, 23
care or support resulting from the worker's injury 24
provided to the worker during the worker's 25
eligibility period. 26

(3) An eligible worker's *eligibility period* is the 27
period— 28

(a) starting when the insurer decides, under 29
section 232M, the worker is entitled to 30

-
- treatment, care and support payments for the injury; and 1
2
- (b) ending when the first of the following happens— 3
4
- (i) the worker dies; 5
- (ii) the worker stops being entitled to treatment, care and support payments for the injury under a provision of this Act. 6
7
8
9
- (4) However, an eligible worker is not entitled to treatment, care and support payments for treatment, care or support provided to the worker in any period for which— 10
11
12
13
- (a) the worker's entitlement to compensation under chapter 3 is suspended under this Act; or 14
15
16
- (b) the worker's entitlement to treatment, care and support payments is suspended under section 232ZH. 17
18
19

232M Assessment of entitlement for treatment, care and support payments 20
21

- (1) The insurer may decide, or the worker may ask the insurer, to have the worker's injury or injuries assessed to decide whether the worker is entitled to treatment, care and support payments for the injury or injuries. 22
23
24
25
26
- (2) The insurer must decide the worker is entitled to treatment, care and support payments for an injury if the injury— 27
28
29
- (a) is a serious personal injury that meets the criteria (the *eligibility criteria*) for the injury prescribed by regulation; or 30
31
32
- (b) resulted from the same event as an injury mentioned in paragraph (a). 33
34

- (3) If the worker asks for an assessment under subsection (1), the insurer must ensure the assessment is carried out within 20 business days, or a longer period agreed between the insurer and the worker, after—
- (a) receiving the request; or
 - (b) if the insurer asks the worker for further information to help the insurer carry out the assessment—the day the information is received.
- (4) After carrying out an assessment under this section, the insurer must decide—
- (a) that the worker is entitled to treatment, care and support payments for the worker's injury or injuries—
 - (i) for an interim period; or
 - (ii) if the insurer is satisfied the worker's serious personal injury is likely to continue to meet the eligibility criteria after the interim period ends—for the rest of the worker's life; or
 - (b) that the worker is not entitled to treatment, care and support payments for the worker's injury or injuries.
- (5) If the worker has multiple injuries resulting from the same event, the insurer's decision under subsection (4)(a) must be made in relation to the worker's serious personal injury even though the worker may not need treatment, care or support for the other injuries for the whole period decided under the subsection.
- (6) The insurer must give the worker written notice of the insurer's decision under subsection (4) within 10 business days after the decision is made.

Part 3	Assessing needs and payment options	1 2
Division 1	Assessing needs	3
232N	Deciding necessary and reasonable treatment, care and support needs	4 5
	For this chapter, an insurer must consider the following matters in deciding whether an eligible worker's treatment, care and support needs resulting from the worker's serious personal injury are necessary and reasonable in the circumstances—	6 7 8 9 10 11
	(a) whether the treatment, care or support for, or relating to, the treatment, care and support needs is excluded treatment, care or support;	12 13 14
	(b) any other matter prescribed by regulation.	15
232O	Assessing needs and preparing support plan	16
	(1) An insurer must, for an eligible worker—	17
	(a) assess—	18
	(i) the worker's necessary and reasonable treatment, care and support needs resulting from the worker's serious personal injury; and	19 20 21 22
	(ii) any necessary and reasonable treatment, care or support needed by the worker for any other injury resulting from the same event as the worker's serious personal injury; and	23 24 25 26 27
	(iii) any other treatment, care or support needed by the worker for the worker's serious personal injury or another	28 29 30

- injury resulting from the same event as the worker's serious personal injury; and
- (b) make a plan (a *support plan*) about the worker's treatment, care and support needs, and any other treatment, care or support needed by the worker, assessed under paragraph (a); and
- (c) give a copy of the support plan to the worker.
- (2) An assessment under subsection (1)(a)—
- (a) must be carried out in the way, and at the intervals, prescribed by regulation; and
- (b) may be carried out at other times the insurer considers appropriate; and
- (c) may be carried out for the treatment, care or support needed by the worker for a particular period only.
- (3) A support plan made under subsection (1)(b) must comply with the requirements prescribed by regulation.
- (4) An insurer may amend the worker's support plan—
- (a) to reflect the outcomes of a further assessment under subsection (1)(a); and
- (b) as otherwise provided under this chapter.
- Note—*
- See sections 232P(6) and 232ZG(2) in relation to amendments of the support plan.
- (5) An amendment of the worker's support plan must comply with the requirements prescribed by regulation.

232P Deciding service requests

- | | |
|---|----|
| | 1 |
| (1) An insurer may approve a written request (a | 2 |
| <i>service request</i>) to pay for particular treatment, | 3 |
| care or support (the <i>requested service</i>) to be | 4 |
| provided to an eligible worker in a particular | 5 |
| period. | 6 |
| (2) A service request may be made for an eligible | 7 |
| worker— | 8 |
| (a) before or after a support plan is made for the | 9 |
| worker; and | 10 |
| (b) by the worker or the person providing the | 11 |
| requested service. | 12 |
| (3) An insurer must decide whether to approve, with | 13 |
| or without conditions, or refuse a service request | 14 |
| within— | 15 |
| (a) 20 business days after the request is | 16 |
| received; or | 17 |
| (b) if, within the period mentioned in paragraph | 18 |
| (a), the insurer asks for further information | 19 |
| to help the insurer make the decision—20 | 20 |
| business days after the information is | 21 |
| received. | 22 |
| (4) In deciding whether to approve or refuse a service | 23 |
| request, an insurer must consider the matters | 24 |
| prescribed by regulation. | 25 |
| (5) An insurer must give written notice of the | 26 |
| insurer's decision under subsection (3) to— | 27 |
| (a) the person who made the request; and | 28 |
| (b) if the person who made the request is not the | 29 |
| eligible worker—the worker. | 30 |
| (6) If an insurer makes a decision about a service | 31 |
| request relating to an eligible worker for whom a | 32 |
| support plan has been made, the insurer must— | 33 |

- (a) if the insurer approves the service request, with or without conditions—amend the worker's support plan to reflect the approval; or 1
2
3
4
- (b) if the insurer refuses the service request—ensure a copy of the written notice of the decision is attached to the worker's support plan. 5
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Division 2 Payments 9

232Q Payment options 10

- (1) An insurer may make treatment, care and support payments for an eligible worker's injury— 11
12
 - (a) under a funding agreement between the insurer and the worker; or 13
14
 - (b) in response to a payment request by a person who has incurred expenses for the treatment, care or support of the worker resulting from the injury. 15
16
17
18
- (2) A *funding agreement* is an agreement between an insurer and an eligible worker for a stated period— 19
20
21
 - (a) providing for the insurer to pay the worker an amount to cover particular expenses to be incurred by the worker or another person, in the period, for the treatment, care or support of the worker; and 22
23
24
25
26
 - (b) entered into in the circumstances, and for the treatment, care or support, prescribed by regulation; and 27
28
29
 - (c) including the terms prescribed by regulation. 30
31
- (3) A *payment request* is a written request by a 32

-
- person who has incurred an expense for the treatment, care or support of an eligible worker— 1
2
- (a) asking an insurer to pay all or part of the amount of the expense; and 3
4
- (b) made in the circumstances prescribed by regulation. 5
6

232R Deciding payment requests 7

- (1) An insurer must approve or refuse a payment request within— 8
9
- (a) 20 business days after receiving the request; 10
or 11
- (b) if, within the period mentioned in paragraph (a), the insurer asks for further information to help the insurer make the decision—20 business days after the information is received. 12
13
14
15
16
- (2) A regulation may prescribe matters about an insurer deciding a payment request. 17
18
- (3) If the insurer approves a payment request, the insurer must pay the amount requested to the person who made the request within 20 business days after approving the request. 19
20
21
22
- (4) However, the insurer is not liable to pay a part of the amount requested in a payment request that exceeds an amount prescribed by regulation for the treatment, care or support. 23
24
25
26
- (5) If the insurer refuses the payment request, the insurer must give written notice of the decision to— 27
28
29
- (a) the person who made the payment request; 30
and 31

- (b) if the person who made the payment request is not the eligible worker—the eligible worker. 1
2
3

Part 4 Review of worker's entitlement 4 5

232S Review if worker entitled only for interim period 6 7

- (1) This section applies if an insurer decides, under section 232M, a worker is entitled to treatment, care and support payments for the worker's injury or injuries for an interim period. 8
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11
- (2) The insurer— 12
 - (a) may review the worker's entitlement at any time during the interim period; and 13
14
 - (b) must review the worker's entitlement at least once before the end of the interim period. 15
16
17
- (3) A review must be carried out in the way prescribed by regulation. 18
19
- (4) After carrying out a review and before the interim period ends, the insurer must decide— 20
21
 - (a) if the insurer is satisfied that the worker's serious personal injury is likely to continue to meet the eligibility criteria for the injury after the interim period ends—that the worker is entitled to treatment, care and support payments for the worker's injury or injuries for the rest of the worker's life; or 22
23
24
25
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28
 - (b) otherwise—that the worker's entitlement to treatment, care and support payments for the worker's injury or injuries ends— 29
30
31

(i)	when the interim period ends; or	1
(ii)	at the start of an earlier day decided by the insurer.	2 3
(5)	If the worker has multiple injuries resulting from the same event, the insurer's decision under subsection (4) must be made in relation to the worker's serious personal injury even though the worker may not need treatment, care or support for the other injuries for the rest of the period decided under the subsection.	4 5 6 7 8 9 10
(6)	Within 10 business days after making a decision under subsection (4), the insurer must give the worker written notice of the decision.	11 12 13
(7)	If the insurer decides the worker's entitlement to treatment, care and support payments ends at a time mentioned in subsection (4)(b), the worker stops being entitled to treatment, care and support payments at that time.	14 15 16 17 18
Part 5	Relationship with treatment, care and support damages	19 20 21
Division 1	Preliminary	22
232T Application of part		23
(1)	This part applies if an eligible worker may seek treatment, care and support damages for the worker's injury.	24 25 26
(2)	Section 235 applies to the provisions of this part as if they were provisions of chapter 5.	27 28

232U Definitions for part

In this part—

accept, for awarded treatment, care and support damages, means accept by written notice given to the insurer.

acceptance period, for awarded treatment, care and support damages, means—

(a) if the damages are awarded under a judgment or settlement that must, under another Act, be sanctioned by a court or the public trustee—the period of 10 business days after the sanction is given; or

(b) if the damages are awarded under a judgment and paragraph (a) does not apply—the period of 10 business days after the period for lodging an appeal against the judgment ends; or

(c) if the damages are awarded under a settlement and paragraph (a) does not apply—the period of 10 business days after the settlement is made.

awarded, in relation to treatment, care and support damages, means awarded under a judgment or settlement for a claim for damages.

elect, in relation to a worker seeking treatment, care and support damages for the worker's injury, means elect in a notice of claim under section 275 for the injury.

person under a legal disability means—

(a) a child; or

(b) a person with impaired capacity for a matter within the meaning of the *Guardianship and Administration Act 2000*.

Division 2	Election to seek treatment, care and support damages	1 2
232V Worker must make election		3
(1)	If the worker makes a claim for damages under chapter 5 for the worker's injury, the worker must state in the notice of claim given under section 275 whether or not the worker elects to seek treatment, care and support damages for the injury.	4 5 6 7 8 9
(2)	If the worker is entitled to treatment, care and support payments for multiple injuries resulting from the same event, the worker must make the same election under subsection (1) for all the injuries.	10 11 12 13 14
(3)	If the worker does not elect to seek treatment, care and support damages for the worker's injury, or the election is taken not to have been made under section 232W, the worker is not entitled to seek treatment, care and support damages for the injury.	15 16 17 18 19 20
232W When election of no effect		21
(1)	This section applies if—	22
(a)	the worker elects to seek treatment, care and support damages for the worker's injury; and	23 24 25
(b)	any of the following happens—	26
(i)	a court decides, under section 232X, not to sanction the election;	27 28
(ii)	a court makes an order, under section 232Y, preventing the worker from being awarded treatment, care and support damages for the injury;	29 30 31 32

- (iii) a court decides, or the worker and insurer agree by way of settlement, that—
 - (A) the worker is guilty of contributory negligence in relation to the claim for damages; and
 - (B) the damages the worker would otherwise be entitled to in the absence of contributory negligence are to be reduced, because of the contributory negligence, by 50% or more.
- (2) The election is taken not to have been made.

232X Court sanction for election by worker under legal disability

- (1) If the worker elects to seek treatment, care and support damages for the worker's injury and the insurer considers the worker is a person under a legal disability, the insurer must apply to the court for an order sanctioning the notice.
- (2) Subsections (3) to (5) apply if the court considers the worker is a person under a legal disability.
- (3) The court—
 - (a) must decide whether or not to sanction the election; and
 - (b) may order that the worker, or a person acting for the worker, amend the notice of claim to remove the election; and
 - (c) may make any other order the court considers appropriate.
- (4) In deciding whether to make an order under subsection (3), the court—

-
- (a) must consider the worker's likely legal costs relating to the claim for damages; and
- (b) may consider any other matter the court considers relevant.
- (5) If the worker is an adult, the court may exercise all the powers of QCAT under the *Guardianship and Administration Act 2000*, chapter 3.
- (6) If the court exercises a power mentioned in subsection (5), the *Guardianship and Administration Act 2000*, section 245(3) to (6) applies in relation to the exercise of the power as if the court were acting under section 245(2) of that Act.
- (7) This section is subject to section 232Y.
- (8) In this section—
- court* means—
- (a) if a proceeding for the claim for damages has been brought in the District Court or the Supreme Court—the court hearing the proceeding; or
- (b) otherwise—the District Court or the Supreme Court.

232Y Court order preventing election to seek treatment, care and support damages

- (1) The insurer may apply to the court for an order preventing the worker from being awarded treatment, care and support damages for the worker's injury.
- (2) An application under subsection (1) may be made whether or not the worker has made an election to seek treatment, care and support damages for the injury.
- (3) The worker is the respondent to the application.

- (4) In deciding whether to make the order, the court— 1
2
- (a) must consider the worker's ability to manage an award of treatment, care and support damages in a way that will not compromise the worker's— 3
4
5
6
- (i) prospects of improvement or rehabilitation; or 7
8
- (ii) future health and wellbeing; and 9
- (b) must consider whether the worker is a person under a legal disability; and 10
11
- (c) must consider the worker's likely legal costs relating to the claim for damages; and 12
13
- (d) may consider any other matter the court considers relevant. 14
15
- (5) If the court makes the order— 16
- (a) the worker may not elect to seek treatment, care and support damages for the injury; and 17
18
- (b) any election to seek treatment, care and support damages for the injury made by the worker is taken not to have been made. 19
20
21
- (6) If the worker is an adult, the court may exercise all the powers of QCAT under the *Guardianship and Administration Act 2000*, chapter 3. 22
23
24
- (7) If the court exercises a power mentioned in subsection (6), the *Guardianship and Administration Act 2000*, section 245(3) to (6) applies in relation to the exercise of the power as if the court were acting under section 245(2) of that Act. 25
26
27
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29
30
- (8) In this section— 31
court means— 32

-
- (a) if a proceeding for the claim for damages 1
has been brought in the District Court or the 2
Supreme Court—the court hearing the 3
proceeding; or 4
- (b) otherwise—the District Court or the 5
Supreme Court. 6

Division 3 7
Worker's entitlement to 7
treatment, care and 8
support payments 9

232Z Worker does not elect to seek treatment, care 10
and support damages 11

- (1) This section applies if the worker does not elect to 12
seek treatment, care and support damages for the 13
worker's injury. 14
- (2) The worker's entitlement to treatment, care and 15
support payments for the worker's injury 16
continues for the remaining eligibility period for 17
the worker. 18

232ZA Worker entitled for interim period elects to 19
seek treatment, care and support damages 20

- (1) This section applies if the worker— 21
- (a) is an eligible worker for the worker's injury 22
only for an interim period; and 23
- (b) elects to seek treatment, care and support 24
damages for the injury. 25
- (2) Judgment for damages for the injury can not be 26
awarded, and settlement for damages for the 27
injury can not be agreed, until the first of the 28
following happens— 29
- (a) the interim period ends; 30

- (b) the insurer decides, under section 232S, the worker is entitled to treatment, care and support payments for the injury for the rest of the worker's life; 1
2
3
4
- (c) the worker stops being entitled to treatment, care and support payments under section 232S(7) or another provision of this Act. 5
6
7

232ZB Worker entitled for life elects to seek treatment, care and support damages—damages not awarded or not accepted 8
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10
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- (1) This section applies if the worker— 12
 - (a) is an eligible worker for the worker's injury for the rest of the worker's life; and 13
14
 - (b) elects to seek treatment, care and support damages for the injury; and 15
16
 - (c) either— 17
 - (i) is awarded damages for the injury that do not include treatment, care and support damages; or 18
19
20
 - (ii) is awarded treatment, care and support damages for the injury, but the worker does not accept the awarded treatment, care and support damages within the acceptance period. 21
22
23
24
25
- (2) The worker's entitlement to treatment, care and support payments for the worker's injury continues for the remaining eligibility period for the worker. 26
27
28
29
- (3) If subsection (1)(c)(ii) applies, despite the judgment or the terms of the settlement for the claim for damages, neither the insurer nor the employer is liable to pay the amount of the awarded treatment, care and support damages. 30
31
32
33
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232ZC Worker entitled for life elects to seek treatment, care and support damages—damages awarded and accepted	1 2 3
(1) This section applies if the worker—	4
(a) is an eligible worker for the worker's injury for the rest of the worker's life; and	5 6
(b) elects to seek treatment, care and support damages for the injury; and	7 8
(c) is awarded treatment, care and support damages for the injury; and	9 10
(d) accepts the awarded treatment, care and support damages within the acceptance period.	11 12 13
(2) The worker's entitlement to treatment, care and support payments for the worker's injury continues until the awarded treatment, care and support damages are accepted by the worker, at which time the worker's entitlement to treatment, care and support payments for the injury stops.	14 15 16 17 18 19
<i>Note—</i>	20
See section 270 for what happens when treatment, care and support damages for an injury are awarded to a worker who has received treatment, care and support payments for the injury.	21 22 23 24
232ZD Additional payments if treatment, care and support damages insufficient	25 26
(1) This section applies if—	27
(a) the worker accepted treatment, care and support damages awarded for the worker's injury within the acceptance period; and	28 29 30
(b) the period, of at least 5 years, prescribed by regulation has passed since the worker accepted the awarded treatment, care and support damages; and	31 32 33 34

- (c) the worker considers the amount of awarded treatment, care and support damages is not sufficient to meet the worker's necessary and reasonable treatment, care and support needs resulting from the injury. 1
2
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4
5
- (2) The worker may apply to the insurer for treatment, care and support payments for the injury. 6
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8
- (3) The insurer may accept liability to make treatment, care and support payments to the worker if the insurer is satisfied the amount of awarded treatment, care and support damages is not sufficient to meet the worker's necessary and reasonable treatment, care and support needs resulting from the worker's serious personal injury. 9
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- (4) In deciding whether to accept liability to make treatment, care and support payments to the worker, the insurer must have regard to the matters prescribed by regulation. 17
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20
- (5) The insurer must decide to accept or not accept liability to make treatment, care and support payments to the worker within 20 business days after the application is made. 21
22
23
24
- (6) The insurer must give the worker written notice of the insurer's decision. 25
26
- (7) In this section, a reference to the amount of awarded treatment, care and support damages includes the amount of treatment, care and support payments paid under section 232ZC(2) until the damages were accepted by the worker. 27
28
29
30
31
- (8) If the insurer accepts liability to make treatment, care and support payments for the worker's injury under this section— 32
33
34
- (a) the worker is entitled to treatment, care and support payments for treatment, care or 35
36

-
- support resulting from the injury provided during the period— 1
2
- (i) starting on the day the insurer decides to accept the liability; and 3
4
- (ii) ending when the first of the following happens— 5
6
- (A) the worker dies; 7
- (B) the worker's entitlement to treatment, care and support payments ends under another provision of this Act; and 8
9
10
11
- (b) parts 3 and 6 apply to the worker's entitlement to treatment, care and support payments, and for that purpose— 12
13
14
- (i) the worker is an eligible worker; and 15
- (ii) the worker's eligibility period is the period mentioned in paragraph (a). 16
17

Part 6 Recipient absent from Australia 18 19

232ZE Application of part 20

- This part applies to an eligible worker if— 21
- (a) the worker leaves Australia; and 22
- (b) while the worker is absent from Australia, expenses are, or are likely to be, incurred by or for the worker for the worker's treatment, care or support; and 23
24
25
26
- (c) the insurer did not, in deciding the approved services for the worker, consider the need for treatment, care or support to be provided 27
28
29

outside Australia as a result of the worker's
absence. 1
2

232ZF Worker must notify insurer of absence 3

(1) At least 1 month before leaving Australia, the
worker must give written notice of the absence to
the insurer, unless the worker has a reasonable
excuse. 4
5
6
7

Maximum penalty—10 penalty units. 8

(2) The notice must state— 9

(a) the day the worker intends to leave
Australia; and 10
11

(b) if the worker intends to return to
Australia—the day the worker intends to
return; and 12
13
14

(c) the worker's address while outside
Australia; and 15
16

(d) any treatment, care or support to be
provided outside Australia that the worker
wants the insurer to pay for. 17
18
19

(3) However, this section does not apply if, before the
worker leaves Australia, a service request is
made, or a funding agreement is entered into, for
the treatment, care or support to be provided to the
worker outside Australia. 20
21
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23
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**232ZG Reviewing support plan or service request
approval** 25
26

(1) This section applies if— 27

(a) a support plan has been made for the
worker; or 28
29

-
- (b) a support plan has not been made for the worker, but a service request relating to the worker has been approved. 1
2
3
- (2) To the extent the support plan or approved service request relates to the period the worker is, or intends to be, absent from Australia, the insurer may— 4
5
6
7
- (a) review the plan or approval; and 8
- (b) make any amendments to the plan or approval the insurer considers appropriate. 9
10
- (3) Without limiting subsection (2), the insurer may amend the approved services for the worker by— 11
12
- (a) removing or rescheduling any treatment, care or support that is to be provided in Australia while the worker is absent from Australia; or 13
14
15
16
- (b) including any treatment, care or support that is to be provided outside Australia while the worker is absent from Australia, if the insurer considers the treatment, care or support should be, wholly or partly, paid for under this chapter, having regard to the following matters— 17
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20
21
22
23
- (i) the length of the absence; 24
- (ii) whether the treatment, care or support is to be, or could be, provided or funded in another way during the absence; 25
26
27
28
- (iii) whether the treatment, care or support is excluded treatment, care or support; 29
30
- (iv) any other matter the insurer considers relevant. 31
32
- (4) However, the insurer may amend the approved services to include treatment, care or support that is to be provided outside Australia only if a 33
34
35
-

- service request has not been made for the 1
treatment, care or support. 2
- (5) If the insurer decides to amend the support plan, 3
or the approved service request, the insurer must, 4
within 10 business days of making the decision, 5
give the worker a copy of the amended plan or 6
approval. 7
- (6) To remove any doubt, it is declared that the 8
insurer is not required to carry out an assessment 9
under section 232O(1)(a) before amending a 10
support plan under this section. 11

232ZH Suspending entitlement 12

- (1) The insurer may suspend the worker's entitlement 13
to treatment, care and support payments if the 14
insurer considers the worker's absence from 15
Australia will, or is likely to, adversely affect— 16
- (a) the worker's condition resulting from the 17
worker's injury; or 18
- (b) the worker's prospects of improvement or 19
rehabilitation. 20
- (2) The worker's entitlement to treatment, care and 21
support payments may be suspended for all or part 22
of the period the worker is absent from Australia. 23
- (3) If the insurer decides to suspend the worker's 24
entitlement to treatment, care and support 25
payments, the insurer must give the worker 26
written notice of the decision. 27
- Note—* 28
- See section 232L(4) for the effect of a worker's 29
entitlement to treatment, care and support payments 30
being suspended under this section. 31
- (4) The notice— 32
- (a) must state the period of the suspension; and 33

-
- (b) may state that the period of suspension starts 1
on the day the worker left Australia, even if 2
the notice is given after that day. 3

Part 7 Other provision 4

232ZI Engagement of NIIS (Qld) agency to perform 5 functions and exercise powers 6

- (1) An insurer may, by way of an agreement under 7
the NIIS (Qld) Act, section 60, engage the NIIS 8
(Qld) agency to perform the insurer's functions or 9
exercise the insurer's powers under this chapter, 10
including, for example— 11
- (a) assessing and deciding a worker's 12
entitlement to treatment, care and support 13
payments; and 14
- (b) preparing support plans; and 15
- (c) deciding service requests under section 16
232P; and 17
- (d) entering into funding agreements under 18
section 232Q; and 19
- (e) deciding payment requests under section 20
232R. 21
- (2) To remove any doubt, it is declared that an insurer 22
who engages the NIIS (Qld) agency to perform 23
functions or exercise powers under subsection (1) 24
remains liable to make payments to workers under 25
this chapter. 26
- (3) The Regulator may impose a condition on a 27
self-insurer's licence that the self-insurer engage 28
the NIIS (Qld) agency under subsection (1) for all 29
of the self-insurer's functions and powers under 30
this chapter or for stated functions and powers. 31
- (4) The Regulator may monitor the performance of 32

	functions or the exercise of powers by the NIIS (Qld) agency under an engagement under subsection (1).	1 2 3
(5)	In this section—	4
	<i>NIIS (Qld) Act</i> means the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> .	5 6
	<i>NIIS (Qld) agency</i> means the agency under the NIIS (Qld) Act.	7 8
Clause 31	Insertion of new s 236B	9
	After section 236A—	10
	<i>insert—</i>	11
	236B Liability of contributors	12
(1)	This section applies to an agreement between an employer and another person under which the employer indemnifies the other person for any legal liability of the person to pay damages for injury sustained by a worker.	13 14 15 16 17
(2)	The agreement does not prevent the insurer from adding the other person as a contributor under section 278A in relation to the employer's liability or the insurer's liability for the worker's injury.	18 19 20 21 22
(3)	The agreement is void to the extent it provides for the employer, or has the effect of requiring the employer, to indemnify the other person for any contribution claim made by the insurer against the other person.	23 24 25 26 27
(4)	In this section—	28
	<i>damages</i> includes damages under a legal liability existing independently of this Act, whether or not within the meaning of section 10.	29 30 31

Clause 32	Amendment of s 237 (General limitation on persons entitled to seek damages)	1 2
	(1) Section 237(2), after 'this chapter'—	3
	<i>insert—</i>	4
	and the provisions of chapter 4A, part 5	5
	(2) Section 237(2)—	6
	<i>insert—</i>	7
	<i>Note—</i>	8
	See, for example, section 232V(3) which provides that a worker required under section 232V to elect to seek treatment, care and support damages for an injury who does not make the election is not entitled to seek treatment, care and support damages for the injury.	9 10 11 12 13
Clause 33	Amendment of s 268 (Provision of rehabilitation)	14
	Section 268—	15
	<i>insert—</i>	16
	(8) This section does not apply to a worker for any period for which the worker is entitled to compensation under chapter 4A, including any period for which the entitlement is suspended under section 232ZH.	17 18 19 20 21
Clause 34	Amendment of s 270 (When damages are to be reduced)	22
	(1) Section 270—	23
	<i>insert—</i>	24
	(1A) However, subsection (1) applies to compensation paid or payable under chapter 4A only if the damages include treatment, care and support damages.	25 26 27 28
	(2) Section 270(2), 'However'—	29
	<i>omit, insert—</i>	30

	Also	1
	(3) Section 270(1A) to (3)—	2
	<i>renumber</i> as section 270(2) to (4).	3
Clause 35	Amendment of s 275 (Notice of claim for damages)	4
	Section 275(4)—	5
	<i>insert</i> —	6
	<i>Note</i> —	7
	See also section 232V.	8
Clause 36	Insertion of new s 305K	9
	After section 305J—	10
	<i>insert</i> —	11
	305K Application of contributory negligence for particular injuries	12
	Despite any other provision of this division, treatment, care and support damages awarded to a worker who is entitled to compensation under chapter 4A for the injury can not be reduced for the worker's contributory negligence.	13
		14
		15
		16
		17
		18
Clause 37	Amendment of s 306V (Indexation of particular amounts)	19
	Section 306V—	20
	<i>insert</i> —	21
	(9) In this section—	22
	NOTE , for a financial year, means the amount mentioned in section 107(1)(a) for the financial year.	23
		24
		25

Clause 38	Amendment of s 500 (Reference to tribunals)	1
	Section 500(1)—	2
	<i>insert</i> —	3
	(fa) whether a worker has a serious personal injury that meets the chapter 4A eligibility criteria for the injury;	4 5 6
	(fb) for a worker who the insurer decides is entitled to treatment, care and support payments for an interim period under section 232M, whether the worker's serious personal injury is likely to continue to meet the chapter 4A eligibility criteria for the injury after the interim period ends;	7 8 9 10 11 12 13
	(fc) whether a particular treatment, care and support need resulting from the worker's serious personal injury is necessary and reasonable in the circumstances;	14 15 16 17
Clause 39	Insertion of new ss 506A–506C	18
	After section 506—	19
	<i>insert</i> —	20
	506A Reference about whether serious personal injury meets chapter 4A eligibility criteria	21 22
	On a reference to a tribunal under section 500(1)(fa), the tribunal must decide whether the worker's injury is a serious personal injury that meets the chapter 4A eligibility criteria for the injury.	23 24 25 26 27
	506B Reference about whether serious personal injury will continue to meet chapter 4A eligibility criteria after interim period ends	28 29 30
	On a reference to a tribunal under section 500(1)(fb), the tribunal must decide whether the	31 32

	worker's serious personal injury is likely to	1
	continue to meet the chapter 4A eligibility criteria	2
	for the injury after the interim period ends.	3
	506C Reference about whether particular	4
	treatment, care or support need is necessary	5
	and reasonable	6
	On a reference to a tribunal under section	7
	500(1)(fc), the tribunal must decide whether the	8
	particular treatment, care and support need	9
	resulting from the worker's serious personal	10
	injury is necessary and reasonable in the	11
	circumstances.	12
Clause 40	Amendment of s 510 (Power of tribunal to examine worker)	13
	Section 510(1)(b), 'doctor'—	14
	<i>omit, insert—</i>	15
	registered person	16
Clause 41	Amendment of s 536 (Duty to report fraud or false or misleading information or documents)	17
	Section 536(3), (4) and (5), after 'must'—	18
	<i>insert—</i>	19
	, without delay,	20
Clause 42	Amendment of s 538 (Internal review by insurer)	21
	Section 538(1), from 'a decision'—	22
	<i>omit, insert—</i>	23
	any of the following decisions, the insurer must	24
	undertake an internal review of the proposed	25
	decision—	26
		27
		28

(a)	a decision to reject an application for compensation;	1 2
(b)	a decision under section 232M that a worker is not entitled to treatment, care and support payments;	3 4 5
(c)	a decision to refuse a service request, or approve a service request on conditions, under section 232P;	6 7 8
(d)	a decision to refuse a payment request under section 232R;	9 10
(e)	a decision under section 232S that the insurer is not satisfied that a worker's serious personal injury is likely to continue to meet the chapter 4A eligibility criteria for the injury after the interim period ends;	11 12 13 14 15
(f)	a decision under section 232S that a worker's entitlement to treatment, care and support payments ends before the end of the interim period;	16 17 18 19
(g)	a decision to not accept liability to make treatment, care and support payments under section 232ZD;	20 21 22
(h)	a decision to amend approved services for an eligible worker under section 232ZG;	23 24
(i)	a decision to suspend, under section 232ZH, a worker's entitlement to treatment, care and support payments for all or part of a period the worker is absent from Australia;	25 26 27 28
(j)	a decision to terminate compensation.	29
Clause 43	Amendment of s 540 (Application of pt 2)	30
(1)	Section 540(1)(a)—	31
	<i>insert—</i>	32

- (xiia) under section 232M, that a worker is not entitled to treatment, care and support payments; or
 - (xiib) to refuse a service request, or approve a service request on conditions, under section 232P; or
 - (xiic) to refuse a payment request under section 232R; or
 - (xiid) that, under section 232S, WorkCover is not satisfied that a worker's serious personal injury is likely to continue to meet the chapter 4A eligibility criteria for the injury after the interim period ends; or
 - (xiie) that, under section 232S, a worker's entitlement to treatment, care and support payments ends before the end of the interim period; or
 - (xiif) to not accept liability to make treatment, care and support payments under section 232ZD; or
 - (xiig) to amend approved services for an eligible worker under section 232ZG; or
 - (xiih) to suspend, under section 232ZH, a worker's entitlement to treatment, care and support payments for all or part of a period the worker is absent from Australia; or
- (2) Section 540(1)(b)—
- insert—*
- (via) under section 232M, that a worker is not entitled to treatment, care and support payments; or
 - (vib) to refuse a service request, or approve a service request on conditions, under section 232P; or

(vic) to refuse a payment request under section 232R; or	1 2
(vid) that, under section 232S, the self-insurer is not satisfied that a worker's serious personal injury is likely to continue to meet the chapter 4A eligibility criteria for the injury after the interim period ends; or	3 4 5 6 7
(vie) that, under section 232S, a worker's entitlement to treatment, care and support payments ends before the end of the interim period; or	8 9 10 11
(vif) to not accept liability to make treatment, care and support payments under section 232ZD; or	12 13 14
(vig) to amend approved services for an eligible worker under section 232ZG; or	15 16
(vih) to suspend, under section 232ZH, a worker's entitlement to treatment, care and support payments for all or part of a period the worker is absent from Australia; or	17 18 19 20
(3) Section 540(1)(c)—	21
<i>insert—</i>	22
(ia) under section 232M(4), on request from a worker, within the time stated in section 232M(3); or	23 24 25
(ib) under section 232P(3) within the time stated in the section; or	26 27
(ic) on a payment request within the time stated in section 232R(1); or	28 29
(id) on a review under section 232S within the time stated in the section; or	30 31
(ie) under section 232ZD(5) within the time stated in the section; or	32 33
(4) Section 540(4), from 'must'—	34

omit, insert— 1
must— 2
(a) address the matters prescribed by 3
regulation; and 4
(b) be accompanied by information about the 5
rights of review under this Act for the 6
decision. 7

Clause 44 **Amendment of s 578 (Proceedings for offences against ch 8)** 8
9
Section 578— 10
insert— 11
(1A) Subject to subsections (2) to (4), a proceeding for 12
an offence against chapter 8 is to be taken in a 13
summary way under the *Justices Act 1886* before 14
an industrial magistrate on the complaint of— 15
(a) the Regulator; or 16
(b) a person authorised for the purpose by the 17
Regulator; or 18
(c) the Attorney-General. 19

Clause 45 **Amendment of s 579 (Summary proceedings for offences other than against ch 8)** 20
21
(1) Section 579(1A), from ‘an offence’ to ‘section 486B(2)’— 22
omit, insert— 23
a prescribed offence 24
(2) Section 579(2), ‘an offence against section 486B(2)’— 25
omit, insert— 26
a prescribed offence 27
(3) Section 579— 28
insert— 29

	(6) In this section—	1
	<i>prescribed offence</i> means—	2
	(a) an offence against section 486B(2); or	3
	(b) an offence against chapter 12, part 2; or	4
	(c) an offence against section 136 connected with an offence against section 533.	5 6
Clause 46	Insertion of new ch 33	7
	After chapter 32—	8
	<i>insert—</i>	9
	Chapter 33 Transitional provisions for Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Act 2016	10 11 12 13 14 15 16 17 18
	718 Definitions for chapter	19
	In this chapter—	20
	<i>2015–2016 financial year</i> means the financial year that started on 1 July 2015.	21 22
	<i>2016–2017 financial year</i> means the financial year starting on 1 July 2016.	23 24
	<i>new</i> , for a provision, means the provision as in force immediately after the commencement.	25 26

719 Application of s 71(4)	1
Section 71(4) applies to a single employer who stops holding a licence to be a self-insurer after the commencement.	2 3 4
720 Security under section 84	5
Section 84, as amended by the <i>Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Act 2016</i> , applies to an application by an employer to be licensed as a self-insurer made before the commencement that has not been decided at the commencement.	6 7 8 9 10 11 12
721 QOTE for 2016–17 financial year	13
(1) Section 107 does not apply for the 2016–2017 financial year.	14 15
(2) QOTE for the 2016–2017 financial year is \$1456.90.	16 17
(3) The percentage difference in QOTE for the 2016–2017 financial year compared to QOTE for the 2015–2016 financial year is 0%.	18 19 20
722 No automatic variation of compensation payable for 2016–2017 financial year	21 22
(1) For sections 205 and 206, for the 2016–2017 financial year—	23 24
(a) QOTE is taken not to have varied; and	25
(b) each payment or amount mentioned in section 205(1) is taken not to have varied.	26 27
(2) If, before the commencement, the Regulator notified, under section 205(3), a variation for the 2016–2017 financial year, the notice is revoked and is taken not to have been made.	28 29 30 31

723 Entitlement to compensation for 2016–2017 financial year	1
	2
(1) This section applies if—	3
(a) before the commencement, an amount (the <i>lower amount</i>) a person is entitled to be paid as compensation under this Act was decreased from 1 July 2016 because—	4 5 6 7
(i) QOTE for the 2016–2017 financial year was less than QOTE for the 2015–2016 financial year; or	8 9 10
(ii) the amount was varied under section 205; and	11 12
(b) from the commencement, because of the operation of sections 721 and 722, the amount (the <i>higher amount</i>) the person would have been entitled to be paid from 1 July 2016 did not decrease.	13 14 15 16 17
(2) The person is entitled to be paid the higher amount from 1 July 2016.	18 19
(3) From the commencement, an ex gratia amount paid to the person by an insurer to compensate for the decrease in the person's entitlement mentioned in subsection (1)(b) is taken to have been paid to the person because of the person's entitlement to be paid the higher amount under subsection (2).	20 21 22 23 24 25 26
(4) Subsection (3) applies to an ex gratia amount to the extent the ex gratia amount is equal to or less than the difference between the higher amount and the lower amount of the person's entitlement for the relevant period.	27 28 29 30 31
(5) In this section—	32
<i>relevant period</i> means the period starting on 1 July 2016 and ending on the day before the commencement.	33 34 35

724 Serious personal injuries	1
This Act, as amended by the <i>Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Act 2016</i> ,	2
applies in relation to a serious personal injury	3
sustained by a worker on or after 1 July 2016.	4
	5
	6
725 Existing or new claims for damages	7
(1) This section applies to—	8
(a) a claim for damages started under chapter 5	9
before the commencement if, at the	10
commencement—	11
(i) settlement for damages has not been	12
agreed; and	13
(ii) a court has not started hearing a	14
proceeding for the claim; and	15
(b) a claim for damages started under chapter 5	16
after the commencement.	17
(2) New sections 10 and 236B apply to the claim.	18
726 Application of new ss 578 and 579 to existing offences	19
(1) New sections 578 and 579 apply to a proceeding	20
for an offence committed before the	21
commencement if a proceeding for the offence	22
has not been finally dealt with before the	23
commencement.	24
(2) If a proceeding for the offence has started, but has	25
not been finally dealt with, before the	26
commencement, the proceeding may be	27
continued if it was started—	28
(a) by a person who may start the proceeding	29
under new section 578 or 579; and	30
	31

	(b) within the period within which the person	1
	may bring a proceeding for the offence	2
	under new section 578 or 579.	3
Clause 47	Amendment of sch 6 (Dictionary)	4
(1)	Schedule 6, definition <i>bank guarantee</i> —	5
	<i>omit.</i>	6
(2)	Schedule 6—	7
	<i>insert</i> —	8
	<i>accept</i> , for awarded treatment, care and support	9
	damages, for chapter 4A, part 5, see section 232U.	10
	<i>acceptance period</i> , for awarded treatment, care	11
	and support damages, for chapter 4A, part 5, see	12
	section 232U.	13
	<i>approved service</i> , for an eligible worker, for	14
	chapter 4A, see section 232I.	15
	<i>attendant care and support services</i> , for chapter	16
	4A, see section 232I.	17
	<i>awarded</i> , in relation to treatment, care and	18
	support damages, for chapter 4A, part 5, see	19
	section 232U.	20
	<i>chapter 4A eligibility criteria</i> , for a serious	21
	personal injury, means criteria for the injury	22
	prescribed under section 232M(2)(a).	23
	<i>elect</i> , in relation to a worker seeking treatment,	24
	care and support damages for the worker's injury,	25
	for chapter 4A, part 5, see section 232U.	26
	<i>eligibility criteria</i> , for chapter 4A, see section	27
	232M(2)(a).	28
	<i>eligibility period</i> , for an eligible worker, for	29
	chapter 4A, see section 232L(3).	30
	<i>eligible worker</i> , for chapter 4A, see section 232I.	31

<i>excluded treatment, care or support</i> , for chapter 4A, see section 232K.	1 2
<i>funding agreement</i> , for chapter 4A, see section 232Q(2).	3 4
<i>interim period</i> , for an eligible worker, for chapter 4A, see section 232I.	5 6
<i>payment request</i> , for chapter 4A, see section 232Q(3).	7 8
<i>person under a legal disability</i> , for chapter 4A, part 5, see section 232U.	9 10
<i>section 84 security</i> means a security given under section 84.	11 12
<i>serious personal injury</i> means an injury that is—	13
(a) a permanent spinal cord injury resulting in a permanent neurological deficit; or	14 15
(b) a traumatic brain injury resulting in a permanent impairment of cognitive, physical or psychosocial function; or	16 17 18
(c) a forequarter amputation or shoulder disarticulation amputation; or	19 20
(d) the amputation of a leg through or above the femur; or	21 22
(e) the amputation of more than 1 limb or parts of different limbs; or	23 24
(f) a permanent injury to the brachial plexus resulting in an impairment equivalent to a shoulder disarticulation amputation; or	25 26 27
(g) a full thickness burn to all or part of the body; or	28 29
(h) an inhalation burn resulting in a permanent respiratory impairment; or	30 31
(i) permanent blindness caused by trauma.	32

	<i>service request</i> , for chapter 4A, see section 232P(1).	1 2
	<i>support plan</i> , for chapter 4A, see section 232O(1)(b).	3 4
	<i>treatment, care and support damages</i> , in relation to a worker, see section 232I.	5 6
	<i>treatment, care and support needs</i> , of a worker, see section 232J.	7 8
	<i>treatment, care and support payments</i> , for a worker who has sustained an injury, see section 232I.	9 10 11
Part 3	Amendment of Workers' Compensation and Rehabilitation Regulation 2014	12 13 14
Clause 48	Regulation amended	15
	This part amends the <i>Workers' Compensation and Rehabilitation Regulation 2014</i> .	16 17
	<i>Note—</i>	18
	See also the amendments in schedule 1.	19
Clause 49	Amendment of s 22 (Conditions of licence—Act, s 83)	20
	Section 22, from 'following'—	21
	<i>omit, insert—</i>	22
	condition that the self-insurer must lodge with the Regulator, for each year or part of a year of the licence, a declaration in the approved form of the self-insurer's wages.	23 24 25 26

Clause 50	Insertion of new pt 5A	1	
	After section 117—	2	
	<i>insert—</i>	3	
	Part 5A	Treatment, care and support payments	4
			5
	Division 1	Assessing entitlement	6
	Subdivision 1	Preliminary	7
	117A Definitions for division		8
	In this division—		9
	<i>childrens functional independence measure instrument</i> means the functional independence measure instrument adapted for paediatrics and described on the department's website.		10 11 12 13
	<i>functional independence measure instrument</i> means a clinical tool used to assess the functional ability of a person by scoring motor and cognitive items against a scale and described on the department's website.		14 15 16 17 18
	Subdivision 2	Eligibility criteria	19
	117B Purpose of subdivision		20
	For section 232M(2)(a) of the Act, this subdivision prescribes the eligibility criteria for particular serious personal injuries.		21 22 23

117C Eligibility criteria for permanent spinal cord injury	1 2
(1) The eligibility criteria for a permanent spinal cord injury resulting in a permanent neurological deficit are—	3 4 5
(a) the permanent neurological deficit is classified as grade A, B, C or D on the ASIA impairment scale, as assessed under the ISNCSCI; and	6 7 8 9
(b) the injury has resulted in a residual significant impact on the function of the autonomic nervous system, evidenced by a score of 0 for an item relating to bladder, bowel or sexual function, as assessed under the ISAFSCI.	10 11 12 13 14 15
(2) In this section—	16
<i>ASIA impairment scale</i> means the scale, known as the American Spinal Injury Association impairment scale, used for measuring impairment resulting from a spinal cord injury and published by the American Spinal Injury Association.	17 18 19 20 21
<i>ISAFSCI</i> means the document called ‘International standards to document remaining autonomic function after spinal cord injury’, published by the American Spinal Injury Association.	22 23 24 25 26
<i>ISNCSCI</i> means the document called ‘International standards for neurological classification of spinal cord injury’, published by the American Spinal Injury Association.	27 28 29 30
117D Eligibility criteria for traumatic brain injury	31
(1) The eligibility criteria for a traumatic brain injury resulting in a permanent impairment are—	32 33
(a) any or all of the following apply—	34

- (i) the injury results in post-traumatic amnesia lasting 7 days or more as evidenced by an assessment using an approved scale; 1
2
3
4
 - (ii) the worker is or was in a coma, other than an induced coma, for 1 hour or more as a result of the injury; 5
6
7
 - (iii) brain imaging shows a significant brain abnormality as a result of the injury; and 8
9
10
- (b) the worker's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using— 11
12
13
 - (i) for an adult—the functional independence measure instrument; or 14
15
 - (ii) for a child—the childrens functional independence measure instrument. 16
17
- (2) In this section— 18
 - approved scale*, for assessing post-traumatic amnesia, means— 19
20
 - (a) the Westmead PTA scale; or 21
 - (b) a clinically accepted scale similar to the Westmead PTA scale approved by the Regulator for this definition. 22
23
24
 - Westmead PTA scale* means the clinical tool, known as the Westmead Post-traumatic Amnesia Scale, used to assess the period a person suffers post-traumatic amnesia. 25
26
27
28

117E Eligibility criterion for the amputation of a leg through or above the femur 29
30

- (1) The eligibility criterion for the amputation of a leg through or above the femur is that the amputation involves the loss of 65% or more of the length of 31
32
33

-
- the femur. 1
- (2) For subsection (1), the percentage of the length of 2
the femur lost must be worked out by— 3
- (a) comparing the length of the femur before 4
and after the amputation using X-rays taken 5
before and after the amputation; or 6
- (b) if X-rays of the femur are not 7
available—comparing the length of the 8
femur of the amputated leg with the length 9
of the contralateral femur. 10
- (3) To remove any doubt, it is declared that the 11
eligibility criterion in subsection (1) may be 12
satisfied even if the worker suffers from a 13
personal injury that is the amputation of more 14
than 1 limb or parts of different limbs. 15
- 117F Eligibility criteria for the amputation of more 16
than 1 limb or parts of different limbs 17**
- (1) The eligibility criteria for the amputation of more 18
than 1 limb or parts of different limbs are— 19
- (a) the amputations involve the loss of 50% or 20
more of the length of each of the worker's 21
tibias; or 22
- (b) both of the worker's upper limbs are 23
amputated at or above the first 24
metacarpophalangeal joint of the thumb and 25
index finger of each hand; or 26
- (c) the amputations involve— 27
- (i) the loss of 50% or more of the length of 28
1 of the worker's tibias; and 29
- (ii) 1 of the worker's upper limbs being 30
amputated at or above the first 31
metacarpophalangeal joint of the 32
thumb and index finger of the same 33
hand. 34

- (2) For subsection (1), the percentage of the length of the tibia lost must be worked out by—
- (a) comparing the length of the tibia before and after the amputation using X-rays taken before and after the amputation; or
 - (b) if X-rays of the tibia are not available—comparing the length of the tibia of the amputated leg with the length of the contralateral tibia; or
 - (c) if the length of the contralateral tibia can not be determined—using the estimated knee height based on overall height before the amputation.

117G Eligibility criteria for a full thickness burn to all or part of the body

The eligibility criteria for a full thickness burn to all or part of the body are—

- (a) the full thickness burn is to—
 - (i) for a worker younger than 16 years—more than 30% of the total body surface area; or
 - (ii) for a worker 16 years or older—more than 40% of the total body surface area; or
 - (iii) both hands; or
 - (iv) the face; or
 - (v) the genital area; and
- (b) the worker's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using—
 - (i) for an adult—the functional independence measure instrument; or

(ii) for a child—the childrens functional independence measure instrument.	1 2
117H Eligibility criterion for an inhalation burn resulting in a permanent respiratory impairment	3 4 5
The eligibility criterion for an inhalation burn resulting in a permanent respiratory impairment is that the worker's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using—	6 7 8 9 10
(a) for an adult—the functional independence measure instrument; or	11 12
(b) for a child—the childrens functional independence measure instrument.	13 14
117I Eligibility criterion for permanent blindness caused by trauma	15 16
(1) The eligibility criterion for permanent blindness caused by trauma is that the injured person has a visual defect, or a combination of visual defects, that result in visual loss that is, or is equivalent to—	17 18 19 20 21
(a) visual acuity of less than 6/60 in both eyes, assessed using the Snellen scale after correction by suitable lenses; or	22 23 24
(b) the constriction of the worker's field of vision to 10 degrees or less of the arc around central fixation in the worker's better eye, regardless of corrected visual acuity (equivalent to 1/100 white test object).	25 26 27 28 29
(2) In this section—	30
<i>Snellen scale</i> means the scale for measuring visual acuity using rows of letters printed in decreasing sizes.	31 32 33

Subdivision 3	Assessing eligibility criteria	1 2
117J	Requirements for using functional independence measure instrument or childrens functional independence measure instrument to assess injuries	3 4 5 6
	An assessment using the functional independence measure instrument or childrens functional independence measure instrument may be used for deciding whether a serious personal injury meets the eligibility criteria for the injury only if the assessment is carried out by a person who is—	7 8 9 10 11 12
	(a) accredited by the Australasian Rehabilitation Outcomes Centre to carry out the assessment; and	13 14 15
	(b) approved by the insurer to carry out the assessment.	16 17
Division 2	Assessing worker's needs	18
Subdivision 1	Assessment process	19
117K	Assessment generally	20
	(1) For section 232O(2)(a) of the Act, this section prescribes requirements about assessing a matter mentioned in section 232O(1)(a) of the Act.	21 22 23
	(2) In carrying out the assessment, the insurer must, to the extent practicable, consult with the worker about the following matters—	24 25 26
	(a) the treatment, care and support needs resulting from the serious personal injury	27 28

the worker considers are necessary and reasonable;	1 2
(b) the treatment, care or support needed by the worker for any other injury resulting from the same event as the serious personal injury;	3 4 5 6
(c) the worker's abilities and limitations;	7
(d) the worker's individual goals.	8
(3) The insurer may also consult with any other person the insurer considers appropriate.	9 10
117L Intervals for carrying out assessments	11
For section 232O(2)(a) of the Act, an assessment under section 232O(1)(a) of the Act for an eligible worker must be carried out—	12 13 14
(a) as soon as practicable after the insurer decides the worker is entitled to treatment, care and support payments; and	15 16 17
(b) if an assessment has been previously carried out for the worker—within 1 year after the last assessment was carried out.	18 19 20
Subdivision 2 Matters for deciding necessary and reasonable treatment, care and support needs	21 22 23 24
117M Purpose of subdivision	25
(1) For section 232N(b) of the Act, this subdivision prescribes matters the insurer must consider in deciding whether an eligible worker's treatment, care and support needs resulting from the worker's serious personal injury are necessary	26 27 28 29 30

and reasonable in the circumstances. 1

- (2) This subdivision does not limit the matters the 2
insurer may consider in making a decision 3
mentioned in subsection (1). 4

117N Benefit to worker 5

- (1) The insurer must consider whether providing 6
treatment, care or support for, or relating to, the 7
worker's treatment, care and support needs— 8
- (a) is likely to maximise the worker's 9
independence, participation in the 10
community and employment; and 11
- (b) will assist the worker in managing the 12
injury. 13
- (2) In considering the matters mentioned in 14
subsection (1), the insurer must also have regard 15
to the following matters— 16
- (a) whether the treatment, care or support 17
relates directly to the worker's individual 18
goals; 19
- (b) whether the treatment, care or support will 20
improve or maintain the worker's ability to 21
conduct daily activities or participate in the 22
community or employment; 23
- (c) whether the treatment, care or support has 24
been provided to the worker previously, 25
resulting in an improvement to, or assistance 26
in managing, the worker's injury; 27
- (d) whether the treatment, care or support has a 28
measurable outcome; 29
- (e) whether the worker has agreed or is likely to 30
agree that the treatment, care or support will 31
benefit the worker in the ways mentioned in 32
subsection (1); 33

-
- (f) any associated risks of the treatment, care or support to the worker, weighed against the expected benefit of the treatment, care or support to the worker. 1
2
3
4

1170 Appropriateness of service 5

- (1) The insurer must consider whether treatment, care or support for, or relating to, the worker's treatment, care and support needs— 6
7
8
- (a) is consistent with other treatment, care or support being received by the worker; and 9
10
- (b) is consistent with current clinical practice and other industry best practice for the treatment, care or support of persons with similar injuries. 11
12
13
14
- (2) In considering the matters mentioned in subsection (1), the insurer must also have regard to the following matters— 15
16
17
- (a) whether the treatment, care or support will be consistent with the worker's future treatment, care or support needs; 18
19
20
- (b) whether the treatment, care or support relates directly to the worker's individual goals; 21
22
23
- (c) whether the treatment, care or support could be harmful to the worker; 24
25
- (d) whether similar treatment, care or support is already being, or is to be, provided to the worker for the injury; 26
27
28
- (e) whether there is evidence that supports the effectiveness of the treatment, care or support. 29
30
31
- Examples of evidence—* 32
- peer-reviewed journal articles 33

- inclusion of the treatment in clinical guidelines and frameworks 1
2
- successful clinical trials 3
- inclusion in the medical benefits schedule administered by the Commonwealth 4
5

117P Appropriateness of provider 6

- (1) The insurer must consider whether treatment, care or support for, or relating to, the worker's treatment, care and support needs is provided by an appropriate provider. 7
8
9
10
- (2) In considering the matter mentioned in subsection (1), the insurer must also have regard to the following matters— 11
12
13
 - (a) whether the provider, or the provider's staff, are appropriately qualified to provide the treatment, care or support; 14
15
16
 - (b) whether the provider is appropriate having regard to, for example, the worker's location, age, culture and ethnicity; 17
18
19
 - (c) whether the provider is acceptable to the worker; 20
21
 - (d) whether the provider has or may have a conflict of interest in providing the treatment, care or support to the worker; 22
23
24
 - (e) whether the provider's fee is reasonable; 25
 - (f) if, under section 232K(2) of the Act, the treatment, care or support must be provided by a registered provider—whether the provider is a registered provider. 26
27
28
29

117Q Cost-effectiveness 30

- (1) The insurer must consider whether treatment, care or support for, or relating to, the worker's 31
32

treatment, care and support needs is 1
cost-effective. 2

(2) In considering the matter mentioned in subsection 3
(1), the insurer must also have regard to the 4
following matters— 5

(a) the likely benefit to the worker of receiving 6
the treatment, care or support weighed 7
against the cost of providing the treatment, 8
care or support to the worker; 9

(b) the cost of the treatment, care or support 10
compared with the cost of the same or 11
similar treatment, care or support provided 12
by other suitable providers; 13

(c) whether there is a more cost-effective way 14
to provide the treatment, care or support; 15

Examples— 16

- considering whether leasing equipment 17
would be more cost-effective than purchasing 18
new equipment 19

- considering whether the treatment, care or 20
support can be more appropriately funded 21
under another scheme 22

(d) whether the cost of the treatment, care or 23
support is reasonable having regard to the 24
period for which it is required; 25

(e) whether the cost of the treatment, care or 26
support exceeds an amount prescribed for 27
the treatment, care or support under section 28
232R(4) of the Act. 29

**Subdivision 3 Other matters relating to 30
assessing needs 31**

117R Additional requirement about assessing particular treatment, care or support	1 2
(1) This section applies if the insurer is assessing a worker's needs for, or relating to—	3 4
(a) home modification; or	5
(b) transport modification; or	6
(c) workplace modification; or	7
(d) attendant care and support services that are personal assistance services or services to assist a person to participate in the community.	8 9 10 11
(2) In carrying out the assessment, the insurer must obtain and consider information about the needs mentioned in subsection (1) from a person who is appropriately qualified to give advice about the needs.	12 13 14 15 16
<i>Example of appropriately qualified persons—</i>	17
an occupational therapist specialising in home or workplace modifications	18 19
117S Treatment, care or support that must be provided by a registered provider	20 21
For section 232K(2)(b) of the Act, the following treatment, care or support is prescribed—	22 23
(a) a home modification;	24
(b) workplace modification;	25
(c) a service for the coordination of treatment, care or support.	26 27
<i>Example for paragraph (c)—</i>	28
a case manager engaged to coordinate a worker's treatment, care and support	29 30

Subdivision 4 Support plans and service requests 1
2

117T Support plans 3

- (1) For section 232O(3) of the Act, this section 4
prescribes requirements about an eligible 5
worker's support plan. 6
- (2) The support plan must state— 7
- (a) the name of the worker; and 8
 - (b) the outcomes of the assessment under 9
section 232O(1)(a) of the Act; and 10
 - (c) the matters stated in section 117K(2), if 11
known by the insurer; and 12
 - (d) any treatment, care and support needs 13
resulting from the worker's serious personal 14
injury the insurer considers are necessary 15
and reasonable in the circumstances; and 16
 - (e) any treatment, care or support resulting from 17
any other injury resulting from the same 18
event as the serious personal injury that the 19
insurer considers is necessary and 20
reasonable in the circumstances; and 21
 - (f) any other treatment, care or support for the 22
serious personal injury, or any other injury 23
resulting from the same event as the serious 24
personal injury, the insurer agrees to, wholly 25
or partly, pay for under chapter 4A of the 26
Act, having regard to the following 27
matters— 28
 - (i) whether the treatment, care or support 29
is needed by the worker as a result of 30
the injury; 31
 - (ii) whether it would be fair and reasonable 32
in the circumstances for the insurer to 33

- | | |
|---|---|
| pay for the treatment, care or support,
wholly or partly; | 1
2 |
| (iii) whether providing the treatment, care
or support will, or is likely to, reduce
the worker's treatment, care and
support needs for the injury; | 3
4
5
6 |
| (iv) whether the insurer considers, wholly
or partly, paying for the treatment, care
or support is more practical or
cost-effective than the insurer paying
for the worker's treatment, care and
support needs for the injury, without
compromising the level of treatment,
care or support received by the worker
under chapter 4A of the Act; | 7
8
9
10
11
12
13
14
15 |
| (v) whether the treatment, care or support
is excluded treatment, care or support; | 16
17 |
| (vi) where the treatment, care or support is
to be provided, including, for example,
whether the treatment, care or support
is to be provided outside Australia; and | 18
19
20
21 |
| (g) the intervals at which an assessment under
section 232O(1)(a) of the Act will be carried
out for the worker. | 22
23
24 |
| (3) The support plan must be consistent with an
existing decision on a service request relating to
the worker. | 25
26
27 |
| (4) However, subsection (3) applies only to the extent
the support plan relates to the period covered by
the existing decision. | 28
29
30 |

117U Amending support plans 31

- | | |
|---|----------------|
| (1) For section 232O(5) of the Act, this section
prescribes requirements about amending an
eligible worker's support plan under section | 32
33
34 |
|---|----------------|

232O(4)(a) of the Act. 1

(2) An amendment of the support plan must be 2
consistent with an existing decision on a service 3
request relating to the worker. 4

(3) However, subsection (2) applies only to the extent 5
the support plan relates to the period covered by 6
the existing decision. 7

117V Deciding service request 8

(1) For section 232P(4) of the Act, this section 9
prescribes the matters an insurer must consider in 10
deciding a service request relating to an eligible 11
worker. 12

(2) The insurer must consider the following 13
matters— 14

(a) whether or not the requested service relates 15
to— 16

(i) the worker's treatment, care and 17
support needs resulting from the 18
worker's serious personal injury; or 19

(ii) the worker's need for treatment, care or 20
support resulting from another injury 21
resulting from the same event as the 22
worker's serious personal injury; 23

(b) if the requested service relates to the 24
treatment, care and support needs 25
mentioned in paragraph (a)(i)—whether or 26
not the needs are necessary and reasonable 27
in the circumstances; 28

(c) if the requested service relates to the 29
treatment, care or support mentioned in 30
paragraph (a)(ii)—whether or not the 31
treatment, care or support is necessary and 32
reasonable in the circumstances; 33

- (d) if the requested service does not relate to treatment, care and support needs or treatment, care or support mentioned in paragraph (a), or the insurer does not consider the needs or the treatment, care or support mentioned in the paragraph are necessary and reasonable in the circumstances—whether or not the insurer considers the insurer should, wholly or partly, pay for the requested service under chapter 4A of the Act, having regard to the matters mentioned in section 117T(2)(f).

Division 3 Payment options 13

117W Circumstances in which payment request may be made 14 15

- (1) For section 232Q(3)(b) of the Act, this section prescribes the circumstances for making a payment request for an expense for the treatment, care or support of an eligible worker. 16
17
18
19
- (2) A payment request may not be made for the expense if— 20
21
- (a) the person has entered into a funding agreement with the insurer for the treatment, care or support; and 22
23
24
- (b) the expense was incurred in the period covered by the funding agreement. 25
26
- (3) A payment request must be made within 6 months after the expense is incurred. 27
28
- (4) However, the insurer may accept a later payment request if the insurer considers it is fair and reasonable in the circumstances to accept the request. 29
30
31
32

117X Deciding payment request

- | | |
|--|----|
| | 1 |
| (1) For section 232R(2) of the Act, this section | 2 |
| prescribes matters about an insurer deciding a | 3 |
| payment request for an expense for the treatment, | 4 |
| care or support of an eligible worker. | 5 |
| (2) If the insurer makes an information request and | 6 |
| the person of whom it is made does not provide | 7 |
| the information requested by the stated day or a | 8 |
| later day agreed between the insurer and the | 9 |
| person— | 10 |
| (a) the payment request lapses; and | 11 |
| (b) the insurer is not required to approve or | 12 |
| refuse the request. | 13 |
| (3) The insurer must approve the payment request | 14 |
| if— | 15 |
| (a) the expense is incurred in the eligibility | 16 |
| period for the worker; and | 17 |
| (b) the treatment, care or support the request | 18 |
| relates to is an approved service for the | 19 |
| worker. | 20 |
| (4) To remove any doubt, it is declared that the | 21 |
| insurer may approve the payment request even | 22 |
| though the treatment, care or support the request | 23 |
| relates to is not an approved service for the | 24 |
| worker. | 25 |
| (5) In this section— | 26 |
| <i>approved service</i> does not include treatment, care | 27 |
| or support that is excluded treatment, care or | 28 |
| support, unless— | 29 |
| (a) if a support plan has been made for the | 30 |
| eligible worker—the excluded treatment, | 31 |
| care or support is specifically stated in the | 32 |
| support plan to be— | 33 |

- (i) treatment, care or support for, or relating to, the worker's treatment, care and support needs resulting from the worker's serious personal injury the insurer considers is necessary and reasonable in the circumstances; or
- (ii) treatment, care or support resulting from another injury resulting from the same event as the worker's serious personal injury the insurer considers is necessary and reasonable in the circumstances; or
- (iii) treatment, care or support the insurer agrees to, wholly or partly, pay for under chapter 4A of the Act; or
- (b) if a support plan has not been made for the eligible worker—the excluded treatment, care or support is specifically approved under an approval of a service request relating to the worker.
- information request**, for a payment request, means a written request made by the insurer—
- (a) asking a relevant person for further information about the payment request by a stated day of at least 10 business days after the insurer makes the request; and
- (b) stating that, if the requested information is not given to the insurer by the stated day, the payment request will lapse.
- relevant person**, for an information request, means—
- (a) the person who made the payment request; or
- (b) if the person who made the payment request is not the eligible worker—the eligible worker.

117Y Limit on amount payable under payment request	1
	2
For section 232R(4) of the Act, the amount prescribed is—	3
	4
(a) for medical treatment or rehabilitation—the amount stated in the relevant table of costs; or	5
	6
	7
(b) for hospitalisation of the worker as an in-patient at a private hospital—the amount stated in section 217(3) of the Act; or	8
	9
	10
(c) for hospitalisation of the worker as an in-patient at a public hospital—the amount stated in section 218A(3) of the Act.	11
	12
	13

Division 4	Review of entitlement	14
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117Z Review of worker's entitlement	15
(1) This section prescribes matters for a review of a worker's entitlement to treatment, care and support payments under section 232S of the Act.	16
	17
	18
(2) The insurer must give the worker written notice of the review at least 20 business days before carrying out the review.	19
	20
	21
(3) In carrying out the review, the insurer may ask the worker to give the insurer information needed to make a decision about the worker's entitlement at the end of the review.	22
	23
	24
	25

Clause 51	Amendment of s 143 (Constitution of Composite Medical Tribunal)	26
		27
(1) Section 143—		28
<i>insert—</i>		29
(4A) For a serious personal injury matter, the		30

	chairperson is the chairperson of the General Medical Assessment Tribunal.	1 2
(2)	Section 143(7), 'subsection (5)'— <i>omit, insert—</i> subsection (6)	3 4 5
(3)	Section 143— <i>insert—</i> (8) In this section— <i>serious personal injury matter</i> means a matter referred to the tribunal under— (a) section 500(1)(fa), (fb) or (fc) of the Act; or (b) the <i>National Injury Insurance Scheme (Queensland) Act 2016</i> , section 113.	6 7 8 9 10 11 12 13
(4)	Section 143(4A) to (8)— <i>renumber</i> as section 143(5) to (9).	14 15
Clause 52	Amendment of sch 13 (Dictionary)	16
	Schedule 13— <i>insert—</i> <i>childrens functional independence measure instrument</i> , for part 5A, division 1, see section 117A. <i>functional independence measure instrument</i> , for part 5A, division 1, see section 117A.	17 18 19 20 21 22
Part 4	Minor or consequential amendments	23 24
Clause 53	Legislation amended	25
	Schedule 1 amends the legislation it mentions.	26

Schedule 1	Minor or consequential amendments	1 2
	section 53	3
Workers' Compensation and Rehabilitation Act 2003		4
1	Section 72(1)(f), from 'unconditional' to 'deposit'— <i>omit, insert—</i> security	5 6 7
2	Section 73(1), after '71(1)(a)'— <i>insert—</i> , 71(4)(d)	8 9 10
3	Section 83(1)— <i>insert—</i> <i>Note—</i> See also section 232ZI(3).	11 12 13 14
4	Sections 101(3) and 102(5), from 'unconditional' to 'deposit'— <i>omit, insert—</i> former self-insurer's section 84 security	15 16 17 18
5	Section 101(4), from 'unconditional' to 'deposit'— <i>omit, insert—</i> section 84 security	19 20 21

6	Section 102(6), ‘deposit or bank guarantee’—	1
	<i>omit, insert—</i>	2
	section 84 security	3
7	Section 103, heading and subsection (2), section 105J, heading, and sections 567(f) and 569(2)(b), from ‘bank’ to ‘deposit’—	4
	<i>omit, insert—</i>	5
	section 84 security	6
8	Section 104(3)(b), from ‘bank’ to ‘self-insurer’—	7
	<i>omit, insert—</i>	8
	former self-insurer’s section 84 security	9
9	Sections 105H(3), 105I(4) and 105J(2), from ‘unconditional’ to ‘deposit’—	10
	<i>omit, insert—</i>	11
	non-scheme employer’s section 84 security	12
10	Section 105H(3), note—	13
	<i>omit.</i>	14
11	Section 105H(4), from ‘unconditional’ to ‘deposit’—	15
	<i>omit, insert—</i>	16
	section 84 security	17
12	Section 105I(5), ‘deposit or bank guarantee’—	18
	<i>omit, insert—</i>	19
	section 84 security	20
		21
		22
		23

13	Section 208(1), after ‘compensation’—	1
	<i>insert—</i>	2
	under chapter 3	3
14	Sections 510C(8)(a) and 511A(1)(b), ‘doctor’—	4
	<i>omit, insert—</i>	5
	registered person	6
15	Section 546(2), ‘to (xii)’—	7
	<i>omit, insert—</i>	8
	to (xiih)	9
16	Schedule 6, definition <i>QOTE</i>, after ‘107’—	10
	<i>insert—</i>	11
	(1)	12
 Workers’ Compensation and Rehabilitation Regulation 2014		 13 14
1	Section 54, ‘84(3)(b)’	15
	<i>omit, insert—</i>	16
	84(4)(b)	17
2	Schedule 13, definition <i>appointed actuary</i>, ‘84(3)’—	18
	<i>omit, insert—</i>	19
	84(4)	20

3	Schedule 13, definition <i>estimated claims liability</i>, '84(6)'—	1
	<i>omit, insert—</i>	2
	84(8)	3

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