



Workers Compensation  
Commission

# ***NSW Self-insurers' Workshop***

## ***Dispute resolution management***

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# Overview

- 1. Legislative amendments and changes to practice and procedure**
- 2. Digital service delivery**
- 3. Good practice**



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# ***Legislative Amendments***



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# **Workers Compensation Legislation Amendment Act 2018**

**Amendments relating to dispute resolution (Schedule 1)**

**Amendments relating to medical assessments for  
permanent impairment (Schedule 2)**

**Amendments relating to pre-injury average weekly  
earnings (Schedule 3)**

**Amendments relating to savings and transitional provisions  
(Schedule 8)**



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# Work Capacity Disputes

## Amendments relating to dispute resolution (Schedule 1)

- Work capacity disputes determined by Commission from 01/01/19
- Insurer review of work capacity decision is optional
- Stay of work capacity decision if dispute lodged in time



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## Work Capacity Disputes

### Amendments relating to dispute resolution (Schedule 1)

- Registrar may deal with work capacity dispute under Part 5 of Chapter 7 (expedited assessment)
- Limited period for interim payment directions does not apply to work capacity disputes



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# Work Capacity Disputes

## Form 1 – Application for Expedited Assessment

1.1 Claim to which dispute relates

~~Weekly benefits compensation up to 12 weeks~~

Weekly benefits where work capacity decision in dispute

Past medical expenses compensation (where the amount is not more than \$9250.50 as indexed)

- 14 days to teleconference
- Reply optional
- 14 days to decision if not settled

# Work Capacity Disputes

## Form 2 – Application to Resolve a Dispute

Part 1 – Matters in Dispute
1.1 Claim to which dispute relates
Weekly benefits where liability in dispute
Weekly benefits where work capacity decision in dispute
Medical expenses
Domestic assistance
Compensation for property damage....

- 28 days to teleconference
- Possible conciliation/arbitration 3-8 weeks
- 21 days to decision if not settled





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## Work Capacity Disputes

### Amendments relating to savings and transitional provisions (Schedule 8)

- Existing work capacity decisions will be dealt with under existing provisions during transitional review period
- Existing work capacity decision means a work capacity decision made before 01/01/19
- Transitional review period is the period 6 months from 01/01/19 or by regulation



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## Permanent Impairment Disputes

### Amendments relating to medical assessments for permanent impairment (Schedule 2)

- No mandatory requirement to refer permanent impairment dispute to AMS
- Regulations regarding when medical dispute for permanent impairment authorised, required or not permitted to be referred to AMS
- One assessment of degree of permanent impairment includes determination by Commission

## Section 39 Disputes

- Worker has no entitlement to weekly payments after aggregate period of 260 weeks (s 39(1), 1987 Act)
- Doesn't apply if WPI >20% (s 39(2), 1987 Act)
- Doesn't apply to not MMI, existing recipients (cl 28C, Sch 8, 2016 Regulation)
- Medical evidence of WPI >20% after 260 weeks:

*RMS Building Services Pty Ltd v Hochbaum*  
[2019] NSWCCPD 15



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# ***The Digital Environment***



# Website

The screenshot shows the homepage of the Workers Compensation Commission website. The browser address bar displays 'https://www.wcc.nsw.gov.au/'. The page features a blue header with the commission's logo and navigation links: 'About us', 'Contact us', 'News', 'Online Lodgment', 'Forms', 'Find a decision', and a 'Select Language' dropdown. The main content area is divided into several sections: a large blue banner with the text 'Welcome to the Workers Compensation Commission' and 'We resolve workers compensation disputes between workers, employers and insurers in New South Wales.' Below this is a search bar and a yellow call-to-action box that says 'Injured worker? Start here >'. The lower part of the page contains six dark blue boxes with white text, each with a right-pointing chevron: 'Dispute pathways >', 'Lodge a dispute >', 'Find a decision >', 'Publications >', 'Legal resources >', and 'New e-bulletin no.85 released >'. The background of the main content area is a photograph of a modern office lobby with a woman walking and a reception desk.

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About us Contact us News Online Lodgment Forms Find a decision Select Language

Welcome to the  
**Workers Compensation Commission**

We resolve workers compensation disputes between workers, employers and insurers in New South Wales.

The role of the Commission >

Search the site

**Injured worker?  
Start here >**

**Dispute pathways >**  
Disputes are assigned to the most appropriate dispute resolution pathway.

**Lodge a dispute >**  
Start here to lodge an application or a reply with the Commission.

**Find a decision >**  
Search for arbitrator, medical appeal panel and costs assessment decisions, and links to presidential decisions.

**Publications >**  
Find information to help with a dispute or stay informed about changes in the workers compensation system.

**Legal resources >**  
Access workers compensation legislation and information about how the Commission resolves disputes.

**New e-bulletin no.85 released >**  
16 May 2019



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## Website

- New look and feel
- Easy navigation
- Improved search functionality
- Automatic language translation
- New accessibility features



# Old Digital Service Delivery Environment

## Parties

- Lodgment via email

## Commission

- Sealed forms returned via email
- Directions for Production and Access Orders via email
- Outcome documents issued via email

## Arbitrators, Mediators and AMSs

- Briefs delivered via online portal
- Outcome documents uploaded via online portal



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# New Digital Service Delivery Environment

## Online Portal for Parties

- Lodge, view and download applications and forms
- Lodge, view and download supporting documents
- View scheduled proceedings
- View and download outcome documents
- SMS notifications
- View and download produced documents
- Set up 'superusers'





# Online Lodgment Portal

File Edit View Favorites Tools Help

Expense8 5.39.3 - Sign In SAP Fieldglass Login The Daily Telegraph Super... Web Slice Gallery

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About us Contact us News **Online Lodgment** Forms Find a decision **Select Language** Q

Dispute pathways Lodge a dispute Legal resources Publications

Home > Lodge a dispute > Online lodgment portal

**Lodge a dispute**

Forms

**Online lodgment portal**

Lodgment by email, post or in person

## Online lodgment portal

The Commission's online lodgment portal is a fast and secure option to electronically lodge forms and documents.

All documentation submitted in a dispute can be viewed through the portal by all parties.

Scheduled dates for relevant events, including listings and medical assessments, are also viewable in the portal.

Access the [registration screen for the online lodgment portal](#) for first time users.

Access the [login screen for the online lodgment portal](#) for returning users.

Download the [User guide to the online lodgment portal](#).

For assistance contact the WCC Wizard on 02 8281 6328 or [wwwizard@wcc.nsw.gov.au](mailto:wwwizard@wcc.nsw.gov.au)

or contact the Commission's Registry on 1300 368 040 or [registry@wcc.nsw.gov.au](mailto:registry@wcc.nsw.gov.au)

E-Mail Print



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# Registration/Login



## Workers Compensation Commission

Login to the Online Lodgement Portal

Email Address

Password

Terms and Conditions

In using the Workers Compensation Commission digital service delivery platform you:

- are responsible for any activity conducted under your username (email address);
- will avoid any activity that may compromise the security and stability of the platform, its supporting technology and data contained within;
- accept that the Commission is not responsible for loss of any unsaved information;
- acknowledge that the platform may not be available at all times or at any

[+ Register](#) [Reset Password](#) [Login](#)



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# Portal Menu Option




Workers  
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 Home

 New Application/Form ▾

 Files

 Diary

 User Profile

 Logout

 Home

- overview of functionality

 New Application/Form ▾

- lodge applications/forms

 Files

- list of matters and details of each

 Diary

- list of upcoming allocations/events

 User Profile

- display of current contact details



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# ***Good Practice***



## Model Litigant

- “Practical Ethics for Government Lawyers” (20/09/13) contains the model litigant emphasis:
  - To resolve disputes with minimum delay
  - To not rely on “technical defences” where unjustified
  - To avoid litigation where possible and use all means of alternate dispute resolution
  - To not contest liability in a matter when clearly only issues of quantum or costs are in dispute



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## Preparation: A Key

- “Envision” a worker’s profile and perspective
- Worker’s preparation should include the same consideration of insurer’s perspective
- Mutual empathy and respect



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## The Value of Personal Attendance

- Advantage of personally witnessing the active dynamics and processes of negotiations
- Provides a “feel” as to any potential decision/outcome
- Provides a mutual “reality check” for both sides
- Enhances settlement prospects
- Enhances goodwill, shows good faith and is respectful
- Quality of instruction improves and is more timely



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## Tips and Traps

- Treat each case on its own merits, removed from other influences external to the case at hand (good faith)
- Ensure you have full, unfettered authority to settle within the dynamics of negotiations
- Where authority may need to be checked/affirmed, ensure that the designated officer keeps an open mind and remains readily available





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## Tips and Traps

- Make sure that a legible list of payments is available
- Provide instructions about how many weeks of compensation have been paid and about PIAWE
- Carefully consider the advice you've been given
- Review and discuss settlement recommendations made



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## Tips and Traps

- Don't assume the matter will be listed for conciliation/arbitration
- If your instructions are “maintain the dispute”, your representative may be asked to phone you if you are not present
- Consider the preliminary comments made by the Arbitrator



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## Keep Informed

- e-Bulletins
- Publications – On Appeal, On Review
- Website ([wcc.nsw.gov.au](http://wcc.nsw.gov.au))
- Contact WCC