



Western Australia

**Workers' Compensation and Injury  
Management Amendment (COVID-19  
Response) Act 2020**

---

As at 18 Aug 2020

No. 31 of 2020

Published on [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)



# Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020

## Contents

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Section 5 amended	2
5.	Section 5A amended	3
6.	Part III Division 4B inserted	5
	<b>Division 4B — Injury: prescribed diseases</b>	
	49F. Prescribed diseases taken to be from certain employment	5
	49G. Division 3 does not apply if s. 49F(3) applies	6
7.	Section 93L amended	6
8.	Section 93M deleted	7
9.	Section 93N amended	7
10.	Section 93O deleted	7
11.	Section 93Q amended	7
12.	Section 93R amended	7
13.	Section 93S amended	8
14.	Part IV Division 2 Subdivision 4 inserted	8
	<b>Subdivision 4 — Savings and transitional arrangements arising from <i>Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020</i></b>	
	93T. Transitional arrangements for termination day	8
15.	Section 314A inserted	9
	314A. Facilitating electronic processes	9

**Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020**

Contents

---

16.	Section 314B inserted	10
	314B. Review of Act	10
17.	Section 315 deleted	11
18.	Schedule 1 amended	11



Western Australia

**Workers' Compensation and Injury  
Management Amendment (COVID-19  
Response) Act 2020**

---

**No. 31 of 2020**

---

**An Act to amend the *Workers' Compensation and Injury Management Act 1981*.**

*[Assented to 18 August 2020]*

The Parliament of Western Australia enacts as follows:

**s. 1**

---

**1. Short title**

This is the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020*.

**2. Commencement**

(1) This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) sections 3 and 16 — on the day after this Act receives the Royal Assent;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

(2) However, if a provision of this Act does not come into operation before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, the provision is repealed on the day after that period ends.

**3. Act amended**

This Act amends the *Workers' Compensation and Injury Management Act 1981*.

**4. Section 5 amended**

In section 5(1) delete the definition of *prescribed amount* and insert:

*prescribed amount* has the meaning given in section 5A(1A);

**5. Section 5A amended**

(1) Before section 5A(1) insert:

(1A) In this section —

***adjustable amount*** means —

- (a) the prescribed amount; or
- (b) an amount that a provision of this Act describes as applying in accordance with this section; or
- (c) Amount C;

***Amount C*** means —

- (a) for a financial year ending before 1 July 2020, the amount worked out under clause 11(2) as in force on 1 July of that year;
- (b) for the financial year ending 30 June 2021, the amount of \$2 645.90;
- (c) for any subsequent financial year, the amount prescribed, or worked out, under the regulations for that financial year;

***prescribed amount*** means —

- (a) for a financial year ending before 1 July 2020, the amount that was the prescribed amount for that financial year under this Act as in force on 1 July of that year;
- (b) for the financial year ending 30 June 2021, the amount of \$235 971.00;
- (c) for any subsequent financial year, the amount prescribed, or worked out, under the regulations for that financial year.

**s. 5**

---

- (2) In section 5A(1):
- (a) in paragraph (a) delete “provision; and” and insert:  
  
provision;
  - (b) in paragraph (b):
    - (i) delete “1 July 1997,” and insert:  
  
1 July 1997 and ending before 1 July 2021,
    - (ii) delete “dollars).” and insert:  
  
dollars);
- (3) After section 5A(1)(b) insert:
- (c) for any subsequent financial year, the amount prescribed for the purposes of the provision, or worked out, under the regulations for that financial year.
- (4) After section 5A(2) insert:
- (3) The regulations may vary an adjustable amount, including by providing for the periodic variation of an adjustable amount in accordance with a specified methodology (an *adjustment methodology*).
  - (4) The regulations may provide for different adjustment methodologies for different adjustable amounts.
  - (5) If, for a particular period, variation under the regulations of an adjustable amount would reduce the amount, the amount is not to be varied for the period.



- (6) An adjustable amount for a financial year must be published on the WorkCover WA website.

Note: The heading to amended section 5A is to read:

**Prescribed amount and variation of certain amounts**

**6. Part III Division 4B inserted**

After Part III Division 4A insert:

**Division 4B — Injury: prescribed diseases**

**49F. Prescribed diseases taken to be from certain employment**

- (1) The regulations may —
- (a) specify diseases for the purposes of this section (each a *prescribed disease*);
  - (b) for each prescribed disease specify 1 or more kinds of employment as *prescribed employment* for that disease.
- (2) The regulations cannot specify a disease to which section 33 or 34 applies.
- (3) Subject to the regulations under subsection (4), if a worker suffers an injury by contracting a prescribed disease and the worker is working in prescribed employment when the worker suffers the injury or worked in prescribed employment at any time before suffering the injury, the prescribed employment is, for the purposes of this Act, taken to have been a contributing factor and to have contributed to a significant degree to the prescribed disease, unless the employer proves the contrary.

**s. 7**

---

- (4) The regulations may —
  - (a) impose conditions or limitations on the operation of subsection (3); and
  - (b) specify the day on which subsection (3) applies to a worker or class of worker in relation to a prescribed disease; and
  - (c) specify the day on which an injury by contracting a prescribed disease that under subsection (3) is taken to be from prescribed employment is taken to have been suffered.
- (5) A day specified for the purposes of subsection (4)(b) or (c) may be —
  - (a) a day before or after the coming into operation of the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* section 6; or
  - (b) a day before or after the relevant disease is specified as a prescribed disease by the regulations.
- (6) This section does not prevent it from being established independently of this section that an injury contracted by a prescribed disease is an injury under this Act whether or not the worker was working in prescribed employment.

**49G. Division 3 does not apply if s. 49F(3) applies**

If section 49F(3) applies to a worker in relation to a disease and employment, Division 3 does not apply to the worker in relation to the same disease and employment.

**7. Section 93L amended**

Delete section 93L(1) and (4).

**8. Section 93M deleted**

Delete section 93M.

**9. Section 93N amended**

- (1) In section 93N(1) delete “6 months after the day that would have been the termination day had there been no extension under section 93M(4),” and insert:

18 months after the day on which a claim for compensation by way of weekly payments is made by a worker,

- (2) After section 93N(1) insert:

- (1A) In subsection (1) —

*claim for compensation by way of weekly payments* means a claim for compensation by way of weekly payments for total or partial incapacity that has been made on an employer in accordance with section 178(1)(b).

- (3) In section 93N(4) delete “not later than 8 weeks before the termination day”.

**10. Section 93O deleted**

Delete section 93O.

**11. Section 93Q amended**

Delete section 93Q(7).

**12. Section 93R amended**

Delete section 93R(6).

**s. 13**

---

**13. Section 93S amended**

- (1) In section 93S(d) delete “impairment;” and insert:

impairment.

- (2) Delete section 93S(e).

**14. Part IV Division 2 Subdivision 4 inserted**

At the end of Part IV Division 2 insert:

**Subdivision 4 — Savings and transitional arrangements  
arising from *Workers' Compensation and Injury Management  
Amendment (COVID-19 Response) Act 2020***

**93T. Transitional arrangements for termination day**

- (1) In this section —

***commencement day*** means the day on which the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* section 7 comes into operation;

***former Subdivision*** means Subdivision 3 as in force immediately before commencement day.

- (2) A worker can elect on or after commencement day to retain the right to seek damages in respect of a cause of action accruing before that day even if the termination day for an election under the former Subdivision in respect of those damages was before commencement day.
- (3) Nothing in the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* sections 7 to 13 affects the validity or effect of an agreement or assessment recorded by the Director

under section 93L(2), or an election registered by the Director in accordance with the regulations, before commencement day.

**15. Section 314A inserted**

After section 314 insert:

**314A. Facilitating electronic processes**

- (1) In this section —  
*document* includes a notice, notification, particulars or return required or permitted to be given under this Act, including a document for which a form is prescribed in the regulations.
- (2) A person who is required or permitted under this Act to give a document to a person other than WorkCover WA may —
  - (a) create and record the document in the form (if any) specified under the regulations, which may include an electronic, paper or other form; and
  - (b) give the document in the manner (if any) specified under the regulations.

**16. Section 314B inserted**

Before section 315 insert:

**314B. Review of Act**

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
  - (a) as soon as practicable after the 5<sup>th</sup> anniversary of the day on which the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* section 16 comes into operation; and
  - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5<sup>th</sup> anniversary or the expiry of the period of 5 years, as the case may be.
- (3) The Minister must transmit a copy of the report to the Clerk of a House of Parliament if —
  - (a) the report has been prepared; and
  - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (4) A copy of the report transmitted to the Clerk of a House is taken to have been laid before that House.
- (5) The laying of a copy of a report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

**17. Section 315 deleted**

Delete section 315.

**18. Schedule 1 amended**

In Schedule 1 clause 11(2) delete the definition of *Amount C* and insert:

*Amount C* has the meaning given in section 5A(1A);



© State of Western Australia 2020.

This work is licensed under a Creative Commons Attribution 4.0 International Licence (CC BY 4.0). To view relevant information and for a link to a copy of the licence, visit [legislation.wa.gov.au](http://legislation.wa.gov.au).

Attribute work as: © State of Western Australia 2020.