



Western Australia

# **Workers Compensation and Injury Management Act 2023**



# Workers Compensation and Injury Management Act 2023

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Western Australia

## **Workers Compensation and Injury Management Act 2023**

**An Act —**

- **to provide for employers to be liable to compensate workers who suffer injuries from employment; and**
- **to establish a scheme for compulsory insurance against that liability; and**
- **to provide for the management of those injuries; and**
- **to provide for the resolution of disputes; and**
- **to make administrative and other related provisions; and**
- **to make consequential and related amendments to, and repeals of, various written laws.**

## **Part 1 — Preliminary**

### **Division 1 — General**

#### **1. Short title**

This is the *Workers Compensation and Injury Management Act 2023*.

#### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 (but only Division 1) — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 14 (but only Divisions 1, 4 and 10 and only sections 542, 543, 545, 574, 579, 603, 606 and 609) — on the day after assent day;
- (c) Part 15 Division 3 Subdivision 18 —
  - (i) if the *Criminal Law (Mental Impairment) Act 2023* section 188 comes into operation on or before assent day — when section 66 of this Act comes into operation; or
  - (ii) otherwise — when the *Criminal Law (Mental Impairment) Act 2023* section 188 comes into operation;
- (d) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

#### **3. Act binds Crown**

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

**4. No contracting out**

- (1) The application of this Act or any of its provisions cannot be excluded, restricted or modified by contract, agreement or other arrangement, except as provided by this Act.
- (2) A person who enters into a contract, agreement or other arrangement that purports to exclude, restrict or modify the application of this Act or any of its provisions, except as provided by this Act, commits an offence.

Penalty for this subsection: a fine of \$15 000.

*[Div. 2-4 have not come into operation.]*

*[Parts 2-13 have not come into operation.]*

## **Part 14 — Savings and transitional provisions**

### **Division 1 — General**

#### **542. Terms used**

In this Part —

*commencement day* means the day on which section 615 comes into operation;

*former Act* means the *Workers' Compensation and Injury Management Act 1981*;

*pending matter* means a claim, assessment, proceeding, dispute or other matter commenced or arising under the former Act before commencement day that is pending, current or continuing under the former Act immediately before commencement day.

#### **543. Expressions used in former Act**

An expression used in this Part, to the extent that the expression is referable to a liability for compensation or damages that arose before commencement day, has the meaning that the expression had in the former Act.

[544. *Has not come into operation.*]

#### **545. Interpretation Act 1984 not affected**

This Part is in addition to the provisions of the *Interpretation Act 1984* and, unless the contrary intention appears, does not limit or otherwise affect the operation of those provisions.

[546-554. *Have not come into operation.*]

[Divisions 2-3 (s. 555-570) *have not come into operation.*]



## **Division 4 — Dispute resolution**

*[571-573. Have not come into operation.]*

### **574. Conciliation rules, arbitration rules and practice notes**

- (1) The person holding office as Director under the former Act may, before commencement day and despite section 381 not having commenced, make conciliation rules for the purposes of that section.
- (2) The conciliation rules —
  - (a) come into operation on commencement day; and
  - (b) are taken, for the purposes of this Act, to be made under section 381.
- (3) The person holding office as Registrar under the former Act may, before commencement day and despite section 382 not having commenced, make arbitration rules for the purposes of that section.
- (4) The arbitration rules —
  - (a) come into operation on commencement day; and
  - (b) are taken, for the purposes of this Act, to be made under section 382.
- (5) The person holding office as Director under the former Act may, before commencement day and despite section 384 not having commenced, issue conciliation practice notes under that section.
- (6) The conciliation practice notes —
  - (a) come into operation on commencement day; and
  - (b) are taken, for the purposes of this Act, to be made under section 384.
- (7) The person holding office as Registrar under the former Act may, before commencement day and despite section 384 not

having commenced, issue arbitration practice notes under that section.

- (8) The arbitration practice notes —
  - (a) come into operation on commencement day; and
  - (b) are taken, for the purposes of this Act, to be made under section 384.
- (9) This Act and the operation of the *Interpretation Act 1984* section 25 are modified so far as is necessary to give effect to this section.

[575-578. *Have not come into operation.*]

**579. Costs determination**

- (1) The Costs Committee established by section 269 of the former Act may, before commencement day, make a costs determination for the purposes of Part 6 Division 9 Subdivision 3.
- (2) The costs determination is taken to be a costs determination made under section 405(1).
- (3) Sections 406 and 407 (except section 407(3)) apply in relation to the making, approval and effect of the costs determination as if —
  - (a) those sections had come into operation on the day after the day on which this Act receives the Royal Assent; and
  - (b) references in those sections to the Costs Committee were references to the Costs Committee established by section 269 of the former Act.
- (4) An approved costs determination published in the *Gazette* under section 407 as applied by subsection (3) of this section before commencement day takes effect on and from commencement day.

- (5) If an approved costs determination is not in effect on commencement day under section 407 as applied by subsections (3) and (4) of this section, the costs determination in effect immediately before commencement day under section 273 of the former Act is taken to be an approved costs determination for the purposes of Part 6 Division 9 Subdivision 3 on and from commencement day until an approved costs determination takes effect under section 407.
- (6) This Act and the operation of the *Interpretation Act 1984* section 25 are modified so far as is necessary to give effect to this section.

*[Divisions 5-9 (s. 580-602) have not come into operation.]*

### **Division 10 — Administration**

**603. Term used: WorkCover Western Australia Authority**

In this Division —

*WorkCover Western Australia Authority* means the body referred to in section 94 of the former Act.

*[604, 605. Have not come into operation.]*

**606. Exercise of powers of Board before commencement day**

- (1) The governing body established under section 95(1) of the former Act may, before commencement day, exercise any power the Board will have under this Act on commencement day to make an instrument of a legislative or administrative character.
- (2) The power may be exercised to the extent that it is necessary or expedient for the purpose of bringing this Act, or provisions of this Act, into operation, or giving full effect to this Act, or provisions of this Act, on or after commencement day.

- (3) If a power to make an instrument is exercised under subsection (1), the instrument —
  - (a) takes effect on commencement day; and
  - (b) is taken for the purposes of this Act to have been made under the relevant power conferred on the Board on commencement day.
- (4) This Act and the operation of the *Interpretation Act 1984* section 25 are modified so far as is necessary to give effect to this section.

*[607, 608. Have not come into operation.]*

**609. Exercise of powers of CEO before commencement day**

- (1) The chief executive officer of the WorkCover Western Australia Authority may, before commencement day, exercise any power the CEO will have under this Act on commencement day to make an instrument of a legislative or administrative character.
- (2) The power may be exercised to the extent that it is necessary or expedient for the purpose of bringing this Act, or provisions of this Act, into operation, or giving full effect to this Act, or provisions of this Act, on or after commencement day.
- (3) If a power to make an instrument is exercised under subsection (1), the instrument —
  - (a) takes effect on commencement day; and
  - (b) is taken for the purposes of this Act to have been made under the relevant power conferred on the CEO on commencement day.
- (4) This Act and the operation of the *Interpretation Act 1984* section 25 are modified so far as is necessary to give effect to this section.

*[610-614. Have not come into operation.]*

**Workers Compensation and Injury Management Act 2023**

Savings and transitional provisions

**Part 14**

Administration

**Division 10**

**s. 609**

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*[Pt. 15 has not come into operation.]*

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## Notes

This is a compilation of the *Workers Compensation and Injury Management Act 2023*. 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

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Workers Compensation and Injury Management Act 2023</i> Pt. 1 Div. 1, Pt. 14 (but only Div. 1, 4 and 10 and only s. 542, 543, 545, 574, 579, 603, 606 and 609)	21 of 2023	24 Oct 2023	Pt 1 Div. 1: 24 Oct 2023 (see s. 2(a)); Pt. 14 (but only Div. 1, 4 and 10 and only s. 542, 543, 545, 574, 579, 603, 606 and 609): 25 Oct 2023 (see s. 2(b))

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Workers Compensation and Injury Management Act 2023</i> (other than Pt. 1 Div. 1, Pt. 14 Div. 1 s. 542, 543 and 545, Pt. 14 Div. 4 s. 574 and 579, Pt. 14 Div. 10 s. 603, 606 and 609)	21 of 2023	24 Oct 2023	Pt. 15 Div. 3 Subdiv. 18: if the <i>Criminal Law (Mental Impairment) Act 2023</i> s. 188 comes into operation on or before assent day — when s. 66 of this Act comes into operation; or otherwise — when the <i>Criminal Law (Mental Impairment) Act 2023</i> s. 188 comes into operation (see s. 2(c)); Act other than Pt. 14 Div. 1 s. 542, 543 and 545, Pt. 14 Div. 4 s. 574 and 579, Pt. 14 Div. 10 s. 603, 606 and 609 and Pt. 15 Div. 3 Subdiv. 18: 1 Jul 2024 (see s. 2(d) and SL 2024/34 cl. 2)

**Workers Compensation and Injury Management Act 2023**  
Uncommenced provisions table **Notes**

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Workers Compensation and Injury Management Amendment Act 2023</i> s. 4-8	22 of 2023	24 Oct 2023	s. 4: 1 Jul 2024 (see s. 2(b) and SL 2024/34 cl. 2); s. 5: 1 Jul 2024 (see s. 2(c) and SL 2024/34 cl. 2); s. 6: 1 Jul 2024 (see s. 2(d) and SL 2024/34 cl. 2); s. 7: 1 Jul 2024 (see s. 2(e) and SL 2024/34 cl. 2); s. 8: 1 Jul 2024 (see s. 2(f) and SL 2024/34 cl. 2)

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
assent day .....	2
commencement day .....	542
former Act.....	542
pending matter .....	542
WorkCover Western Australia Authority .....	603

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