



FENCHURCH

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Manager Policy & Legislative Services
WorkCover WA
Via Email: consultation@workcover.wa.gov.au

Re:

Workers Compensation and Injury Management Act 2023
Proposed Act Amendments Consultation Paper February 2026

Thank you for the opportunity to provide feedback on the proposed Act amendments. In response to the paper, we provide the following comments:

Proposal 1 – Transparency of settlement amounts

1) We agree with Proposal 1.

Proposal 2 – Inclusion of extended medical and health expenses and income compensation in settlements

- 2) With respect to amending section 77 and 78, we do not agree with Proposal 2.
- a) We consider it is open for interpretation that an insurer could decide to include an extended amount above the medical and health expenses general limit in a settlement without input or agreement from the employer.
 - b) This would have detrimental effects on an employer's insurance premium, where they have not had an opportunity to respond to, or been provided with, adequate information to consider the financial impacts of such a decision.
 - c) We consider that an insurer could apply an extended amount above the medical and health expenses general limit for settlement without applying the same tests as an Arbitrator would, or ensuring the relevant criteria is met as an Arbitrator would.
 - d) We consider that this would unfairly disadvantage the employer in situations where they have not been properly informed of the decision.
 - e) Our position is that no changes should be made to section 77 and 78 with respect to the proposed amendments.
- 3) With respect to amending section 52, we agree with Proposal 2.

Proposal 3 – Discontinuation of PI Notice process

4) We agree with Proposal 3.

Proposal 4 – Permanent impairment compensation and settlements

5) We agree with Proposal 4.



Proposal 5 – Disputes about permanent impairment

6) We agree with Proposal 5.

Proposal 6 – Settlements and liability decisions

7) We agree with Proposal 6.

Proposal 7 – Confirmation of custody or imprisonment

8) We agree with Proposal 7.

- 9) With respect to point 5: 'Income compensation payments must be reinstated for any period a worker is no longer in custody, confirmation of which must be obtained by the worker, employer or insurer in the approved form following the process above.'
- a) We propose the worker should also be required to undergo medical examination with their treating medical practitioner to confirm their current work capacity prior to the re-commencement of income compensation payments by the employer.
 - b) It is reasonable to consider that the injured worker's recovery from injury and work capacity will have altered during their term of imprisonment.
 - c) Imposing this requirement will allow the employer to accurately implement a return to work program and initiate required medical treatment to assist the worker's rehabilitation without undue delay.

Proposal 8 – Determination of state of connection disputes

10) We agree with Proposal 8.

Proposal 9 – Responding to uninsured employer claims

11) We agree with Proposal 9.

Proposal 10 – Common law damages where employer uninsured

12) We agree with Proposal 10.

Proposal 11 – ICWA contribution to WorkCover WA General Account

13) We agree with Proposal 11.

Proposal 12 – Appropriate reference to date of injury or incapacity

- 14) We agree with Proposal 12 with respect to not amending references from 'date of injury' to the 'date of incapacity'.
- a) Our feedback is to distinguish and record both the date of injury and date of incapacity.
 - b) We propose that formalising the date of incapacity will provide clarity to all stakeholders regarding the relevant period of time for provisional payments of income compensation and income compensation payments.



Proposal 13

15) No additional comments relevant to technical amendments to address implementation issues.

Regards,

Fenchurch Insurance.