Legislative Council—No 18
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South Australia

Return to Work (Permanent Impairment Assessment) Amendment Bill 2022

A BILL FOR

An Act to amend the *Return to Work Act 2014*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Return to Work (Permanent Impairment Assessment) Amendment Act 2022*.

2—Commencement

This Act comes into operation on 1 January 2023.

Part 2—Amendment of *Return to Work Act 2014*

3—Amendment of section 4—Interpretation

(1) Section 4(1), definition of ***trauma***—delete "series of events" and substitute:

the same series of events

(2) Section 4—after subsection (7) insert:

(7a) For the purposes of the definition of ***trauma*** in subsection (1), if there is more than 1 work injury, all the events forming the series of events need to be the exclusive causes of both or all of the injuries in order for the series of events to constitute the same trauma for both or all of the injuries.

Example—

If events A and B are the only causes of injury Y, and events A, B and C are the only causes of injury Z, event C is not also the cause of injury Y. Injury Y arises out of the series of events A:B, while injury Z arises out of the series of events A:B:C. The 2 series are not identical, so that the 2 injuries are not from the same trauma.

Note—

This subsection, combined with the definition of ***trauma*** as amended at the time that this subsection is enacted, adopts and applies the principle enunciated in the reasons of The Honourable Chief Justice Kourakis in *Marrone v Employers Mutual Limited as an Agent for Workcover Corporation of South Australia* [2013] SASCFC 67.

4—Amendment of section 22—Assessment of permanent impairment

Section 22(8)(c)—delete paragraph (c) and substitute:

(c) if a worker suffers 2 or more injuries arising from the same trauma, the injuries are to be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines);

5—Amendment of section 56—Lump sum payments—economic loss

Section 56(5)—delete subsection (5) and substitute:

(5) If a worker suffers 2 or more work injuries arising from the same trauma, the injuries will be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines).

6—Amendment of section 58—Lump sum payments—non-economic loss

Section 58(6)(a)—delete paragraph (a) and substitute:

(a) the injuries will be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines).

7—Amendment of section 122—Powers and procedures on a referral

Section 122(6)(d)—delete paragraph (d) and substitute:

(d) if a worker suffers 2 or more injuries arising from the same trauma, the injuries are to be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines);

Schedule 1—Transitional provisions

1—Interpretation

(1) In this Schedule—

accredited medical practitioner means an accredited medical practitioner under section 22 of the principal Act;

designated day means 1 January 2023;

principal Act means the *Return to Work Act 2014*.

(2) Other terms used in this Schedule have meanings consistent with the meanings they have in the principal Act.

2—Application of amendments

(1) Subject to subclause (2), the amendments made to the principal Act by this Act apply in relation to any work injury where the final examination relating to the worker by an accredited medical practitioner for the purposes of an assessment under section 22 of the principal Act occurs on or after the designated day (even if the injury is attributable to trauma that occurred before the designated day and even if anything arising from the examination, or any assessment made by the accredited medical practitioner, is subsequently set aside or disregarded by the Tribunal or a court).

(2) Where 2 or more accredited medical practitioners are required to undertake an examination or assessment under section 22 of the principal Act to determine the degree of impairment of a worker in relation to injuries arising from the same trauma, the amendments made to the principal Act by this Act will only apply if none of the injuries are the subject of a final examination by an accredited medical practitioner for the purposes of an assessment under section 22 of the principal Act before the designated day.

(3) For the purposes of this clause, the final examination relating to a worker by an accredited medical practitioner is when no further attendance, radiological or other investigation or examination is required (including any attendance following further radiological or other investigation or examination) to enable an assessment of whole person impairment under section 22 of the principal Act.