

Workers Compensation and Injury Management Act 2023

Implementation proposals for regulations and administrative instruments

Implementation Consultation Paper 11: Settlements

October 2023

Public comment on the implementation proposals
should be submitted to:

consultation@workcover.wa.gov.au by **1 December 2023**

All submissions will be publicly accessible unless confidentiality is requested.

For further details on making a submission see:

<https://www.workcover.wa.gov.au/resources/modernising-was-workers-compensation-laws/>

*****Draft proposals only*****

The proposals in this consultation paper are in draft form to facilitate public comment and do not represent the final position of WorkCover WA, the Minister or Government.

Implementation Consultation – Settlements

Scope

This document outlines proposed implementation requirements associated with the settlement agreement provisions of the *Workers Compensation and Injury Management Act 2023 (WCIMA23)* and associated regulations.

The *WCIMA23* does not involve any substantive change to the way in which common law agreements are made or processed and these are not addressed in this document.

Background and Intent

The intention of the new settlement process is to establish a single settlement pathway for statutory claims.

The *WCIMA23* provides for settlement of a workers compensation claim by an agreement between the employer and injured worker which:

- commutes to a lump sum the liability of the employer to pay compensation to the worker in respect of the injury; and
- permanently discharges the liability of the employer.

A settlement agreement must be in the approved form and has no effect unless registered by the WorkCover WA Director, Conciliation (the Director). The registration of a settlement agreement requires an explicit acknowledgement the injured worker is aware of the consequences of registering the settlement agreement. This acknowledgement will form part of the approved form of a settlement agreement.

The Director is required to scrutinise the agreement for genuineness and to be satisfied it includes 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.

Registration of a settlement agreement is the only pathway to settle a statutory workers compensation claim. The *WCIMA23* precludes the use of common law agreements (deeds) to settle statutory claims.

There are minimal barriers to settlement of statutory claims compared to the *Workers' Compensation and Injury Management Act 1981* (the 1981 Act). There is no legislative requirement for liability to be accepted or determined nor any timeframe prescribed before a settlement can be registered.

WCIMA23 key provisions

Part 2 Division 12. See ss. 149 – 157, s. 97, s. 99, s. 105, s. 119, s. 123, s. 127

Regulations

It is intended regulations will establish the following in respect of settlement agreements.

Application for registration of a settlement agreement

An application to register a settlement agreement must be lodged (see below regarding lodgement and use of Electronic Document System) with the Director as soon as practicable after the agreement has been entered into.

As required by the *WCIMA23*, an application must be accompanied by the settlement agreement (also in approved form) and any supporting information and documents required by the regulations.

The approved form of settlement agreement provides for a statement by the worker acknowledging the worker is aware of the consequences of registering the settlement agreement (see [Attachment 1 – settlement agreement approved form](#)).

The regulations will set out the supporting information and documents which must accompany a settlement agreement for registration.

If the settlement includes provision for permanent impairment compensation, the following information and documents necessary to establish the worker's degree of permanent impairment and the correct amount of compensation payable are required to be lodged:

- A copy of the *permanent impairment notice* under s. 105 of the *WCIMA23* on which the parties reached agreement on the degree of permanent impairment and a copy of the Approved Permanent Impairment Assessor (APIA) assessment(s) on which the agreement is based

Note – The approved form of the *permanent impairment notice* (and settlement agreement) will identify the relevant item in the permanent impairment table, the assessed permanent impairment by the APIA, or the agreed permanent impairment (between range of APIA original and further assessment, if any).

- Copies of any Permanent Impairment Assessment Certificates and Reports on which the *permanent impairment notice* relies.
- If applicable, a determination of an arbitrator about the degree of permanent impairment.
- If applicable, a determination of the Dust Diseases Medical Panel about the degree of permanent impairment.

The substance of Part 8 of the regulations under the 1981 Act regarding lodging documents will apply to the registration of settlement agreements (application, settlement agreement, accompanying information). This is to provide for matters such as the use of the EDS system (WorkCover WA Online), the effective day of lodgement and notification by the Director.

Requirements for the lodgement of settlement agreements will be included in the scope of generic regulations applicable to all documents required to be lodged with the Director or Registrar (see Part 8 of the regulations under the 1981 Act).

There is no intention to prescribe circumstances in which an application for registration of a settlement agreement cannot be made (e.g. a time period such as 6 months).

Process overview

Agreement

A settlement agreement is made when an employer and injured worker complete a settlement agreement in the form approved by WorkCover WA. A settlement agreement has no effect unless and until it is registered by the Director, Conciliation.

Where an agreement includes permanent impairment compensation, the permanent impairment lump sum must be based on the agreed degree of permanent impairment and one or more permanent impairment assessment report(s) from an APIA (see [Attachment 1 – settlement agreement approved form](#)).

Lodgement

Unless otherwise approved by the Director, applications to register settlement agreements will be made through the WorkCover WA electronic document system (EDS) known as WorkCover WA Online. This will involve completion of the online application form, uploading a PDF scan of the signed settlement agreement, relevant *permanent impairment notice*, relevant permanent impairment reports, and other supporting documents (see [Attachment 2 – registration application form](#)).

Applications for the registration of agreements will be validated in WorkCover WA Online for mandatory content. Incomplete applications will not be able to be lodged (see [Attachment 3 – registration criteria](#)). After lodgement the Director may, with the agreement of the parties to a settlement agreement, rectify any error in the settlement agreement or supporting information and documents.

A future WorkCover WA project will consider opportunities for a fully digital agreement process.

Registration

As soon as practicable after receiving an application to register a settlement agreement the Director will scrutinise the application. The Director will assess the application in accordance with the statutory requirements and established criteria (see [Attachment 3 – registration criteria](#)). The Director may request further information from parties to an agreement (see [Attachment 6 – further information](#)).

If the Director decides to register the settlement agreement, the Director will, as soon as practicable, notify the parties of the registration of the settlement agreement and the effective date (see [Attachment 4 – notification of registration](#)).

If the Director decides not to register the settlement agreement, the Director will refer the matter to the Registrar for determination by an arbitrator. The arbitrator will determine the question of whether registration of the settlement agreement should be granted or refused (see [Attachment 5 – notification of refusal of registration](#)).

Permanent impairment compensation

The approved form of settlement agreement provides for a table (illustrated below) to be completed about the assessment, and agreement, of the degree of permanent impairment for the relevant body part or item, and the corresponding amount of permanent impairment compensation payable.

An application to register a settlement agreement that includes permanent impairment compensation must be accompanied by:

- the *permanent impairment notice* in the approved form indicating agreement on the degree of permanent impairment (either [Attachment 7 – PI Notice – Agreement on Degree of Permanent Impairment](#) or [Attachment 8 – PI Notice – Agreement on Degree of Permanent Impairment \(Further Assessment\)](#))
- the APIA assessment report(s) on which the agreed degree of permanent impairment is based (see *Implementation Consultation – Assessment of Permanent Impairment* for proposed assessment report/ certificate)
- any permanent impairment determination by an arbitrator

It is the responsibility of the parties to ensure the assessed or agreed percentage of permanent impairment for each item in the impairment table is recorded correctly on the *permanent impairment notice* and settlement agreement, and the corresponding amount of permanent impairment compensation payable in the settlement agreement is correct.

Where the worker's degree of permanent impairment has been determined by an Arbitrator, it is the responsibility of the parties to ensure the determined percentage of permanent impairment for each item in the impairment table is recorded correctly on the settlement agreement, and the corresponding amount of permanent impairment compensation payable in the settlement agreement is correct.

This is important because the Director must be satisfied the amount of any permanent impairment compensation for which the worker is entitled is the correct amount to which the worker is entitled.

The Director may decline to accept an application to register a settlement agreement if there are errors in the settlement agreement or supporting documents or may refuse to register a settlement agreement if the amount of any permanent impairment compensation is not the correct amount to which the worker is entitled.

A sample of the table in the settlement agreement is provided below.

Item #	Item Maximum of Lump Sum (%) (IMLS)	Assessed, Agreed or Determined Degree of Permanent Impairment (%) <i>As indicated in APIA report, or agreed % within range of APIA original and further assessment</i> (API)	Item Lump Sum (\$) (GMA * API) (ILS)
39	75 (\$189,543)	10%	\$18,954
Permanent impairment lump sum: (PILS)			\$18,954

In the example the worker has an impairment of item 39 - Impairment of the back (thoracic spine or lumbar spine or both). The assessed degree of permanent impairment for that item is 10% based on an APIA report.

The permanent impairment item number(s) assessed, and the assessed degree of permanent impairment will be clearly indicated in the APIA's report and recorded on the *permanent impairment notice*.

Similarly, the permanent impairment item number(s) and the determined degree of permanent impairment will be clearly indicated in the determination issued by the arbitrator. The applicant must record the determined percentage in the third column.

If agreement on the degree of permanent impairment is negotiated between the parties after considering an APIA original assessment and APIA further assessment, the applicant must record the agreed percentage in the third column. This will be the agreed percentage specified in the *PI Notice Agreement on Degree of Permanent Impairment (Further Assessment)*. The percentage of permanent impairment for each item as agreed between the parties must be within the range of the APIA original assessment and APIA further assessment as specified on the *PI Notice – Agreement on Degree of Permanent Impairment (Further Assessment)*.

In column 2 the percentage of the maximum lump sum is that which is specified for that item in s. 101 of the *WCIMA23*. In the example, 75% of the maximum lump sum limit is specified for item 39 - Impairment of the back (thoracic spine or lumbar spine or both). The monetary value is what 75% of the lump sum limit equates to for the financial year in which the worker's injury occurred (\$189,543 for the 2023/2024 financial year).

The value to be inserted in the fourth (last) column is the maximum lump sum limit amount multiplied by the assessed or agreed degree of permanent impairment for that item. In the example this is 10% of \$189,543, which equates to \$18,954.

If there is impairment to more than one body part or system, the settlement agreement must specify the additional item in a separate row. For example, if the worker also suffered a 14% impairment of the arm below the elbow the following row would be added with a total permanent impairment lump sum of \$47,260 (\$18,954 for item 39; \$28,306 for item 13):

Item #	Item Maximum of Lump Sum (%)	Assessed, Agreed or Determined Degree of Permanent Impairment (%)	Item Lump Sum (\$)
39	75 (\$189,543)	10%	\$18,954
13	80 (\$202,179)	14%	\$28,306
Permanent impairment lump sum: (PILS)			\$47,260

Dust disease impairment compensation

The *WCIMA23* provides for a special lump sum if a worker suffers a dust disease that results in some degree of permanent whole of person impairment as assessed and determined by a Dust Disease Medical Panel.

The dust disease impairment lump sum is a set rate irrespective of the degree of whole of person impairment. It is equal to 30% of the general maximum amount applying on the day on which the determination of the Dust Disease Medical Panel is made.

An application to register a settlement agreement that includes dust disease impairment compensation must be accompanied by:

- The determination/assessment of the Dust Disease Medical Panel indicating there is some degree of permanent whole of person impairment (see *Implementation Consultation – Dust Disease* for proposed approved form for DDMP assessment/determination).

WorkCover WA expectations

WorkCover WA expects insurers/self-insurers to:

- adopt the new settlement agreement approved form for all agreements lodged after the implementation date of the *WCIMA23*
- ensure agreements do not contain any blank, extraneous, deleted, strikethrough or irrelevant content
- seek approval for registration of all settlement agreements on behalf of the parties
- continue to lodge common law agreements (s. 433 of the *WCIMA23* [s. 92(f) of the 1981 Act]) via WorkCover WA Online.

Transition

Compliant agreements in the form of the Form 15C memorandum of agreement under the 1981 Act received by the Director but not registered before the commencement date of the *WCIMA23* will be registered in accordance with the 1981 Act (see section 587) and any directions made by the Director and/or Registrar.

Unless the Director provides specific approval, agreements in the form of the Form 15C memorandum of agreement under the 1981 Act made but not lodged with the Director prior to the commencement date of the *WCIMA23* cannot be lodged nor registered. The Director will not give approval for lodgement of late agreements unless satisfied there are exceptional circumstances that prevent the settlement agreement from being remade in accordance with the new requirements.

Compliant settlement deeds (pursuant to s. 92(f) of the 1981 Act) where the worker has not elected to retain their rights to proceed to common law which are received by the Director prior to the commencement date of the *WCIMA23* will be recorded in accordance with the 1981 Act.

Common law deeds cannot be lodged after the commencement date of the *WCIMA23* unless the worker has elected to retain their right to proceed to common law.

Evaluation and monitoring

WorkCover WA will monitor the following metrics (for each insurer and self-insurer) related to settlements:

Settlement Usage

- number and proportion of all claims finalised by settlement (combined statutory and common law)
- number and proportion of all claims finalised by statutory settlement
- number and proportion of all claims finalised by common law deed
- number and proportion of settled claims by liability status at settlement
- average claim duration prior to settlement
- average cost of claims finalised by statutory settlement
- average cost of claims finalised by common law deed

Registration process

- number and proportion of registration applications accepted and rejected
- number and proportion of registration applications requiring rectification of any error in the settlement agreement or supporting information and documents
- average duration of registration assessment by Conciliation Service
- average duration of registration assessment by Arbitration Service

Attachments

1. Settlement Agreement – Approved Form
2. Settlement Agreement Registration – WorkCover WA Online: application form – form items
3. Settlement Agreement Registration – WorkCover WA Validations
4. Settlement Agreement Registration – Notification of Registration
5. Settlement Agreement – Refusal of Registration
6. Settlement Agreement – Further Information
7. *PI Notice* – Agreement on Degree of Permanent Impairment
8. *PI Notice* – Agreement on Degree of Permanent Impairment (Further Assessment)

Attachment 1: Settlement Agreement – Approved Form

Workers Compensation and Injury Management Act 2023

SETTLEMENT AGREEMENT

The agreement is between:

Employer: [Name]
 [Address]
 [ABN]

and

Worker: [Name]
 [Address]
 DOB: [Date of Birth]

Agreement Date: [Date of agreement]

By this agreement the employer agrees to pay and the worker agrees to accept, the total lump sum of [\$X] to permanently finalise the worker's entitlement to compensation for the injury as set out in this agreement. This agreement permanently discharges the liability of the employer to pay compensation to the worker.

This settlement agreement is made in accordance with the *Workers Compensation and Injury Management Act 2023* and has no effect unless and until it is registered by the WorkCover WA Director, Conciliation (the Director).

Agreement Particulars

Injury

Date of injury:

Circumstances of injury:

Description of injury:

Claim

Insurer claim number:

Date claim made:

Date claim received:

Liability status: [Accepted / Not Accepted]

Prior Amounts Paid

Prior to the date of this agreement the worker has received:

Income compensation:* \$
 Medical and health expenses compensation:* \$
 Miscellaneous expenses compensation: \$

* Including provisional payments

Permanent Impairment Compensation

Permanent impairment compensation: [Yes /No]

Applicable General Maximum Amount (\$): (GMA) \$

Item #	Item Maximum of Lump Sum (%) & (\$) (IMLS)	Assessed, Agreed or Determined Degree of Permanent Impairment (%)# (API)	Item Lump Sum (\$) (GMA * API) (ILS)
39	75% \$x	100 * (6 / 60) = 10%	XX,XXX
Permanent impairment lump sum: (PILS)			\$[total of all item lump sums]

As indicated in APIA report, or agreed % within range of APIA original and further assessment.

Dust Disease Impairment Compensation

Dust disease impairment compensation: [Yes /No]

30% of the General Maximum Amount (\$): (DDILS) \$

Other Amounts

Future income compensation: (IC) \$

Future medical and health expenses compensation: (MHC) \$

Future miscellaneous expenses compensation: (ME) \$

Settlement Total Lump Sum

Total lump sum: (TLS) \$[PILS or DDILS +IC+MHC+ME]

Worker Signature

By signing this agreement, I acknowledge:

- I have had the opportunity to seek legal advice about this settlement agreement.
- I am not aware of any expenses due but unpaid.
- I am aware of and understand the consequences of entering into this agreement and specifically:
 - I will have no further entitlement to compensation for the injury when this agreement is registered by the Director; and
 - I will not be able to claim or receive common law damages for the injury unless my claim is for dust disease impairment compensation only; and
 - this agreement permanently discharges the liability of the employer to pay compensation to me.

Worker signature:

.....

Employer Signature

By signing this agreement the employer warrants that to the date of this Agreement it has paid all compensation and expenses due to the worker and, to the extent that these have not been paid, undertakes to pay them.

Employer (or representative) signature:

.....

Note:

An application to register this settlement agreement must be submitted to the Director as soon as practicable after the signed agreement has been received by the insurer. Unless otherwise approved the application for registration must be made through the WorkCover WA online portal.

A settlement agreement will not be registered by the Director if it is not in the approved form, accompanied by required supporting information or the application does not comply with the requirements of the regulations related to settlement agreements.

A settlement agreement may be signed electronically or digitally.

The Director will notify all parties when the settlement agreement has been registered.

The employer or insurer must pay the settlement amount within 14 days of the registration date or if another law applies to prevent payment (for example where Department of Health, Centrelink or Medicare charges apply to the settlement) within 7 days after payment is permitted.

Attachment 2: Settlement Agreement Registration Application – WorkCover WA Online Form

Claim

- Insurer or self-insurer*
- Claim number*

Agreement

- Date of agreement*

Worker [auto populated from claim record where available]

- Full Name and address*
- Email Address
- Phone Number
- Date of Birth*

Worker representative

- Firm name
- Contact Name*
- Contact Email Address*
- Contact Phone Number

Employer [auto populated from claim record where available]

- Name*
- ABN*
- Address*
- Email Address*
- Phone Number*

Insurer / Self-insurer

- Name*
- Contact Name*
- Contact Email Address*
- Contact Phone Number*

Injury [auto populated from claim record where available]

- Date of Injury*

Claim details [auto populated from claim record where available]

- Date claim made
- Date claim received by insurer or self-insurer*
- Liability status*

Prior amounts paid

- Prior amount paid in income compensation (including provisional payments)*
- Prior amount paid in health, medical and other compensation (including provisional payments)*
- Prior amount paid in miscellaneous expenses*

Permanent Impairment Amount

- Agreement includes permanent impairment entitlement* Yes/No
- *Permanent impairment notice, APIA*
report(s) attached* Yes/No
- If applicable, a determination of an arbitrator Yes/No
- If applicable, a determination of the Dust Diseases Medical Panel Yes/No
- General Maximum Amount applicable on day of injury \$ (GMA)
- For each Item Number*
 - Item Number
 - Description of Impairment
 - Item Maximum % % (MLSL)
 - Assessed Permanent Impairment % (API) = 100 * (MLSL / PIR)
 - Item amount \$ (ILS) = (GMA * API)
- Permanent impairment lump sum* \$ (PILS)
[total of all Item lump sums]

Dust disease impairment compensation

- Dust disease impairment lump sum \$ (DDILS)

Other Amounts

- Income compensation amount* \$ (IC)
(redemption of future income compensation)
- Medical and health compensation amount* \$ (MHC)
(redemption of future medical and health compensation)
- Miscellaneous expenses amount* \$ (ME)
(redemption of future miscellaneous expenses)

Settlement Total

- Total lump sum* \$ (TLS) = (PILS or DDILS+ IC + MHC
+ ME)

* Mandatory

Declaration

The accompanying settlement agreement has been made and executed in accordance with the laws of the State.

Attachment 3: Settlement Agreement Registration – WorkCover WA Validations

WorkCover WA will undertake or enforce the following checks on each settlement agreement either as part of the online registration form or by assessment prior to registration.

Settlement and claim

- settlement agreement relates to nominated claim (injury) and parties
- no prior settlement for injury or previous injury assessed under the same item number(s)

Form of settlement

- the agreement is in the approved form
- the agreement is signed by the worker and the employer (or their representative)
- the agreement does not contain provision for common law damages
- the agreement does not contain extraneous or irrelevant content
- the agreement does not contain provision for medical and health expenses compensation where the worker is a participant in the catastrophic injuries support scheme

Permanent impairment (where applicable)

- all permanent impairment reports provided by an Approved Permanent Impairment Assessor (APIA) – original and any further assessment
- any permanent impairment determination by an arbitrator or Dust Diseases Medical Panel
- the *permanent impairment notice* is signed by the worker and employer (or their representative)
- the permanent impairment item number(s) is identical in the registration application, settlement agreement, *permanent impairment notice* and relevant APIA permanent impairment reports
- the calculation of each permanent impairment item lump sum is identical in the registration application and settlement agreement
- the total permanent impairment lump sum is the sum of each permanent impairment item lump sum correctly calculated with reference to the relevant general limit amount

Dust disease impairment compensation (where applicable)

- the determination/assessment of the Dust Disease Medical Panel is provided that indicates the worker has some degree of permanent whole of person impairment
- the permanent impairment lump sum for dust disease is 30% of the general maximum amount applying on the day on which the determination of the Dust Disease Medical Panel is made.

Entitlement caps

- any amount of income compensation is equal to or less than the relevant income compensation general limit amount
- any amount for medical and health expenses is equal to or less than the relevant medical and health expenses general limit amount

- the sum of the amount for income compensation and permanent impairment compensation or dust disease impairment compensation is equal to or less than the relevant general maximum amount

Total lump sum

- the total lump sum is the sum of the amounts for income compensation, permanent impairment, dust disease impairment, medical and health expenses and miscellaneous expenses

Attachment 4: Settlement Agreement – Notification of Registration

Workers Compensation and Injury Management Act 2023

NOTICE OF REGISTRATION OF SETTLEMENT AGREEMENT

Employer: [Employer name]
Worker: [Worker name]
Agreement Date: [Agreement date]
Agreement Number: [Agreement number]
Registration Date: [Registration date]
Registration Number: [Registration number]

YOU ARE NOTIFIED

A settlement agreement between the abovenamed parties on [agreement date] was registered under the *Workers Compensation and Injury Management Act 2023* on [registration date].

As of the registration date:

- the worker's entitlement to statutory compensation ceases
- the lump sum agreed in the settlement agreement is payable to the worker

The employer or insurer must pay the settlement amount within 14 days of the registration date or if another law applies to prevent payment within 7 days after payment is permitted.

[Director name]

DIRECTOR

[Date]

Recipients:

[Employer and/or representative]

[Worker and/or representative]

Attachment 5: Settlement Agreement – Refusal of Registration

Workers Compensation and Injury Management Act 2023

NOTICE OF REGISTRATION OF SETTLEMENT AGREEMENT REFUSED

Employer: [Employer name]
Worker: [Worker name]
Agreement Date: [Agreement date]
Agreement Number: [Agreement number]

REGISTRATION OF SETTLEMENT AGREEMENT REFUSED

The registration of the abovementioned settlement agreement has been refused.

[Director's grounds]

The application to register this settlement agreement has been referred to the Registrar, Arbitration for an arbitrator to determine the question of whether registration of the settlement agreement should be granted or refused.

[Director name]

DIRECTOR

[Date]

Recipients:

[Employer and/or representative]

[Worker and/or representative]

Attachment 6: Settlement Agreement – Further Information

Workers Compensation and Injury Management Act 2023

REQUEST FOR FURTHER INFORMATION

Employer: [Employer name]

Worker: [Worker name]

Agreement Date: [Agreement date]

Agreement Number: [Agreement number]

Date further information is due: [14 days]

The application for registration of the abovementioned settlement agreement has been received and the following further information is required to enable the application to progress for consideration by the Director:

[information required]

Please note: If the further information is not provided to the Director as requested, the application to register this settlement agreement may be rejected as non-compliant.

[Director name]

DIRECTOR

[Date]

Recipients:

[Employer and/or representative]

[Worker and/or representative]

Attachment 7: PI Notice – Agreement on Degree of Permanent Impairment

Workers Compensation and Injury Management Act 2023 – Approved Form x

This notice is issued by:

Worker: [Name]
[Address]
DOB: [Date of Birth]

The notice is issued to:

Employer: [Name]
[Address]
[ABN]
Date of notice: [Date given by worker]

Notice Particulars

Injury and claim

Date of injury: _____
Description of injury: _____
Insurer claim number: _____

APIA details

Name of APIA: _____
APIA registration number: _____
Date of APIA report: _____

Assessed Degree of Permanent Impairment

I have been assessed by the APIA named in this notice.

The APIA's report is given with this notice and includes the certificate of the degree of permanent impairment and details on how the degree of permanent impairment was calculated.

Indication of agreement

Worker notice

The assessed degree of permanent impairment for each item in the permanent impairment table resulting from the injury is:

Example: 10% of item 39 – Impairment of the back (thoracic spine or lumbar spine or both)

____% permanent impairment of item# ____ & _____ (description)

(insert from APIA's report under heading 'certificate of degree of permanent impairment'. If there is more than one impairment to a body part or system specify the percentage permanent impairment for each item)

I give this notice and request that you as my employer indicate whether or not you agree with the assessed degree of permanent impairment specified above.

Worker signature:

.....

Employer response

As the employer I agree with the assessed degree of permanent impairment specified above.

Employer signature:

.....

Worker and employer take notice:

An employer must do one of the following within 28 days after being given a *PI Notice - Agreement on Degree of Permanent Impairment* and a copy of the APIA report (original report) by the worker:

1. If the employer agrees, sign the *PI Notice* and give it back to the worker.
2. If the employer does not agree, do not sign the notice. Instead the employer must request a further assessment of the worker's degree of permanent impairment by an approved permanent impairment assessor with the cost of that assessment to be paid by the employer.

If an employer does not comply with points 1 or 2 above within the 28-day period the employer is taken to agree with the assessed degree of permanent impairment as specified in the *PI Notice* provided by the worker.

If 2 applies see requirements in *PI Notice – Agreement on Degree of Permanent Impairment (Further Assessment)*.

If agreement is reached this *PI Notice*:

- may be signed electronically or digitally
- must accompany an application to register a settlement agreement together with the APIA report (the original assessment).

Attachment 8: PI Notice – Agreement on Degree of Permanent Impairment – Further Assessment

Workers Compensation and Injury Management Act 2023 – Approved Form X

This notice is issued by:

Employer: [Name]
[Address]
[ABN]

The notice is issued to:

Worker: [Name]
[Address]
DOB: [Date of Birth]

Date of notice: [Date given by employer]

Notice Particulars

Injury and claim

Date of injury:

Description of injury:

Insurer claim number:

APIA details

Name of APIA:

APIA registration number:

Date of APIA report:

Assessed Degree of Permanent Impairment – further assessment

I did not agree with the degree of permanent impairment in the APIA assessment and *PI Notice* you provided me, and therefore requested a further assessment be undertaken by an APIA, as required.

You have been assessed by the APIA named in this notice. The APIA's report (the further assessment) is given with this notice and includes the certificate of the degree of permanent impairment and details on how the degree of permanent impairment was calculated.

Indication of agreement - further assessment

To be completed following negotiations between the worker and employer

Following consideration of the APIA original and further assessment the worker and employer agree on the degree of permanent impairment.

The agreed degree of permanent impairment for each item in the permanent impairment table resulting from the injury is:

Example:

14% of item 39 – Impairment of the back (thoracic spine or lumbar spine or both)

_____% permanent impairment of item# ____ & _____ (description)

(If agreement is based on the % PI specified in an APIA original or further assessment insert from APIA’s report under heading ‘certificate of degree of permanent impairment’. If negotiated specify degree of permanent impairment within the range of the original and further assessments. If there is more than one impairment to a body part or system specify the percentage permanent impairment for each item)

Employer signature:

.....

Worker signature:

.....

The agreement on the degree of permanent impairment is based on (tick relevant box):

1. the APIA original assessment or

2. the APIA further assessment or

Example:

3. within the range of the APIA original and further assessments

Worker and employer take notice:

An employer must request a further assessment within 28 days after being given a PI Notice – Agreement on Degree of Permanent Impairment by the worker if the employer does not agree with the APIA’s assessment in that notice.

An employer must give the worker a copy of the APIA further assessment requested by the employer within 14 days after receiving the further assessment from the APIA.

Any agreement must be based on the degree of permanent impairment in the original assessment or within the range of the original assessment and the further assessment.

If agreement is reached this PI Notice:

- may be signed electronically or digitally
- must accompany an application to register a settlement agreement together with the APIA’s reports (both original and further assessments).

If agreement cannot be reached as to the worker's degree of permanent impairment following consideration of the original and further assessments, the worker should not sign the notice. A worker may apply for an arbitrator to determine the worker's degree of permanent impairment.