

SAPS Injury Management Practice Note

Redemption of Future Liability

Objectives, Targets & Performance Indicators

Objective	Target	Performance Indicator
SAPS agencies have an implemented procedure regarding redemption of future liability	All SAPS agencies	Implemented policy/ procedure

Purpose

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 the Return to Work Act 2014 (RTW Act).

Context

The Return to Work Act 2014 (RTW Act) relevantly provides as follows:

<p>53—Redemptions—liabilities associated with weekly payments</p> <p>(1) A liability to make weekly payments under Division 4 may, by agreement between the worker and the Corporation, be redeemed by a capital payment to the worker.</p> <p>(2) An agreement for the redemption of a liability under this section cannot be made unless—</p> <p>(a) the worker has received competent professional advice about the consequences of redemption; and</p> <p>(b) the worker has received competent financial advice about the investment or use of money to be received on redemption; and</p> <p>(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</p> <p>(d) a recognised health practitioner has certified that the extent of the worker's incapacity resulting from the work injury can be determined with a reasonable degree of confidence.</p> <p>(3) The amount of the redemption payment is to be fixed by the agreement.</p> <p>(4) If the Corporation notifies a worker in writing that it is prepared to enter into negotiations for the redemption of a liability by agreement under this section, the Corporation is liable to indemnify the worker for reasonable costs of obtaining the advice required under this section up to a limit prescribed by regulation.</p> <p>(5) In the case of a seriously injured worker, this section applies subject to any election made by the worker under Part 5 Division 1.</p> <p>(6) The following decisions are not reviewable:</p>	<p><i>Section 53</i></p>
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<p>(a) a decision of the Corporation not to agree to a redemption under this section; (b) a decision on the amount of a redemption.</p>	
<p>54—Redemptions—liabilities associated with medical services (1) In this section— designated liability means— (a) a liability to make payments under section 33 in relation to a work injury suffered by a worker; and (b) in association with a liability under paragraph (a) (if relevant), a liability to make weekly payments under section 40. (2) This section applies (and only applies) in relation to workers who are not seriously injured workers. (3) A designated liability may, by agreement between the worker and the Corporation, be redeemed by a capital payment to the worker. (4) 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 advice from a recognised health practitioner about the future medical services (and, if relevant, therapeutic appliances and other forms of assistance related to his or her future health) that the worker will or is likely to require on account of the work injury and any related surgery, treatment or condition. (5) The amount of the redemption payment is to be fixed by the agreement. (6) If the Corporation notifies a worker in writing that it is prepared to enter into negotiations for the redemption of a liability by agreement under this section, the Corporation is liable to indemnify the worker for reasonable costs of obtaining the advice required under this section up to a limit prescribed by regulation. (7) The following decisions are not reviewable: (a) a decision of the Corporation not to agree to a redemption under this section; (b) a decision on the amount of a redemption.</p>	<p><i>Section 54</i></p>

The primary objective of the Act is to return injured workers to employment and Government is committed to effective recovery, the provision of suitable employment and early and sustained return to work. For these reasons the redemption of future liabilities should be seen as an option of last resort and should only be considered when all other return to work efforts have failed and all the criteria of the Act and this practice note are met.

SAPS Practice

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

- The injured worker’s injury is stable
- The worker’s entitlement to compensation for economic and non-economic loss have been considered, assessed and paid (if an entitlement exists) prior to finalising the redemption negotiations
- Potential return to work options have been considered
- When it is necessary to resolve a claim in order to pursue a TVSP.

An injured worker, or their representative, can initiate the redemption process, as can the employing agency.

Legal advice, if obtained, must reflect the worker's current medical status and work capacity.

Supporting medical evidence must be current.

All redemptions are to be approved in writing by the Executive Officer responsible for injury management, or authorised delegate.

Funding approvals will remain valid for a maximum period of 3 months or until a date specified on the approval document.

Under no circumstances is a redemption to be negotiated without the written approval of the Executive Officer, or authorised delegate.

Seriously injured workers must make an election on whether they intend to pursue common law damages or redemption of weekly payments, but cannot pursue both.

For seriously injured workers the redemption of medical expenses is not permitted.

The commutation of weekly dependency payments is dealt with in the Managing Dependency Claims Practice Note.

A redemption of medical expenses is permitted, but agencies need to ensure that the resolution is cost effective taking into consideration the likelihood and type of future medical treatment, surgery and need for therapeutic appliances.