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Date: 9 April 2026

Manager Policy and Legislative Services  
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**BY EMAIL: [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)**

Dear Sir/Madam

**SUBMISSION TO *WORKERS COMPENSATION AND INJURY MANAGEMENT ACT 2023* PROPOSED ACT AMENDMENTS CONSULTATION PAPER**

The Insurance Commission of Western Australia (Insurance Commission) welcomes the opportunity to make a submission on the proposed amendments to the *Workers Compensation and Injury Management Act 2023* (the Act).

The submission focuses on supporting improvements that enhance efficiency and clarity, while maintaining appropriate safeguards to protect scheme integrity and manage fund exposure.

The Insurance Commission's position on each proposal is outlined at **Attachment A**.

**KEY PROPOSALS**

**Extension of Medical and Health Expenses (Proposal 2)**

The Insurance Commission supports allowing extensions to the general limit for medical and health expenses under section 77 without arbitrator approval. This is consistent with previous practice and does not affect other worker entitlements.

The Insurance Commission does not support extensions to limits under section 78 unless they remain subject to arbitrator oversight. Section 78 is intended to operate in more limited circumstances and contains specific eligibility criteria and safeguards, including assessment by an arbitrator.

In addition, the Insurance Commission notes an implementation issue arising from the interaction of sections 78 and 79(2). The Insurance Commission recommends a review of the timeframe for special assessments under section 79(2), as the current requirements may delay eligibility for a special increase under section 78 and negatively affect workers' access to this entitlement.

### **Settlements Without a Liability Decision (Proposal 6)**

The Insurance Commission supports the registration of settlement agreements without a liability decision, acknowledging that this may facilitate earlier resolution of claims in appropriate cases. This support is subject to clarification of how this proposal interacts with section 29 of the Act.

In particular, clarity is required on whether section 29 applies where a settlement is pursued without a liability decision. The Insurance Commission considers that it should not, as this would be inconsistent with the intent of enabling early settlement. Further guidance is also required regarding settlement registration timing, including whether registration is expected to occur within the deemed-liability timeframe. This clarity would support consistent application and reduce the risk of unintended outcomes.

### **Responding to Uninsured Employer Claims (Proposal 9)**

The Insurance Commission supports improvements that promote the timely management of claims involving uninsured employers, particularly where this avoids disadvantaging injured workers.

Accordingly, the Insurance Commission supports early intervention only where it appropriately balances the protection of injured workers with the preservation of existing statutory safeguards governing access to the DI Fund.

Overall, the Insurance Commission supports the proposed amendments where they improve clarity and efficiency, subject to the safeguards and clarifications outlined above.

Please do not hesitate to contact the Insurance Commission if further information is required regarding this submission.

Sincerely



JANICE GARDNER  
**GENERAL MANAGER GOVERNMENT INSURANCE**

Proposal		Insurance Commission's Position
1	Transparency of settlement amounts.	<b>Supported.</b> Maintains transparency for workers and clarity around entitlements included in settlements.
2	Inclusion of extended medical and health expenses and income compensation in settlements.	<b>Supported in part.</b> Supports inclusion of extended medical and health expenses under section 77 in settlements without arbitrator approval, consistent with previous practice and existing worker entitlements. Does not support inclusion of extensions under section 78 without arbitrator oversight, as section 78 is intended to operate in more limited circumstances and requires assessment against statutory criteria. Supports inclusion of additional income compensation under section 52 in settlements, subject to continued arbitrator approval.
3	Discontinuation of Permanent Impairment Notice process.	<b>Supported.</b> Streamlines the permanent impairment process, reduces administrative burden, and avoids settlement delays and rejections.
4	Permanent impairment compensation and settlements.	<b>Supported.</b> Ensures settlement rejections are based on objective criteria, improves predictability of registration outcomes, reduces dispute risk and supports more timely processing.
5	Disputes about permanent impairment.	<b>Supported.</b> Provides a clear pathway to determine whether permanent impairment resulted from the injury, reduces ambiguity and limits conflicting medical interpretations, particularly in complex cases.
6	Settlements and liability decisions.	<b>Supported with conditions.</b> Clarification is required that section 29 does not apply. Further guidance is also needed on the expected timing for settlement registration, including interaction with deemed liability timeframes.
7	Confirmation of custody or imprisonment.	<b>Supported.</b> Establishes a centralised custody-verification process, improves accuracy and clarity, and reduces delays in suspending or reinstating compensation payments.

Proposal		Insurance Commission's Position
8	Determination of state of connection disputes.	<b>Supported.</b> Enables faster resolution, reduces legal costs and reliance on court proceedings, and provides earlier jurisdiction certainty for cross-border claims.
9	Responding to uninsured employer claims.	<b>Supported with safeguards.</b> Supports timely management of claims involving uninsured employers, provided changes do not expand the scope of the Default Insurance Fund beyond existing statutory criteria or weaken safeguards in Part 5, Division 7 of the Act.
10	Common law damages where employer uninsured.	<b>Supported.</b> Protects against legacy liabilities where employers had no common-law cover.
11	ICWA contribution to WorkCover WA General Account.	<b>Supported.</b> Addresses an unintended drafting omission and restores consistency with contributions required of other licensed insurers and self-insurers.
12	Appropriate reference to date of injury or incapacity.	<b>Supported.</b> Retains a clear reference point, with income compensation already adjusted to reflect post-injury wage changes.
13	Other proposals to address implementation issues.	No additional proposals beyond implementation matters identified in Proposal 2 above.