



Western Australia

Police (Compensation Scheme) Regulations 2021

Compare between:

[31 Dec 2021, 00-a0-00] and [01 Jan 2022, 00-b0-00]

Police (Compensation Scheme) Regulations 2021

Part 1 — Preliminary

1. Citation

These regulations are the *Police (Compensation Scheme) Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Police Amendment (Compensation Scheme) Act 2021* Part 2 comes into operation.

3. Terms used

- (1) In these regulations —

approved form means a form —

- (a) approved by the Police Commissioner for the purposes of the provision in which the term is used; and
- (b) published on the Police Force website;

degree of permanent impairment has the meaning given in section 33ZW(1) of the Act.

- (2) A term used in these regulations that is defined in section 33ZS of the Act has the same meaning in these regulations as it is given in that section.

~~[Parts~~ **Part 2 — Assessment and compensation**

4. Assessment of degree of permanent impairment

- (1) The Police Commissioner must notify a medically retired member to whom section 33ZW(4)(b) of the Act applies of the procedure to determine the amount of compensation to which the medically retired member is entitled under section 33ZW(3) of the Act.
- (2) A member to whom section 33ZW(4)(a) of the Act applies or a medically retired member to whom section 33ZW(4)(a) or (b) of the Act applies may request the Police Commissioner to arrange for the assessment of the member's or medically retired member's degree of permanent impairment.
- (3) The request must —
 - (a) be in the approved form; and
 - (b) contain all the information that the approved form indicates is required.
- (4) The Police Commissioner must arrange for the assessment to be conducted by an approved medical specialist selected by the member or medically retired member.

5. Requirements in relation to assessment

- (1) An approved medical specialist conducting an assessment of a member's or medically retired member's degree of permanent impairment may —
 - (a) in accordance with subregulation (2), require the member or medically retired member to attend at a place specified by the approved medical specialist; and
 - (b) require the member or medically retired member to undergo specified medical tests and assessments and provide the approved medical specialist with results and reports from those tests and assessments; and

(c) require the member or medically retired member to answer any question about the medical condition from which the impairment resulted; and

(d) require the member or medically retired member to submit to examination by, or as requested by, the approved medical specialist and provide the approved medical specialist with results and reports from the examination if it is carried out by a person other than the approved medical specialist.

(2) A requirement under subregulation (1)(a) must —

(a) be given in writing to the member or medically retired member; and

(b) include the following —

(i) the name, address and contact details of the member or medically retired member;

(ii) the approved medical specialist's name;

(iii) details sufficient to enable the approved medical specialist to be contacted;

(iv) the relevant provisions of the Act for the purposes of which the assessment is to be made;

(v) the time when the member or medically retired member must attend the specified place.

(3) If a requirement under subregulation (1)(b) or (d) requires attendance at a place or time other than that specified in a requirement given under subregulation (1)(a), the requirement must —

(a) be given in writing to the member or medically retired member; and

(b) include the time when and the place where the member or medically retired member must undergo the tests and assessments or submit to examination.

6. Requirements in relation to production and disclosure of relevant documents and information

(1) An approved medical specialist conducting an assessment of a member's or medically retired member's degree of permanent impairment may —

(a) require the member or medically retired member or the Police Commissioner to produce any relevant document or provide any relevant information to the approved medical specialist; and

(b) require the member or medically retired member or the Police Commissioner to consent to another person who has any relevant document or information producing the document or providing the information to the approved medical specialist.

(2) A requirement under subregulation (1)(a) or (b) must —

(a) be given in writing to the member, medically retired member or the Police Commissioner, as the case requires; and

(b) include the following —

(i) the name, address and contact details of the member or medically retired member and any other details necessary to identify the member or medically retired member;

(ii) the member's or medically retired member's date of birth;

(iii) details of any relevant document or information to which the requirement applies;

(iv) any information that relates to the medical condition from which the impairment resulted;

(v) the approved medical specialist's name;

(vi) details sufficient to enable the approved medical specialist to be contacted;

(vii) the relevant provisions of the Act for the purposes of which the assessment is to be made;

and

(c) in the case of a requirement under subregulation (1)(b) — also include the name of the person who has the relevant document or information.

(3) A requirement under subregulation (1)(a) or (b) must be complied with not later than 28 days after the day on which the person who is required to comply with the requirement is given the requirement.

(4) A member or medically retired member may, before a report is issued under regulation 9 and in addition to the documents and information required to be provided under subregulation (1)(a), provide the approved medical specialist with any other documents and information the member or medically retired member considers are relevant to making the assessment.

7. Deferral of assessment on failure to comply with requirement

If a member or medically retired member fails to comply with a requirement imposed by an approved medical specialist under regulation 5 or 6, the approved medical specialist may defer making the assessment of the member's or medically retired member's degree of permanent impairment until the member or medically retired member complies with the requirement.

8. Modification of WorkCover Guides

(1) The following modifications apply to the WorkCover Guides in accordance with which, under section 33ZW(5)(b) of the Act, a degree of permanent impairment must be assessed.

(2) Any reference in the WorkCover Guides to “injury” must be read as a reference to a medical condition that is a personal injury by accident.

(3) Any reference in the WorkCover Guides to “worker” is to be read as a reference to a member or medically retired member, as the case requires.

(4) Any provision of the WorkCover Guides that relates to disputes over an assessed degree of permanent impairment does not apply in relation to an assessment under section 33ZW of the Act.

9. Report on results of assessment

(1) An approved medical specialist who makes an assessment of a member’s or medically retired member’s degree of permanent impairment must give the Police Commissioner a report in the approved form on the results of the assessment.

(2) The report must include —

(a) a certificate as to the member’s or medically retired member’s degree of permanent impairment as assessed; and

(b) a statement of the reasons that justify the assessment; and

(c) other information required by the approved form.

(3) The Police Commissioner must give the report to the relevant member or medically retired member not later than 7 days after receiving the report.

(4) A report given under subregulation (3) constitutes a notice for the purposes of section 33ZW(6) of the Act.

10. Payment of compensation

The Police Commissioner must pay a medically retired member an amount under section 33ZV(1) of the Act —

(a) not later than 28 days after the medically retired member gives the Police Commissioner written notice of acceptance of the amount; or

(b) if the medically retired member lodges a dispute under section 33ZZB — not later than 28 days after the dispute is determined.

Part 3 — Approved medical specialists

11. Approved medical specialists

- (1) The Police Commissioner must not appoint a person as an approved medical specialist unless the person has consented in writing to the appointment.
- (2) The Police Commissioner must maintain a register of the names and contact details of approved medical specialists.
- (3) The register may include such other relevant information about approved medical specialists as the Police Commissioner considers desirable for assisting members and medically retired members to access an approved medical specialist who is appropriate to their needs.
- (4) The register must be available for inspection on the Police Force website.

12. Duration of appointment

- (1) The appointment of a person as an approved medical specialist ceases to have ~~not come into operation.~~ effect if —
 - (a) the person appointed ceases to be designated as an approved medical specialist under section 146F of the WC&IM Act; or
 - (b) the appointment is cancelled under subregulation (2).
- (2) The appointment of a person as an approved medical specialist —
 - (a) must be cancelled by the Police Commissioner at the request of the approved medical specialist; and
 - (b) may be cancelled by the Police Commissioner at any time.
- (3) Notice of the cancellation of the appointment of an approved medical specialist must be given in writing to the approved medical specialist.

Part 4 — Fees and charges

13. Payment of fees and charges for assessment

The Police Commissioner must pay the fees and charges for an assessment of degree of permanent impairment arranged under section 33ZW(4) of the Act.

14. Scale of maximum fees and charges for assessment

(1) The maximum fees to be paid to approved medical specialists for making or attempting to make assessments under Part 2D of the Act are as set out in the *Workers' Compensation and Injury Management (Scales of Fees) Regulations 1998* Schedule 6.

(2) The *Workers' Compensation and Injury Management (Scales of Fees) Regulations 1998* Schedule 6 is applied in these regulations under section 33ZZI(2) of the Act with the following modifications —

(a) in Schedule 6 Part 1 —

report and certificate means a report referred to in regulation 9 and a certificate included in the report;

(b) in Schedule 6 Part 2 item 1 delete “a worker who is required under Part VII Division 2 of the Act” and insert:

a member or medically retired member who is required under regulation 5

15. Effect of GST

(1) In this regulation —

GST has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1.

- (2) For the purposes of these regulations, an amount set out in the *Workers' Compensation and Injury Management (Scales of Fees) Regulations 1998* Schedule 6 (the *scale*) is a net figure that does not include any GST that may be imposed due to the nature of the provision of the service or the service provider.
- (3) If GST is payable on a service listed in the scale, the fee for the service is the applicable fee increased by 10%.

Part 5 — Miscellaneous

16. Giving of notice or document

(1) In this regulation —

working day means a day other than a Saturday, a Sunday or a public holiday throughout the State.

(2) A notice or document required or permitted under Part 2D of the Act or these regulations to be given to a person may be given to the person by —

(a) giving it to the person personally; or

(b) sending it by pre-paid post (including document exchange) addressed to the person —

(i) to the address provided by the person for the giving of notices and documents; or

(ii) if no address has been provided by the person, to the person's usual or last known place of residence or business;

or

(c) leaving it at the person's usual or last known place of residence or business; or

(d) emailing it (whether or not as an attachment) or a link to a uniform resource locator (URL) from which it can be downloaded to an email address provided by the person for the giving of notices and documents.

(3) In the absence of proof to the contrary, a notice or document that is sent by pre-paid post —

(a) to an address within Australia, is taken to be given at the time the notice or document would have been delivered in the ordinary course of the post; or

(b) to an address outside Australia, is taken to be given on the day that is 11 working days after the notice or document was posted.

r. 16

- (4) In the absence of proof to the contrary, a notice or document that is given to a person in accordance with subregulation (2)(d) is taken to be given on the next working day after the email was sent.
-

Notes

This is a compilation of the *Police (Compensation Scheme) Regulations 2021*. For provisions that have come into operation see the compilation table. ~~For provisions that have not yet come into operation see the uncommenced provisions table.~~

Compilation table

Citation	Published	Commencement
<i>Police (Compensation Scheme) Regulations 2021</i> Pt. 1	SL 2021/223 31 Dec 2021	Pt. 1 ; 31 Dec 2021 (see r. 2(a)); Regulations other than Pt. 1 ; 1 Jan 2022 (see r. 2(b) and SL 2021/222 cl. 2)

~~Uncommenced provisions table~~

~~To view the text of the uncommenced provisions see *Subsidiary legislation as made on the WA Legislation website*.~~

Citation	Published	Commencement
<i>Police (Compensation Scheme) Regulations 2021</i> Pt. 2-5	SL 2021/223 31 Dec 2021	1 Jan 2022 (see r. 2(b) and SL 2021/222 cl. 2)

|