

Reducing or Discontinuing Income Compensation – Medical Evidence

The **WCIMA23** clarifies the process for reducing or discontinuing income compensation payments to a worker based on medical evidence about capacity for work.

Key Points

Act ref: s. 64

- Section 64 of the *WCIMA23* essentially replicates the provisions and processes in section 61 of the 1981 Act for discontinuing or reducing weekly payments on the basis of a medical certificate (evidence) indicating a worker has total or partial capacity for work, or the incapacity is no longer a result of the injury.
- An employer who intends to reduce or discontinue income compensation payments on the basis of medical evidence must give the worker written notice in accordance with the regulations.
- A copy of the medical evidence the employer is basing their decision on must also be given to the worker.
- After receiving the required documents, a worker may within 21 days make a dispute resolution application if they do not agree with the proposed reduction or discontinuing of income compensation payments by the employer.
- If a worker makes application within 21 days an employer cannot reduce or discontinue income compensation payments until the dispute is finalised.
- The *WCIMA23* clarifies that applying for the resolution of the dispute by conciliation is the first step in seeking an order by an arbitrator and also clarifies when the dispute resolution process has been finalised (e.g. the application is not accepted, or is discontinued or dismissed, or resolved by conciliation).
- If a worker does not make a dispute resolution application within 21 days the employer may proceed to reduce or discontinue income compensation payments.

Questions & Answers

Q. Why doesn't the same notification process and 21 day period apply where income compensation payments are reduced or discontinued based on a worker returning to work?

A. A worker's return to work is a factual matter. There should be minimum delay in reducing or discontinuing income compensation in that circumstance. The *WCIMA23* provides for clear information to be given to the worker about why payments are being reduced or discontinued based on return to work and the amount of income compensation that will be paid to the worker for any partial incapacity.

