

Settlements

The *WCIMA23* clarifies the settlement pathway and provides for the registration and scrutiny of settlement agreements.

Key Points

Act ref: Part 2 Division 12, s. 420

- A settlement commutes to a lump sum the liability of an employer to pay compensation to a worker and discharges that liability.
- Registration of a settlement agreement will be the only pathway to settle a workers compensation claim via a lump sum and to discharge an employer's liability for the injury.
- There are minimal barriers to settlement compared to the 1981 Act. For example, there is no requirement in the *WCIMA23* for liability to be accepted or determined or any timeframe prescribed before a settlement can be registered.
- The Director will continue to register and scrutinise settlements.
- Every settlement will require a statement by the worker in the approved form acknowledging that the worker is aware of the consequences of registering the settlement agreement. The Director is also required to scrutinise the settlement for genuineness and be satisfied of the correct amount payable for any permanent impairment compensation.
- The Director will refuse to register a settlement agreement if of the opinion the agreement was obtained by fraud, undue influence or other improper means.

Questions & Answers

Q. Can a workers compensation settlement include provision for damages?

A. No. Settlement of a workers compensation claim cannot include an amount for damages or for the potential liability of the employer for damages that arises outside the workers compensation scheme. The settlement pathways for an employer's liability for workers compensation entitlements and damages are completely separated.

Registration of a settlement agreement will also prevent the awarding of damages, as does the 1981 Act (will not prevent the awarding of damages if the settlement agreement applies to dust disease impairment compensation only).

Q. Will there be an approved form for the settlement agreement?

A. Yes. WorkCover WA will develop and publish an approved form for the settlement agreement for use by parties and is looking at ways to make the application and registration process more efficient.

