

Settlements

The *Workers Compensation and Injury Management Act 2023* (WCIMA23) provides for settlement of statutory claims and provides for the registration and scrutiny of settlement agreements.

Key Points

Act ref: Part 2 Division 12, s. 420

- A settlement commutes to a lump sum the liability of an employer to pay compensation to a worker and discharges that liability.
- Registration of a settlement agreement is the only pathway to settle a workers compensation claim via a lump sum and to discharge an employer's liability for the injury.
- There are minimal barriers to settlement if the parties are in agreement and complete the approved settlement agreement form. For example, there is no requirement in the WCIMA23 for liability to be accepted or determined or any timeframe prescribed before a settlement can be registered.
- A settlement is required to be lodged with the Director along with required supporting documents as soon as practicable after the agreement is made. The Director will scrutinise and register compliant settlements.
- Every settlement requires a statement by the worker acknowledging that the worker is aware of the consequences of registering the settlement agreement. The Director is also required to scrutinise the settlement for genuineness and be satisfied of the correct amount payable for any permanent impairment compensation, if the worker is entitled.
- The approved form of the settlement is published on the WorkCover WA website as SF1 *Settlement agreement*.

Questions & Answers

Q. Can a settlement agreement include provision for damages?

A. No. A settlement agreement to finalise a workers compensation claim cannot include an amount for damages or for the potential liability of the employer for damages that arises outside the workers compensation scheme. The settlement pathways for an employer's liability for workers compensation entitlements and damages are completely separated.

Registration of a settlement agreement will also prevent the awarding of damages unless the settlement agreement provides for dust disease impairment compensation only.

Q. Can the Director refuse to register a settlement agreement?

A. Yes. The Director will refuse to register a settlement agreement if of the opinion the agreement was obtained by fraud, undue influence or other improper means or because the permanent impairment lump sum amount is incorrect. In that instance, the settlement agreement will be referred to the Registrar for a determination by an arbitrator.