Government of South Australia
Department of the Premier and Cabinet

WR&C ACT 1986
INJURY MANAGEMENT PRACTICE NOTE
FOR THE PUBLIC SECTOR

REDEMPTIONS

1. PURPOSE

1.1 To ensure a consistent approach is applied within the public sector to the resolution of workers compensation claims by the redemption of future liabilities under section 42 of the Workers Rehabilitation and Compensation Act, 1986 ('the Act').

2. BACKGROUND

2.1 As part of the amendments to the Act, changes to restrict redemptions to limited circumstances came into effect for all claims from 1 July 2010. These are outlined under section 42 of the Act, with the specific conditions of section 42(2)(e) provided as Attachment A.

2.2 The primary objective of the Act is to return injured workers to employment. Government has publically stated its commitment to effective rehabilitation, the provision of suitable employment and early and safe return to work. For these reasons, the redemption of future liabilities should be seen as an option of last resort, only to be considered when all other rehabilitation and return to work efforts have failed and all the criteria of the legislation and this practice note have been met.

2.3 The criteria listed below outline the limited circumstances when redemption might be considered:

2.3.1 The rate of weekly payments to be redeemed does not exceed $30 (indexed) or the worker must be 55 years of age or over and have no current work capacity or there are compelling reasons as to why a redemption might be considered;

2.3.2 The injured worker's injury is stable (i.e. further recovery of capacity is not expected) and supported by medical evidence;

2.3.3 The worker's entitlement to compensation for non economic loss under section 43 of the Act has been considered, assessed and paid (if an entitlement exists) prior to or at the time of finalising the redemption negotiations; and

2.3.4 All potential return to work options must have been exhausted and the worker has either no current work capacity or has maximised their work capacity.

2.4 An agreement for the redemption of a liability to make weekly payments cannot be made unless the criteria of section 42 of the Act are satisfied.

3. PRACTICE

3.1 It is recommended that public sector agencies consider the following:

3.1.1 An injured worker can initiate the redemption process, as can the employing agency.

3.1.2 Redemption should only be considered in cases where rehabilitation and return to work efforts have failed.

3.1.3 When it has been identified that a worker cannot return to work and redemption is negotiated, it is normally expected that the worker will resign from their employment on finalisation of the redemption.

3.1.4 Legal advice (if obtained) must reflect the worker's current medical status and work capacity. Supporting medical evidence must be current and preferably not older than 6 months.

3.1.5 Under no circumstances is a redemption to proceed without the prior written approval of an officer within the agency who holds the appropriate level of financial delegation for such matters (or authorised delegate). Approvals will remain valid for a period of 3 months only, or until a date specified in the approval document.

3.1.6 The resolution of a claim by the redemption of a liability to pay compensation under section 32 of the Act alone ("a medical redemption") may be considered in certain circumstances. It is, however, not recommended that a medical redemption occur in cases where employment in the public sector is to continue after the redemption is finalised due to the risk that the worker may suffer a recurrence of the disability.

3.1.7 Medical redemptions without a component of weekly payments are not subject to the full criteria of this practice note nor to the legislative restrictions contained in section 42(2)(e) of the Act.

3.1.8 When considering a medical redemption, an agency will need to ensure that the resolution proposed is cost effective, taking into consideration the likelihood and type of ongoing medical treatment and the current and anticipated future severity of the injury.

3.1.9 Finalised redemption documents shall only be executed by the Crown Solicitor, unless legal advice on the matter was given by a private legal firm, in which case the documents are to be executed by the agency chief executive (or authorised delegate).

Should you have any questions in relation to this advice please direct your enquiry to Public Sector Workforce Relations (Workers Compensation Performance), Department of the Premier and Cabinet (phone 8226 2683).

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Attachment A:

The provisions of 42(1) and (2) are outlined below:

42—Redemption of liabilities

(1) Any of the following liabilities may, by agreement between the worker and the Corporation, be redeemed by a capital payment to the worker—

- (a) a liability to make weekly payments;
- (b) a liability to pay compensation under section 32.

(2) An agreement for the redemption of a liability under this section cannot be made unless—

- (a) the worker has received competent professional advice about the consequences of redemption; and
- (b) the worker has received competent financial advice about the investment or use of money to be received on redemption; and
- (c) the Corporation has consulted with the employer out of whose employment the injury arose and has considered any representations made by the employer; and
- (d) a recognised medical expert has certified that the extent of the worker's incapacity resulting from the compensable injury can be determined with a reasonable degree of confidence; and
- (e) 1 (or more) of the following requirements are satisfied in the case of a proposed redemption under subsection (1)(a):

  - (i) the rate of weekly payments to be redeemed does not exceed $30 (indexed);

  - (ii) the worker has attained the age of 55 years and the Corporation has determined that the worker has no current work capacity;

  - (iii) the Tribunal (constituted of a presidential member) has determined, on the basis of a joint application made to the Tribunal by the worker and the Corporation in contemplation of an agreement being entered into under this section, that the continuation of weekly payments is contrary to the best interests of the worker from a psychological and social perspective.