



Application

Application to Register a Commutation Agreement

This is the approved form for an application for registration under section 87H of the *Workers Compensation Act 1987* of an agreement between the parties to commute the employer/insurer/scheme agent's liabilities under the *Workers Compensation Act 1998*

Applicant:

Respondent:

Filed by:

- | | | |
|---|--|--|
| <input type="checkbox"/> Worker | <input type="checkbox"/> Employer | <input type="checkbox"/> Self-insurer |
| <input type="checkbox"/> Worker representative | <input type="checkbox"/> Employer representative | <input type="checkbox"/> Insurer/scheme agent representative |
| <input type="checkbox"/> Dependant | <input type="checkbox"/> Insurer/scheme agent | <input type="checkbox"/> SIRA |
| <input type="checkbox"/> Dependant representative | <input type="checkbox"/> Specialised insurer | <input type="checkbox"/> TMF Agent |

NOTICE TO PARTIES

Before registration can take place, the requirements of the sections 87EA and s87F(2) of the *Workers Compensation Act 1987* must be complied with. Certification from SIRA under section 87EA of the *Workers Compensation Act 1987* must be attached to this form.

A commutation agreement must not be entered into unless (before the agreement into):

- a) a legal practitioner instructed independently of the insurer/scheme agent and the employer has certified in writing that the legal practitioner has advised the worker on the full legal implications of the agreement, including implications with respect to any entitlement of the worker to compensation under the *Workers Compensation Legislation* or to benefits under any other law (including a law of the Commonwealth); and
- b) the worker has confirmed in writing that the worker has been given and understands the advice (section 87F(2) *Workers Compensation Act 1987*).

Certification from the legal practitioner and worker under section 87F(2)(a) and (b) of the *Workers Compensation Act 1987* must be attached.

1. This form is not to be used where the worker is legally incapacitated. An Application for Determination to Commute Liability (Form 5C) is to be used where the worker is legally incapacitated.
2. The worker has 14 days after entering into a commutation agreement in which to withdraw from the agreement by giving notice in writing to the insurer/scheme agent (section 87F(4) of the *Workers Compensation Act 1987*).
3. Parties will be advised that the agreement is registered, or registration of the agreement is refused, or the agreement has been referred to a member for review. Where the commutation agreement is referred to a member for review, parties will be notified following the member's recommendation that the agreement is registered or registration of the agreement is refused.
4. Parties are reminded that the amount payable under this agreement is payable within 7 days of registration or as agreed by the parties (section 87F(7) of the *Workers Compensation Act 1987*).
5. A commutation agreement is of no effect unless it is registered (section 87F(6) of the *Workers Compensation Act 1987*).
6. Before registering a commutation agreement, the President may (on the application of a party to the agreement or the President's own motion) refer the agreement for review by a member (section 87H(3) of the *Workers Compensation Act 1987*).

The information contained in this notice is provided as general information only and does not constitute legal advice. The relevant legislative provisions governing the workers compensation jurisdiction should be consulted before submitting this form to the Personal Injury Commission.

PART 1 – Parties Details

1.1 Worker details

Date of birth:

Title: Mr Ms Mrs Miss Dr Other

Surname/Family name: Given name(s):

Postal address: Postcode:

Phone number:

Email address:

1.2 Worker representative details

Complete this section only if the worker has a representative

Firm or organisation:

Postal or DX address: Postcode:

Name of representative:

Phone number:

Email address:

1.3 Employer details

Name of business/organisation:

ABN:

Postal or DX address: Postcode:

Contact person:

Phone number:

Email address:

1.4 Employer representative details

Firm or organisation:

Postal or DX address: Postcode:

Name of representative:

Phone number:

Email address:

1.5 Insurer/scheme agent details

Name of insurer/scheme agent:

Insurer/scheme agent number:

Postal or DX address:

Postcode:

Contact person:

Phone number:

Email address:

1.6 Insurer/scheme agent representative details

Firm or organisation:

Postal or DX address:

Postcode:

Name of representative:

Phone number:

Email address:

PART 2 – Information about the Worker

The following information is required to satisfy the requirements of section 87H(5) of the *Workers Compensation Act 1987* should the commutation agreement be referred to the Commission for review at the request of the parties, or the President's own motion.

Is liability to pay compensation under the Workers Compensation Acts in dispute? Yes No

If yes, please provide details of the dispute:

Date of injury:

Nature of injury:

General health of the worker:

Worker's occupation at time of injury:

Provide information about the worker's diminished ability to compete in an open labour market:

Is the worker entitled to any benefit from any other source? Yes No

If yes, provide details of the benefit:

PART 3 – Particulars of Agreement to be Registered

In accordance with section 87F or the *Workers Compensation Act 1987*, the parties have agreed that the following amount will be paid to the worker so as to commute:

the employer's full liability for compensation (including weekly benefits, medical expenses and lump sum compensation) under the *Workers Compensation Act 1987* in relation to the injury referred to in Part 2 of this form; or

the employer's partial liability for compensation (including weekly benefits, medical expenses and lump sum compensation) under the *Workers Compensation Act 1987* in relation to the injury referred to in Part 2 of this form.

Details are provided below:

Note: In accordance with section 87I(1) of the *Workers Compensation Act 1987*, if a liability in respect of compensation is only partially commuted, the balance of the compensation continues to be payable under and subject to the *Workers Compensation Act 1987*.

Lump sum amount proposed for commutation: \$

The lump sum proposed for commutation is to be paid to:

Worker

Other

either

Within 7 days of the date of registration or

On or before the

Have the parties reached an agreement as to the payment of costs? Yes No

If yes, provide details of the agreement:

Date of the commutation agreement:

Does a party to the agreement request the agreement be referred to the Commission prior to registration?

Yes No

PART 4 - Certification of Legal and Financial Advice

Legal Practitioner Certificate

I certify that I have advised the worker (with OR without the services of an interpreter) on the full legal implications of the agreement, including implications with respect to entitlement of the worker to compensation under this Act or to benefits under any other law including a law of the Commonwealth.

I certify that I advised the worker on the desirability of the worker obtaining independent financial advice prior to the worker entering into the agreement, as to the financial consequences of the agreement.

I certify that I was instructed independently of the insurer/scheme agent and the employer in providing this advice.

Name of Legal Practitioner:

Signature of Legal Practitioner : _____ **Date:**

PART 5 - Signatories to the Agreement

Name of worker:

Signature: _____ **Date:**

Name of worker representative:

Signature: _____ **Date:**

Name of employer/insurer/scheme agent:

Signature: _____ **Date:**

Name of employer/insurer/scheme agent representative:

Signature: _____ **Date:**

PART 6 – Certification and Signature

Applicant's (or representative's) signature: _____

Date:

Certification by Legal Representative

Legal representative's signature: _____

Date:

Lodgment Details

Hand delivery Level 21, 1 Oxford Street Darlinghurst NSW 2010
Postal address PO Box 594 Darlinghurst NSW 1300
Electronic lodgment help@pi.nsw.gov.au

Privacy Notice

Maintaining the privacy of personal information and health information is important to the Personal Injury Commission (**Commission**). The Commission collects and uses personal information and health information to exercise its statutory powers and to carry out its statutory functions as well as other related activities, including to register application forms such as this Form and to make decisions about disputes or claims.

Such personal information and health information may include, but is not limited to, the information contained, or referenced in, this completed Form, any other information which is provided by an Applicant, its representatives or a party or insurer in connection with proceedings before the Commission and/or such other information as may be obtained by the Commission or its members and staff in connection with the Commission exercising its statutory powers and carrying out its statutory functions as well as related activities or complying with any other obligations at law.

The Commission may disclose personal information and health information that it holds to another person (e.g. a doctor or a party to Commission proceedings etc) or to a Commonwealth or State Government department or agency (for example, Centrelink) as required or authorised by law. The Commission may also disclose personal information and health information to the State Insurance Regulatory Authority (**SIRA**) as required or authorised by law (including under the *Workplace Injury Management and Workers Compensation Act 1998* (NSW)) and for the purpose of assisting SIRA to exercise its statutory powers and to carry out its statutory functions.

The Commission's decisions will be published in accordance with section 58 of the *Personal Injury Commission Act 2020* (NSW). An application for de-identification or redaction of a decision can be made by a relevant person at any time during the proceedings.

More detailed information about the way that the Commission may collect, use and disclose your information is available at <https://pi.nsw.gov.au/resources/privacy>.

Applications to the Commission to access and correct any personal information and health information should be made in writing to the Commission, Level 21, 1 Oxford Street, Darlinghurst, NSW, 2010.