



# Modernising WA's Workers Compensation Laws

Workers Compensation and Injury Management Bill 2021  
(Consultation Draft)

August 2021



- *Workers Compensation and Injury Management Bill 2021 (Consultation Draft)* released **11 August 2021**
- Public consultation period open until **10 November 2021**
- Written submissions to [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)
- Submission status – public or confidential

## Publications – [workcover.wa.gov.au](http://workcover.wa.gov.au)

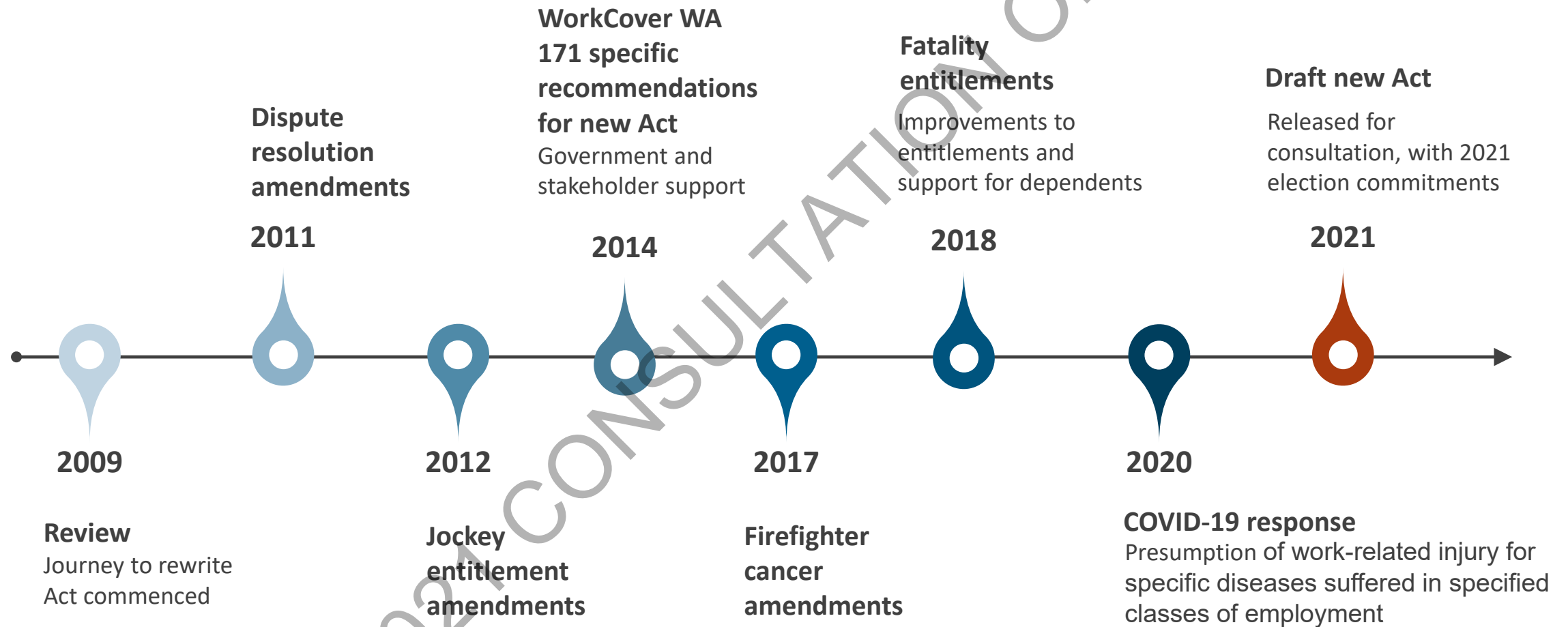
- The Bill
- Guide to the Bill & how to make a submission
- 58 information sheets on topical issues
- Comparison with current Act by key provisions
- Comparison with current Act by section number
- The 2014 Final Report

## Information sessions

- WorkCover WA staff & public information sessions
- Stakeholder meetings

## Queries

Contact: [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)



## Modernising WA's Workers Compensation Laws - Goals

- Major restructure and rewrite of Act(s)
- Single redrafted workers compensation Act
- Plain language and contemporary drafting
- Logical sequencing and numbering
- Small number of policy issues & 2021 election commitments
- Flexibility & active maintenance of the new Act
- No apostrophe in workers

### Since 1981

- 25 substantive amendment acts
- 39 consequential amendments
- Substantial body of case law
- Legislative anomalies

### Former Commissioner Decision

“There are major difficulties with this Act such that it should be completely re-written.”

*worker* does not include a person whose employment is of a casual nature and is not for the purpose of the employer's trade or business, or except as hereinafter provided in this definition a police officer or Aboriginal police liaison officer appointed under the *Police Act 1892*; but save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing;

the term *worker*, save as hereinbefore provided in this definition, includes a police officer or Aboriginal police liaison officer appointed under the *Police Act 1892*, who suffers an injury and dies as a result of that injury;

the term *worker* save as aforesaid, also includes —

- (a) any person to whose service any industrial award or industrial agreement applies; and
- (b) any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services,

and any reference to a worker who has suffered an injury shall, where the worker is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable.



- New definition of ‘worker’:
  - based on PAYG withholding obligation for an ‘employee’ under Commonwealth taxation law
- Regulations may include other classes of ‘worker’
- Injury & injury from employment clarified
- Prescribed (presumptive) diseases in regulations

- Income compensation for incapacity
  - Calculation clarified based on pre-injury earnings
  - Step down point extended from 13 to 26 weeks\*
  - Step down safety net - base award rate
- Medical and health expenses cap increases from 30% to 60% of the prescribed amount\*
- ICWA's catastrophic injuries support scheme extended for workplace accidents

\*2021 election commitment





- Claim for injury/ incapacity
- Employer to notify worker of right to claim compensation
- Authority for collection & disclosure of a worker's personal information relating to injury, claim, return to work
- Employer or agents prohibited from attending medical examination with worker's treating medical practitioner\*
- Employer/ insurer initiated medical review of worker same as current Act

**\*2021 election commitment**

- Liability decision or deferred decision notice required within 14 days (indicative)
- Provisional payments if liability decision not given within 28 days (indicative):
  - income compensation payments
  - medical and health expenses
- Liability taken to be accepted (no notice given, or given late)



- Permanent impairment
  - Table of impairments
  - Dust disease
- Noise induced hearing loss
- Death of worker



- Single pathway for settlement of workers compensation claims
- Settlement can be made six months after date of worker's injury
- Earlier settlement in prescribed circumstances
- Common law settlement pathway only accessible if impairment and election requirements met



- Definition of 'return to work' & 'suitable employment' clarified
- Worker and employer obligations clarified
- Worker requirement to attend return to work case conference
- Treating medical practitioners and issuing certificates of capacity

- Injury management expense not a form of compensation
- No intention to reduce funding (7% of prescribed amount)
- Regulations to provide for workplace rehabilitation services, referral pathways, amounts payable
- Modernised framework for approval & regulation of workplace rehabilitation providers and setting fees



- No significant changes to dispute resolution framework
- Circumstances for reducing, suspending or discontinuing income compensation clarified
- Discontinuation of regime for registered agents
  - Two-year transitional arrangement for registered independent agents
  - Representation in CAS by authorised agents (in regulations)

- Workers compensation insurance cover
- WorkCover WA to continue to fix recommended premium rates
- Premium loading approval process discontinued
- Employer may apply to WorkCover WA for premium review or industry classification review subject to conditions



- New licensing framework for approval and regulation of insurers & self-insurers
- Status of Insurance Commission & specialised insurers
- Group self-insurer licence (coverage of related entities)
- Approved insurers & self-insurers under current Act taken to be licensed under new Act
- Capacity to recognise & regulate brokers



### Public consultation

Exposure Bill for public consultation August 2021



### Consultation

period and finalise Bill  
(3 months)



### Parliament

Legislative process



### Finalisation

and development  
of regulations and  
administrative instruments  
to support new Act



### Implementation

of the new Act



**Questions?**

Submissions can be sent to: [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)