

From: [REDACTED]
To: [WorkCover WA New Act Consultation](#)
Subject: Submission on consultation papers for WCIM Regulations
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Dear Manager Policy and Legislative Services,

I make the following submissions on aspects of the proposed reforms.

Settlements – Consultation Paper 11

Page 11. Where the prescribed form for a settlement agreement reads “By signing this agreement the employer warrants...”, this has the potential to cause confusion and misunderstanding.

Given the form of agreement can be used to settle cases where liability has never been accepted, unlike the current Form 15C, there should be no such undertaking.

Instead, the agreement should provide:

“By signing this agreement, the employer acknowledges that it remains liable for the payment of any compensation and expenses that it was obligated under this Act to pay prior to the date of entry into this settlement agreement.”

Provisional Payments - Consultation Paper 5

A claim that is currently deemed to be disputed under ss.57A(3a) or 57B(2a) is a claim that has not been “*decided under the former Act*” for the purpose of the new s.551.

There could be thousands of such “pending claims” going back many years that will fall into the deferred decision category of claims on commencement day.

The current Act only requires one notice to be issued under ss. 57A or 57B, and a decline notice is not required if the claim is deemed to be in dispute. Many claim files have been administratively closed over the years after inactivity, despite the only notice ever issued being a Form 3C.

If for example a claim was pending in 2017, subsequently deemed to be disputed and taken no further by the worker, under the new Act that worker would become entitled to a provisional payment if a liability decision notice is not issued to them by 14 July 2024? The provisional payment in that situation could potentially be the full prescribed amount for income compensation, given the passage of time since the claim was pending. A Regulation needs to be made to avoid this unintended effect.

If claims are deemed to have fallen into dispute under ss.57A(3a) or 57B(2a) of the current legislation, they should not be re-enlivened under the new Act, unless it was only recently pending. A time limitation should apply, for example, only claims pending within 21 days of the commencement day are “*not decided under the former Act*”. Older pending claims should maintain their disputed status. Otherwise, how far back would employers and insurers need to go?

Thanks and regards,

Mark

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