

Provisional Payments

The **WCIMA23** introduces a new obligation on insurers and self-insurers to make provisional payments to a worker if a deferred decision notice was initially given but the insurer or self-insurer has not given a liability decision notice before the prescribed day (the provisional payments day).

Key Points

Actref: ss. 29, 36- 44

- If a deferred decision notice is given to a worker (known as a pended notice in the 1981 Act) a liability decision notice must be given as soon as possible.
- An employer will be required to make provisional payments to a worker if a deferred decision notice was initially given but the insurer or self-insurer has not given a liability decision notice before the prescribed day (the provisional payments day).¹
- Provisional payments are based on medical and health expenses compensation and income compensation only with limits on the amounts required to be paid. Provisional payments are to be calculated and paid in the same way as the corresponding compensation payments would be made.
- Provisional payments for medical and health expenses compensation are to be paid for the period beginning on the day the worker's injury occurred.
- Provisional payments for income compensation are to be paid for the period beginning when the worker first has an incapacity for work.
- If liability is accepted or deemed to be accepted, provisional payments are taken into account when calculating the total amount of compensation payable to the worker.

Key Points

- Provisional payments are not recoverable from a worker.
- An insurer or employer who has paid provisional payments may recover those payments from another insurer or employer in certain circumstances.

Questions & Answers

Q. How long is the period an employer is required to make provisional payments to a worker?

A. An employer must continue to make provisional payments to a worker until:

- The insurer or self-insurer gives the worker a liability decision notice by the prescribed deemed liability acceptance day¹ or
- The insurer or self-insurer fails to give a liability decision notice by the prescribed deemed liability acceptance day¹ (payments of compensation must then be paid by the employer) or
- In the case of provisional payments based on income compensation, a certificate of capacity states the worker no longer has any incapacity for work.

¹the prescribed 'provisional payments day' and 'deemed liability acceptance day' will be determined as part of the development of regulations. Stakeholders will be consulted on these timeframes as part of the regulation making process.