



Western Australia

## **Workers' Compensation and Rehabilitation Amendment Act (No. 2) 1999**

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**No. 33 of 1999**

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**An Act to amend the *Workers' Compensation and Rehabilitation Act 1981* and for related purposes.**

*[Assented to 5 October 1999]*

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Workers' Compensation and Rehabilitation Amendment Act (No. 2) 1999*.

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**2. Commencement**

This Act comes into operation, or is deemed to have come into operation, immediately after the commencement of sections 14, 15 and 32 of the *Workers' Compensation and Rehabilitation Amendment Act 1999*.

**3. The Act amended**

The amendments in this Act are to the *Workers' Compensation and Rehabilitation Act 1981*\*.

[\* Reprinted as at 29 January 1999.]

**4. Section 67 amended**

- (1) Section 67(2), (2a) and (3) are repealed and the following subsections are inserted instead —

“

- (1) Where weekly payments for a permanent total or permanent partial incapacity resulting from a disability other than mesothelioma have continued for not less than 6 months, the liability for the incapacity is to be redeemed by the payment of a lump sum if —
  - (a) the worker and the employer agree to the redemption and on the amount of the lump sum; and
  - (b) a memorandum of the agreement is registered under Division 7.
- (2) When a memorandum of an agreement under subsection (1) is sent to the Director as required by section 76, a statement of the benefits paid under this Act before the agreement was made is to be sent with the memorandum.
- (3) The statement is to be provided by the employer or the employer's insurer.

”

- (2) Section 67(5) is amended by deleting “this section” and inserting instead —  
“ subsection (4) ”.

**5. Section 68 amended**

Section 68(1), (1a) and (2) are repealed.

**6. Section 76 amended**

- (1) Section 76(1) is amended as follows:
- (a) by inserting after “Director, who” —  
“, subject to subsection (2a), ”;
  - (b) by deleting “or other moneys” and inserting instead —  
“ pursuant to an election under section 24 or 24A ”.

- (2) After section 76(2) the following subsection is inserted —  
“

(2a) The Director cannot, under this section, record a memorandum of an agreement for the payment of a lump sum in redemption of the liability to pay compensation unless the Director is satisfied that the worker is aware of the consequences of the recording of the memorandum.

”.

- (3) Section 76(3) is amended by deleting “agreements for the redemption of the liability to pay compensation for a disability” and inserting instead —

“

an agreement for the redemption of the liability to pay compensation if a memorandum of the agreement has been

”.

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(4) Section 76(6) is amended as follows:

(a) by deleting paragraphs (a) to (c) and inserting instead —

“

(a) the genuineness of the agreement; and

(b) the adequacy of the amount of any compensation pursuant to an election under section 24 or 24A payable under the agreement,

”;

(b) by deleting “payable under the agreement is inadequate or excessive, or in the case of a redemption agreement by reason of there being insufficient compliance with section 67” and inserting instead —

“

pursuant to an election under section 24 or 24A payable under the agreement is inadequate or excessive

”.

(5) Section 76(7) is amended by inserting before “payable” —

“ pursuant to an election under section 24 or 24A ”.

(6) Section 76(8) is amended by deleting “payable under the agreement is inadequate or excessive or in the case of a redemption agreement that there is insufficient compliance with section 67” and inserting instead —

“

pursuant to an election under section 24 or 24A payable under the agreement is inadequate or excessive

”.

**7. Section 84E amended and transitional provision**

(1) Section 84E(1)(a) is amended by deleting “this Act” and inserting instead —

“ section 67(4) ”.

- (2) Section 84E(1) is amended after paragraph (a) by deleting “and” and inserting —

“

- (aa) no memorandum of agreement for the payment of a lump sum in redemption of the liability for the incapacity has been recorded under section 76; and

”.

- (3) For the purposes of section 84E(1)(aa) of the *Workers' Compensation and Rehabilitation Act 1981* as inserted by subsection (2), the making of an order under section 67(2) or (3) of that Act as in force before the commencement of this Act is to be regarded as constituting the recording of a memorandum of agreement under section 76 of that Act.

**8. Schedule 1 amended**

Schedule 1 clause 5(1)(a)(i) is amended by inserting before “a dispute” —

“

, before the *Workers' Compensation and Rehabilitation Amendment Act (No. 2) 1999* commenced,

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