

Reducing or Discontinuing Income Compensation – Worker not Residing in WA

The *WCIMA23* provides for the suspension (rather than cessation, as in the 1981 Act) of income compensation payments to a worker not residing in WA if the worker fails to provide a required declaration about their incapacity at the prescribed intervals.

Key Points

Act ref: s. 65

- The *WCIMA23* replicates the 1981 Act requirement for a worker who is not residing in WA to provide a declaration about their incapacity for work to the relevant insurer or self-insurer at prescribed intervals (the regulations will likely require the same 3 monthly declaration as the 1981 Act and regulations).
- Unlike the 1981 Act, the entitlement will not cease if a worker fails to provide the declaration in time. Instead, the *WCIMA23* sets out a process by which an insurer or self-insurer may suspend income compensation payments.
- Before taking any action, the *WCIMA23* requires an insurer or self-insurer to give the worker a written warning notice reminding the worker of their obligations to provide the required declaration before the due date. The notice must also warn the worker that the payment of income compensation will be suspended from a specified date if the worker fails to provide the declaration.
- The warning notice cannot be issued to a worker earlier than 14 days before the last day the worker has to provide the declaration.
- The date specified as the suspension date must be at least 14 days after the warning notice is given to the worker and cannot be earlier than the last day the worker must provide the declaration.

Key Points

- Payment of income compensation will be suspended from the specified date until the worker provides the required declaration to the insurer or self-insurer.
- The worker's entitlement does not cease and income compensation payments must recommence from the date the worker provides the required declaration.

Questions & Answers

Q. If a worker believes income compensation payments were not lawfully suspended what can they do?

A. A worker may apply to have the matter determined as a dispute. An arbitrator can make any order the arbitrator considers appropriate in the circumstances.