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Manager Policy and Legislative Services

WorkCover WA

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## **Workers Compensation and Injury Management Act 2023 - Proposed Act Amendments**

Dear Sir/Madam,

The Chamber of Minerals and Energy of WA (CME) is the peak representative body for the resources sector in Western Australia (WA). CME is funded by member companies responsible for 90 per cent of the State's mineral workforce employment.<sup>1</sup>

In 2023-24, the WA resources sector accounted for 45 per cent of WA's economic activity,<sup>2</sup> 93 per cent of goods exports<sup>3</sup> and 43 per cent of investment.<sup>4</sup> The sector contributed one third (31.5 per cent) of the WA Government's general revenue via royalties, payroll and other taxes and fees<sup>5</sup>, enabling the provision of essential public goods and services such as doctors and nurses, teachers and police. CME's 2023-24 Economic Contribution Survey found that the WA resources sector supported 3 in 10 jobs in the State.<sup>6</sup>

### **Key Areas of Support**

CME and its members welcome the opportunity to comment on the proposed amendments to the *Workers Compensation and Injury Management Act 2023* (the Act).

CME members broadly support the proposed amendments, particularly those aimed at improving the efficiency and clarity of settlement processes, permanent impairment (PI) assessment, and dispute resolution pathways. Members support the following:

- **Settlement flexibility and efficiency** - including enabling extended medical and health expenses to be incorporated into settlements, allowing settlements to proceed without a liability decision, and improving clarity in settlement registration and approval processes. These changes are expected to reduce delays and improve efficiency in resolving claims.
- **Simplification of the permanent impairment (PI) process** - including removal of the multi-step PI notice process, clearer mechanisms for agreeing PI between parties, and

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<sup>1</sup> Government of Western Australia, [2023-24 Economic Indicators Resource Data File](#), full-time equivalents onsite under State legislation, Department of Energy, Mines, Industry Regulation and Safety, 29 October 2024.

<sup>2</sup> As measured by gross value add (GVA). Australian Bureau of Statistics, [5220 Australian National Accounts: State Accounts](#), Table 6.

<sup>3</sup> Department of Energy, Mines, Industry Regulation and Safety (DEMIRS), [2023-24 Economic Indicators Resource Data File](#), released 29 October 2024.

<sup>4</sup> Includes Gross Fixed Capital Formation plus minerals and petroleum exploration. Australian Bureau of Statistics, [5220 Australian National Accounts: State Accounts](#), Table 25. Australian Bureau of Statistics, [8412 Mineral and Petroleum Exploration](#), Table 4.

<sup>5</sup> Includes royalties, Commonwealth grants from North West Shelf royalties and iron ore lease rentals plus surveyed expenditure on payroll and other taxes and fees. Government of Western Australia, [2023-24 Annual report on State finances](#), Department of Treasury, 27 September 2024, Table 2.1 Operating Revenue: General Government, pp 164-165; CME 2023-24 Economic Contribution Survey.

<sup>6</sup> Direct and indirect jobs. CME, [2023-24 Economic Contribution: Western Australia](#), March 2025.



clarification of the Director's role in reviewing settlement agreements. These changes better reflect how claims are managed in practice while reducing administrative burden.

- **Clarification of arbitrator powers and jurisdiction** - including enabling arbitrators to determine disputes relating to PI and state of connection. These changes are considered practical improvements to dispute resolution pathways.

## Key Recommendations

While there is strong support for the majority of the proposed amendments, members have identified a number of targeted refinements to support effective implementation:

- **Settlement agreement form and structure** - Current settlement documentation can be overly complex in how compensation components are categorised, particularly following the ATO class ruling which has influenced how settlement amounts are itemised. Members have identified that the level of categorisation within settlement forms can add unnecessary administrative complexity without improving clarity of outcomes. CME recommends WorkCover WA update the form so that lump sum limits and entitlement caps are present with less categorisation of settlement composition.
- **Permanent impairment references in settlements** - Settlement forms currently require reference to PI in circumstances where PI does not apply, such as where a worker is not entitled to PI compensation and no PI assessment has been undertaken. This creates unnecessary confusion and administrative rework. CME recommends that all references to PI within settlement documentation clearly state "if applicable" to avoid ambiguity and improve usability.
- **Custody and imprisonment processes** - Further clarification is recommended to ensure clear and consistent application in practice. Members have raised uncertainty regarding how involvement of the WorkCover WA CEO will improve timeliness of custody confirmation, and how income compensation is to be reinstated following a period of custody, particularly where a worker's capacity for work may have changed during that period. Clarification is also sought on whether workers are required to demonstrate ongoing incapacity and entitlement to compensation following release.
- **Operational application of approved forms (CN1 and CN2)** - Practical issues have been identified with the operation of these forms:
  - CN1 forms – currently limited in application to certain leave types, creating challenges where a worker is unable to participate in a return to work program due to a non-compensable condition. Members have identified a need for CN1 forms to explicitly accommodate additional leave types, such as sick or personal leave, to avoid inappropriate use of workers compensation entitlements.
  - CN2 forms – current requirements assume a worker has physically returned to work following certification of full capacity. In practice, this creates issues where a worker is certified fit during a rostered break (e.g. R&R period) but has not yet physically returned to site, resulting in continued payment of income compensation despite no incapacity.



## Conclusion

CME supports all efforts to improve the operation of the Act following its implementation. CME would welcome continued engagement with WorkCover WA as the amendments are progressed.

Should you have any questions regarding this submission, please contact Tim Lawler, Manager – Health, Safety and People at [REDACTED]

Yours sincerely,

**Anita Logiudice**

Director – Policy and Advocacy