

Workers Compensation and Injury Management Act 2023

Implementation proposals for regulations and administrative instruments

Implementation Consultation Paper 3: Workers Compensation Claim Form

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 – Workers Compensation Claim Form

Scope

This document outlines the proposed workers compensation claim form to be used when the *Workers Compensation and Injury Management Act 2023 (WCIMA23)* commences operation, the supporting claim information to be attached to the claim form, and implementation requirements associated with making claims.

Background and intent

Workers who are injured at work are entitled to make a claim for compensation. A claim for compensation must be made in the approved form.

Under the *WCIMA23*, the CEO of WorkCover WA will approve the workers compensation claim form to be used.

Under the 1981 Act the claim form is prescribed by the regulations. To assist workers and employers understand the claim process and their rights and obligations the prescribed claim form is currently accompanied by supporting information.

The claim form is an important document and while the current claim form has not been reviewed for some time there is no intention to make substantive changes as part of the *WCIMA23* implementation.

Some minor changes are proposed to existing fields in the claim form and the content of the claim information that accompanies the claim form to align with provisions or terminology in the *WCIMA23*.

A different type of claim form will be approved for dust disease claims, noise induced hearing loss claims and claims by dependants of workers who have died in the course of their employment. This paper covers the general workers compensation claim form only. Claim forms and processes associated with the other specific types of injuries or claims will be covered in separate consultation papers.

WCIMA23 key provisions

s. 25, s. 26, s. 27, s. 496

Approved claim form and claim information

Approved workers compensation claim form

The workers compensation claim form intended to be approved and used from the commencement date is at [Attachment 1 – Approved Workers Compensation Claim Form](#).

Key changes from the current workers compensation claim form include:

- The section relating to 'Other/Previous' Claims is removed as the *WCIMA23* prohibits workers being required to disclose previous workers compensation claims
- The consent authorities for the collection and disclosure of relevant personal information have been combined in one section. The wording is the same and signing the consent authority remains optional.
- Witness signatures are no longer required and are removed from the claim form.
- In relation to gender, a new option of 'Unspecified (U)' has been added to align with contemporary practice.

Supporting information on making a claim

The approved workers compensation claim form includes explanatory information.

Key changes from the claim information provided with the claim form under the 1981 Act include:

- Updated information on the claim process to reflect requirements for provisional payments and deemed acceptance of liability if liability decision notices are not given in time.
- Updated information on rights and obligations of workers and employers and the role of insurers in the claim process to reflect provisions in the *WCIMA23*.

WorkCover WA expectations

WorkCover WA expects insurers and self-insurers to actively assist workers and employers to use the new claim form.

Transition

The new claim form should be used for claims made from the commencement date of the *WCIMA23*. WorkCover WA expects insurers and self-insurers to accept claim forms in the previously regulated form under the 1981 Act (Form 2B) for an extended period of transition. After the commencement date claims should not be declined or delayed due to the use of the previously regulated form.

A claim made under the 1981 Act will be taken to have been made and continue under the corresponding sections of the *WCIMA23*.

If a worker has made a claim on an employer before commencement of the *WCIMA23*, a new claim form does not have to be made. The claim is taken to have been made under the *WCIMA23* and the employer and employer's insurer must respond to the claim as required under the *WCIMA23*.

Key points for workers and employers

The process by which a worker makes a claim and the obligation of the worker's employer to give the claim to their insurer is substantively the same as under the 1981 Act.

Key points about the claim process affecting workers and employers are:

Workers:

- A claim is effectively made when a worker has given to their employer a completed claim form in the approved form and certificate of capacity. It is important to provide all the information requested on the claim form and for the medical practitioner to complete all the information on the certificate.
- A worker may opt to sign the consent authority authorising the collection and disclosure of personal information relating to the worker's injury or claim. While this is voluntary, if consent is not given it may affect the insurer's ability to assess the claim properly and may cause delays in the claim process.
- A claim must be made within 12 months after the injury occurs. However, failure to make a claim within 12 months or a defect or inaccuracy in the claim form, certificate of capacity or details of the claim does not invalidate the claim in certain circumstances.
- If a worker's employer fails to give the claim to their insurer the worker may give the claim to the employer's insurer (either a copy or a new claim).

Employers:

- An employer must give the claim (the claim form and certificate of capacity) to their insurer within 7 days after a worker has made a claim on their employer. Failure to do so is an offence and can result in a fine of \$5,000.
- Employers must not ask workers to disclose information about previous workers compensation claims.
- It is not the responsibility of an employer to assess the claim. Only licensed insurers and self-insurers can make liability decisions. If there are matters about a worker's injury or claim that an employer has concerns about the employer should raise them with their insurer.
- An employer must not suppress a workers compensation claim or contract out of their obligations or liabilities. If a worker makes a claim, it is an offence to enter into any contract, agreement or other arrangement that excludes, restricts or modifies any provision of the *WCIMA23*.
- A worker's employer (or insurer or agent) cannot be present when a worker is being physically or clinically examined or treated by the worker's treating medical practitioner.

Attachments

1. Approved Workers Compensation Claim Form (with supporting claim Information)