

Workers' Compensation and Rehabilitation Act 1981

Workers' Compensation and Rehabilitation Amendment Regulations (No. 10) 1999

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Workers' Compensation and Rehabilitation Amendment Regulations (No. 10) 1999*.

2. Commencement

These regulations come into operation on the later of —

- (a) the day on which the *Workers' Compensation and Rehabilitation Amendment Act (No. 2) 1999* receives the Royal Assent; and
- (b) the day on which these regulations are published in the *Gazette*.

3. The regulations amended

The amendments in these regulations are to the *Workers' Compensation and Rehabilitation Regulations 1982**.

[* Reprinted as at 14 February 1995.

For amendments to 14 October 1999 see 1998 Index to Legislation of Western Australia, Table 4, p. 354 and Gazette of 13 and 16 April, and 22 June 1999.]

4. Regulation 12 amended

- (1) After regulation 12(1) the following subregulation is inserted —

“

- (1a) A memorandum of an agreement referred to in section 76 of the Act shall be in the form of Form 15C in Appendix I.

”.

- (2) After regulation 12(3) the following subregulation is inserted —

“

- (3a) A memorandum of an agreement lodged for the purposes of a redemption amount under section 67(1) shall be accompanied by Form 15D in Appendix I signed and dated by the worker, as acknowledgment that he/she is aware of the consequences of the recording of the memorandum.

”.

- (3) After regulation 12(4) the following subregulations are inserted —

“

- (4a) Where any interested party disputes the genuineness of the memorandum, or the adequacy of the compensation agreed upon or otherwise objects to the recording of the agreement that party shall, within the 7 days allowed in section 76(2), notify the Director by completing Form 15E in Appendix I, and forwarding that completed form to the Director.
- (4b) On receipt of an objection from any party in the manner prescribed in subregulation (4a), the Director shall send to each other party a notice, in the form of Form 15F, informing such parties that the memorandum will not be recorded except with the consent in writing of the objector.

”.

- (4) After regulation 12(5) the following subregulations are inserted —

“

- (6) The Director may vary or amend a memorandum if all parties first give the Director written consent to make that variation or amendment.
- (7) For the purpose of providing a statement of benefits paid, under section 67(2) of the Act, Part 4 of the Memorandum of Agreement form (Form 15C), may be used for this purpose.

”.

5. Appendix I to the Schedule amended

- (1) Appendix I to the Schedule is amended after form 15B by inserting the following forms —

“

Form 15C

Workers' Compensation and Rehabilitation Act 1981

MEMORANDUM OF AGREEMENT

(Section 76 & 67(2))

TO: the Director, Conciliation & Review Directorate,
Perth, Western Australia

In the matter of an Agreement made the _____ day of _____ (year)

Between _____ (Employer)

of (address)
(WCN Number)

and

(Worker)

of (address)

Claim No:

Upon the Agreement being recorded pursuant to section 76 of the *Workers' Compensation and Rehabilitation Act 1981* ("the Act") the worker's claims referred to in this Agreement are finalised and the employer shall pay to the worker, and the worker shall accept, the lump sum of \$ _____, upon the terms and conditions as set out in the following —

1. Date of disability (injury)

Which occurred by:

- * a personal injury by accident arising out of or in the course of the employment, or whilst the worker was acting under the employer's instructions;
- * a disabling disease to which Part III Division 3 applies;
- * a disease contracted by a worker in the course of his/her employment at or away from his/her place of employment and to which the employment was a contributing factor and contributed to a significant degree;
- * the recurrence, aggravation, or acceleration of any pre-existing disease where the employment was a contributing factor to that recurrence, aggravation, or acceleration and contributed to a significant degree; or
- * a disabling loss of function to which Part III Division 4 applies.

2. When the disability occurred —

- (a) the worker was _____ years of age. Date of Birth
- (b) the worker was employed by the employer as a
.....
- (c) his or her weekly earnings were

3. The nature of the disability was:

and now is:

and it occurred in the following circumstances —

4. The worker has received from the employer prior to the date of this Agreement:

- (a) weekly payments in respect of that disability totalling \$
- (b) expenses payable under Clauses 9, 10, 17, 18 and 19 of Schedule 1
Totalling \$

=====

5. The lump sum is made up as follows:

* (a)	weekly payments of compensation:	
(i)	by way of redemption of liability to make future weekly payments as for permanent total incapacity;	\$
(ii)	by way of redemption of liability to make future weekly payments as for permanent partial incapacity;	\$
(iii)	otherwise;	\$
* (b)	expenses as are provided for in Clauses 9, 10, 17, 18 and 19 of Schedule 1 namely;	\$
* (c)	the worker having elected under s. 24 of the Act by a form of election dated _____, compensation payable under Schedule 2, representing _____ % loss of Item _____ being for the permanent loss of the efficient use of the _____	
	Totalling:	\$
* (d)	redemption amount under Schedule 5 Clause 2 or 3 (2) (3) or (4)	\$
* (e)	supplementary amount under Schedule 5 Clause 2 or 3 (2), (3) or (4)	\$
	TOTAL LUMP SUM	\$ =====

6. The employer warrants that to the date of this Agreement it has paid all compensation due to the worker and all expenses in respect of the matters contained in Clauses 9, 10, 17, 18 and 19 of Schedule 1 (which includes medical and travelling) and, to the extent that these have not been paid, undertakes to pay them.
7. The worker warrants that he/she is not aware of any expenses due but unpaid in respect of the matters contained in Clauses 9, 10, 17, 18 and 19 of Schedule 1.
8. The worker hereby releases and forever discharges the employer from all claims and demands which the worker now has or, but for the execution of this agreement, could or might have had against the employer under the Act in any respect to the disability to the worker referred to in this Agreement.

SIGNED by the worker:
in the presence of:

SIGNED by or on behalf of the employer:
in the presence of-

**Delete if not applicable.*

Form 15D

Workers' Compensation and Rehabilitation Act 1981

**STATEMENT OF THE CONSEQUENCES OF THE RECORDING OF A
MEMORANDUM OF AGREEMENT**

(Section 76(2)(a))

In making an agreement for the purposes of section 67(1) of the *Workers' Compensation and Rehabilitation Act 1981* ("the Act") and upon that agreement being recorded under section 76 of the Act the following will apply;

- (1) The worker will have no further entitlement to compensation under the Act for weekly payments arising out of the disability referred to in the agreement.
- (2) The worker will not have any other claim to redemption of weekly payments arising out of the disability referred to in the agreement.
- (3) The worker will not have any further entitlement in respect of the disability referred to in the agreement (after the date the agreement is recorded) to payment of expenses under clauses 9, 17, 18 or 19 of the Schedule 1 to the Act.
That is, in general terms, medical or surgical, dental, physiotherapy or chiropractic advice or treatment, first aid and ambulance expenses, medical requisites, charges for attendance and treatment by way of rehabilitation, charges for hospital treatment and maintenance, cost of artificial aids and travelling expenses.
- (4) The worker forfeits any entitlement he/she may have to compensation for a permanent disability, arising out of the disability referred to in the agreement under Schedule 2 of the Act.
- (5) The worker forfeits any entitlement he/she may have to pursue common law damages under section 93D of the Act, in respect of the injury referred to in the agreement.
That is, in general terms, the worker forfeits any entitlement they have to sue their employer for civil damages.

I _____, confirm that I have read the above information and I acknowledge that I am aware of the consequences of the recording of a memorandum under section 67(1) of the Act.

Dated the _____ day of _____ (year)

.....
Signature of the worker

Form 15E*Workers' Compensation and Rehabilitation Act 1981***NOTICE DISPUTING MEMORANDUM OF AGREEMENT, OR
OBJECTING TO ITS BEING RECORDED**

(Section 76)

IN THE CONCILIATION & REVIEW DIRECTORATE OF WESTERN
AUSTRALIA

In the matter of an Agreement between

Employer
and
Worker

Ref. AG

TAKE NOTICE that the genuineness of the Memorandum in the
abovementioned matter sent to you for registration is disputed by

a party affected by such Memorandum, in the following particulars:

(here state particulars)(Or that
of a party interested in the
Memorandum in the above mentioned matter sent to you for registration,
objects to the same being recorded, on the following grounds:)*(here state grounds)*

Dated this day of (year)

Form 15F*Workers' Compensation and Rehabilitation Act 1981***NOTICE THAT MEMORANDUM OF AGREEMENT IS DISPUTED, OR
OF OBJECTION TO ITS BEING RECORDED**

(Section 76)

IN THE CONCILIATION & REVIEW DIRECTORATE OF WESTERN
AUSTRALIA

In the matter of an Agreement between

Employer
and
Worker

Ref. AG

TAKE NOTICE that the genuineness of the Memorandum in the abovementioned matter left with me (or sent to me) for registration is disputed by

a party affected by such Memorandum, in the following particulars:

(Here state particulars of dispute)

(Or that

a party interested in the Memorandum in the abovementioned matter, left (or sent to) me for registration objects to the same being recorded, on the following grounds:)

(Here state grounds)

The Memorandum will therefore not be recorded, except with the consent in writing of

or by Order of the Compensation Magistrate's Court.

Dated this day of , (year)

Director,
Conciliation & Review

“.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
