

QBE's submission in response to 2023 Act Implementation Review Consultation Paper

Consultation Paper	WorkCover Recommendation	QBE comment
Proposal 1	<p>Settlement agreement approved form Amend the WorkCover WA form <i>SFI settlement agreement</i> by:</p> <ul style="list-style-type: none"> a. Deleting the reference to “future” amounts b. Including a statement in the settlement agreement that any compensation entitlement will not cease until the settlement agreement is registered by the Director 	<ul style="list-style-type: none"> a. QBE agrees with the proposal to delete “future” amounts in the settlement agreement. b. In relation to the inclusion of the statement, we suggest that it be limited to the maximum limits of income and health expenses compensation. If the maximum limit is reached for income compensation whilst insurers are waiting for registration of the settlement agreement, noting there could be some significant delays, insurers will be forced to continue paying compensation in breach of the Act. We suggest consideration of a best practice timeframe for the provision and return of settlement documentation. <p>It is QBE's preference to allow a defined period of compensation entitlement to be agreed upon (eg, 4 weeks of compensation or until date of registration) to overcome issues relating to maximum limits, return of documentation and to give insurers the ability to adequately calculate a settlement sum when future compensation is included, particularly in agreements whereby the injured person is legally represented and being advised accordingly.</p>
Proposal 2	<p>Permanent impairment agreement – PI notice process Amend the WorkCover WA approved form SF3 Permanent impairment notice by:</p> <ul style="list-style-type: none"> a. under the 'Agreement' section replacing 'requested' with 'required' (employers/ insurers must indicate agreement or disagreement with the level of impairment) 	<p>QBE agrees to this proposal</p> <p>We note the suggestions for review which we agree with in principle. We further suggest consideration be given to an amendment to the Act whereby the permanent impairment assessment can be initiated by either the worker or the employer/insurer given that it is standard practice for the insurer to initiate assessments as part of</p>

	<ul style="list-style-type: none"> b. where employers indicate agreement/ disagreement with the level of impairment replacing the instruction to ‘delete as applicable’ with a check box for clarity and ease of use. 	the claims management/settlement process.
Proposal 3	<p>Permanent Impairment assessment by APIA</p> <ul style="list-style-type: none"> a. Amend WorkCover WA approved form APIA1 Permanent impairment assessment – report and certificate by adding an additional checkbox for the APIA to confirm that when a special assessment is done the APIA is satisfied the special assessment criteria are met. b. Amend the Regulations to require when a special evaluation is sought the requesting party is to provide evidence to the APIA, at least 18 months has elapsed since the claim was made. c. Retain the signature block and require a personal APIA signature in WorkCover WA approved forms APIA1, APIA6 and APIA7. d. Amend WorkCover WA approved forms APIA3, APIA 4 and APIA5 to remove APIA signature blocks. e. Scheme participants note that the effective date of an assessment (when a worker is taken to have been assessed and an assessment conducted) is when an APIA has dated and certified the worker’s degree of permanent impairment in APIA1. 	QBE agrees to this proposal
Proposal 4	Intention to reduce or stop income compensation – return to work	<p>In relation to this proposal:</p> <ol style="list-style-type: none"> 1. QBE objects to the amendment providing the amount of wages to be paid in the return to work position.

	<p>Amend WorkCover WA approved form CN2 Intention to reduce or discontinue income compensation – return to work by including:</p> <ul style="list-style-type: none"> • a statement of the amount of wages/ remuneration paid/ to be paid in the return to work position • a declaration signed by the employer or insurer verifying that the worker has returned to work and is deriving earnings in the position specified in the form • if the worker has returned to work with another employer, a requirement for the person issuing the notice to provide confirmation of the worker’s return to work and remuneration with that other employer when providing the notice to the worker. 	<p>We see a significant administration burden for insurers to outline the amount to be paid in the return to work position.</p> <p>Insurers will be reliant on employers (where the return to work is same employer) to provide this information in a timely manner in order for insurers to issue the prescribed form. In practice, a same employer return to work implies that a return to full hours and duties is a return to pre-injury wage.</p> <p>Insurers will be reliant on the accuracy of the workers disclosure in a s32 to complete this in new employer circumstances.</p> <p>Remuneration framework is varied with regular rates, overtime, allowances, bonus’s, superannuation etc and each organisation communicates this to their employees in different ways. It would be very challenging for insurers to determine the accuracy of the information provided, and we would like to understand the recourse if this information was misunderstood by any of the parties.</p> <p>For new employers, this information is obtained to confirm a full return to work has been made with no ongoing requirements for income compensation. It would be practicable to include in this manner.</p> <p>2. In relation to the declaration, we do have concerns about this for the following reasons: Return to work as defined in the Act is not without ambiguity and we anticipate will be the subject of legal proceedings to provide clarification of its meaning. If a declaration has been signed and it is determined that the worker has not in fact</p>
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Proposal 5	<p>Custody or imprisonment notice</p> <p>Repeal WorkCover WA approved form CN6 Custody or imprisonment notice WorkCover WA CEO issue a new approved form Custody or imprisonment notice 2023 Act Implementation Review: Consultation Paper 16</p> <p>Amend the Regulations to provide: • the employer or insurer must request WorkCover WA to obtain the written confirmation of custody or imprisonment from the relevant Government authority by making a request in the proposed new</p>	<p>Whilst QBE does not have any objection to WorkCover WA obtaining confirmation of imprisonment, the lack of timeframes within which this is to be done is a concern.</p> <p>We would like to see a period of at the most 10 working days within which WorkCover must make the request following receipt of the employer/insurer request.</p>

	<p>Custody or imprisonment notice • WorkCover WA is to obtain the confirmation of custody or imprisonment from the relevant Government authority • the Government authority is to confirm custody or imprisonment by giving the proposed new Custody or imprisonment notice to the WorkCover WA CEO.</p>	
Proposal 6	<p>Return to work program No change to the structure and content of WorkCover WA approved form - IM1 Return to work program. Stakeholder feedback to be sought on potential changes to the WorkCover WA explanatory guide to provide for staged progression of return to work.</p>	QBE endorse the feedback provided through IIIMF.
Proposal 7	<p>NIHL compensation claim form Amend the WorkCover WA approved form CF2 NIHL compensation claim form by inserting the following:</p> <ul style="list-style-type: none"> • a field indicating the date the claim was given to the last employer • a field indicating the date the last employer gave the claim to the insurer. 	QBE does not object to this proposal.
Proposal 8	<p>Audiological test report Amend the WorkCover WA approved form NIHL1 Audiological test report by:</p> <ul style="list-style-type: none"> • adding 'recreation history' to the narrative history section • allowing an 'either/or' approach to completing the air conduction and bone conduction test and the audiogram to avoid unnecessary replication and duplication errors • including a table setting out hearing threshold levels to calculate binaural percentage hearing loss 	QBE does not object to this proposal.

	and binaural percentage hearing loss less presbycusis.	
Proposal 9	Broker access to personal worker information NIBA and ICA continue to cooperate to address any issues in the jointly developed consent authority for use by brokers and workplace risk and injury management consultants. No change to Regulations or the claim form consent authority to facilitate brokers and workplace risk and injury management consultants accessing workers' personal information.	<p>QBE endorse the ICA submission to Proposal 9.</p> <p>We encourage consideration of the inclusion of employer on the claim form, in line with the other workers compensation jurisdictions in Australia.</p>
Proposal 10	Additional modified penalties Amend the Regulations to insert the following offences and modified penalties in Schedule 4: <ul style="list-style-type: none"> • Failure of employer to make income compensation payment when due [s.47(2)]: modified penalty \$800 • Failure of employer to pay the amount of a settlement agreement when required [s.156(2)]: modified penalty \$800 • Preventing another person from complying with the Act [(s.527)]: modified penalty \$800. 	<p>QBE does not object to this proposal.</p> <p>Perhaps revise the wording of responsible party for settlement payments to Employers Insurer</p>