

24th Edition

# Comparative Performance Monitoring Report 24 /

Entitlements under  
Workers' Compensation



**safe work australia**

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## Comparative Performance Monitoring (CPM) 24<sup>th</sup> edition indicators

The CPM comprises of 23 Work Health and Safety and Workers' Compensation measurement indicators spread over 6 sections. The bolded indicators are included in this section.

### **Work Health and Safety Performance**

Indicator 1 – Incidence rates of serious injury and disease claims by jurisdiction

Indicator 2 – Frequency rates of serious injury claims by jurisdiction

Indicator 3 – Incidence rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction

Indicator 4 – Frequency rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction

Indicator 5a and 5b – Self-insured claims: number and proportion of serious claims by jurisdiction

Indicator 6 – Serious claims: Percentage involving selected periods of compensation

Indicator 7a and 7b – Traumatic injury worker fatalities: number and rate of incidents not on a public road, by state of death

Indicator 8 – Compensated fatalities involving occupational diseases by jurisdiction

Indicator 9 – Size of business

Indicator 10a to 10h – Proportion of serious claims by mechanism of incident

Indicator 11a to 11s – Incidence rates of serious claims by industry

### **Work Health and Safety Compliance and Enforcement Activities**

Indicator 12a – Work health and safety intervention activity by jurisdiction

Indicator 12b – Work health and safety inspectorate activity by jurisdiction

Indicator 12c – Work health and safety notices and enforceable undertakings by jurisdiction

Indicator 12d – Work health and safety legal proceedings and fines by jurisdiction

### **Workers' Compensation Premiums**

Indicator 13 – Standardised average premium rates (including insured and self-insured sectors) by jurisdiction

Indicator 14a to 14s – Australian average premium rates by industry

### **Entitlements under Workers' Compensation**

**Indicator 15 – Average percentage of pre-injury earnings for selected periods of incapacity as at 1 January 2021**

**Indicator 16 – Estimated entitlements payable for permanent incapacity as at 1 January 2021**

**Indicator 17 – Estimated entitlements payable for a workplace fatality as at 1 January 2021**

### **Workers' Compensation Funding**

Indicator 18 – Standardised ratio of assets to net outstanding claim liabilities for centrally funded schemes

Indicator 19 – Standardised ratio of assets to net outstanding claim liabilities for privately underwritten schemes

Indicator 20a and 20b – Scheme expenditure (\$m and %)

Indicator 21 – Direct compensation payments by type and jurisdiction

### **Workers' Compensation Disputes**

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Indicator 23 – Percentage of disputes resolved within selected time periods (cumulative)

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# Foreword

This is the 24<sup>th</sup> edition of the Comparative Performance Monitoring (CPM) report which provides trend analyses about work health and safety (WHS) and workers' compensation schemes operating in Australia and New Zealand.

This report has been compiled and coordinated by Safe Work Australia with assistance from representatives of all WHS and workers' compensation authorities in Australia and New Zealand. Through a partnership of governments, employers and employees, Safe Work Australia leads the development of national policy to improve WHS and workers' compensation arrangements across Australia.

The report is presented in the following sections:

- Work health and safety performance – provides an overview of WHS performance across Australia and New Zealand through analysing trends in serious claim rates and work-related fatalities across jurisdictions.
- Work health and safety compliance and enforcement activities – includes a jurisdictional comparison of workplace interventions, inspectorate activity, safety notices, enforceable undertakings, legal proceedings and fines.
- Workers' compensation premiums – includes a national and jurisdictional overview of the standardised average premium rates by industry in the past 5 years.
- Entitlements under workers' compensation (scenarios) – illustrates the differences in entitlement levels across jurisdictions under several scenarios (this section).
- Workers' compensation funding – assets, liabilities and expenditure – includes information about the different funding arrangements of the schemes and compares the differences in scheme funding arrangements and finances.
- Workers' compensation disputes – includes information about disputes against an insurer's decision or decisions relating to compensation.

Previous editions of the CPM report also included return to work rates as measured in the National Return to Work Survey. Results from the latest National Return to Work Survey (2021) and earlier surveys are available on the Safe Work Australia website. For trend data on the return to work rates (from 2012 to 2018) please refer to the 22<sup>nd</sup> edition of the CPM (Part 3).

## About the data

Comparisons of CPM measures/outcomes across the jurisdictions workers' compensation schemes should be made with caution due to the differences in design, coverage, definitions and processes. Readers may find the Comparison of workers' compensation arrangements in Australia and New Zealand useful in comparing the differences in key aspects of each scheme. Additionally, data in this publication may differ from jurisdictional annual reports due to the use of different definitions and the application of adjustment factors to aid in the comparability of data.

The CPM does not currently include information or data from other industry-specific regulators that have responsibilities with respect to WHS and workers' compensation. These include national industry-based regulators with compliance and enforcement roles such as the National Heavy Vehicle Regulator, the National Rail Safety Regulator and the National Offshore Petroleum Safety and Environmental Management Authority, and other agencies with responsibility for industry-specific compensation claims. Further information on these regulators can be found on their respective websites.

In this report 'Australian Government' is used for indicators relating to WHS and workers' compensation matters under the Australian Government jurisdiction, while 'Comcare' is used for the indicators relating to premium rates and entitlements.

# 1. Introduction to entitlements

Entitlements are payable under workers' compensation in the event an employee is injured or develops a work-related disease.

To illustrate the differences in entitlement levels across jurisdictions, this section calculates indicative entitlement payments under three different scenarios. These scenarios cover entitlements for a *temporary impairment*, *permanent impairment* and *fatality*.

This section also demonstrates the differences between *low*, *middle* and *high income employees* by using pre-injury earnings of \$1,200 gross per week, \$1,600, gross per week and \$2,200 gross per week<sup>1</sup>. These profiles have been chosen to highlight the statutory maximum entitlements payable, as well as jurisdictional differences in entitlements to workers employed on different income levels.

These figures are calculated based on entitlements as at 1 January 2021. Many payments made by the jurisdictions are indexed regularly and these have generally been excluded when estimating payments for the scenarios (as they are not yet known).

More detailed information about the differences between schemes can also be found in the [Comparison of Workers' Compensation Arrangements in Australia and New Zealand](#) publication on the [Safe Work Australia](#) website.

## 1.1 Temporary impairment (scenario)

Impairment is assessed as temporary when the injury or illness is not likely to continue indefinitely and the employee remains unable to work for a period of time before returning to previous duties on an ongoing basis.

This example details how jurisdictions compensate low, middle and high income<sup>1</sup> employees during selected periods of temporary impairment. In these scenarios the low income is stated to be award determined, and the middle and high incomes are stated as non-award.

Some jurisdictions have statutory maximum weekly benefit cap. For example, NSW has a weekly cap of \$2,242.40, while SA and WA limit weekly benefits to twice the annual average weekly earnings. The high-income example used in this scenario does not trigger the maximum caps implemented in any of the jurisdictions for the periods observed.

***Scenario: The employee remains unable to work for a period of time before returning to their previous duties on a full-time basis. The employee has a dependant spouse and two children aged seven and eight. The employee injured their back and has lower back strain as a result.***

Indicator 15 shows that:

- For low-income earners, seven Australian jurisdictions (excluding NSW and VIC) provide full income protection for the first 26 weeks. For middle- and high-income earners, only the five smallest Australian jurisdictions still provide full income protection for this period of incapacity.
- For low-income earners with 130 weeks of impairment, Western Australia provides full coverage (100%) of pre-injury earnings. This was followed by Queensland (95%) and the Northern Territory (92%).

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<sup>1</sup> Low (\$1,200 pw), medium (\$1,600 pw) and high (\$2,200 pw) incomes are indicative amounts selected to show differences in entitlements for injured employees between jurisdictions based on income during selected periods of temporary impairment.

- For middle- and high-income earners with 130 weeks of impairment, Tasmania and South Australia provides the highest percentage of pre-injury earnings (both 88%), followed by Western Australia (87%) and Comcare (84%).
- The Australian Capital Territory provided the lowest percentage of pre-injury earnings in all three example income earners at 130 weeks of impairment (72%) due in part to the step-down<sup>2</sup> in benefits to 65% of pre-injury earnings after 26 weeks of compensation.

**Indicator 15 – Average percentage of pre-injury earnings for selected periods of incapacity as at 1 January 2021**

Level of pre-injury income	NSW	Vic	Qld <sup>(a)</sup>	WA <sup>(b)</sup>	SA	Tas	NT <sup>(c)</sup>	ACT <sup>(d)</sup>	Comcare	NZ <sup>(e)</sup>
<b>13 weeks of incapacity</b>										
Low income	95%	95%	100%	100%	100%	100%	100%	100%	100%	80%
Middle income	95%	95%	85%	100%	100%	100%	100%	100%	100%	80%
High income	95%	95%	85%	100%	100%	100%	100%	100%	100%	80%
<b>26 weeks of incapacity</b>										
Low income	88%	88%	100%	100%	100%	100%	100%	100%	100%	80%
Middle income	88%	88%	85%	93%	100%	100%	100%	100%	100%	80%
High income	88%	88%	85%	93%	100%	100%	100%	100%	100%	80%
<b>52 weeks of incapacity</b>										
Low income	84%	84%	97%	100%	100%	95%	95%	83%	97%	80%
Middle income	84%	84%	80%	89%	100%	95%	88%	83%	97%	80%
High income	84%	84%	80%	89%	100%	95%	88%	83%	97%	80%
<b>130 weeks of incapacity</b>										
Low income	82%	82%	95%	100%	88%	88%	92%	72%	84%	80%
Middle income	82%	82%	77%	87%	88%	88%	81%	72%	84%	80%
High income	82%	82%	77%	87%	88%	88%	80%	72%	84%	80%

These figures are calculated based on entitlements as at 1 January 2021. Many payments made by the jurisdictions are indexed regularly and these have generally been excluded when estimating payments for the scenarios (as they are not yet known).

<sup>a</sup> In Queensland, Workers are paid a proportion of their normal weekly earnings or a percentage of the seasonally adjusted amount of Queensland full time adult persons ordinary time earnings.

<sup>b</sup> In Western Australia, non-award workers are subject to a step-down to 85% pre-injury earnings after 13 weeks. Award workers are not subject to any step-down.

<sup>c</sup> In the Northern Territory, The minimum long term (after first 26 weeks) benefits provide for entitlement of greater than 75% but not more than 90%, of loss of earning capacity, for low to middle income earners. Those with dependants are more likely to qualify.

<sup>d</sup> In the Australian Capital Territory, a worker's entitlement reduces to the greater of the Statutory Floor or 65% of pre-incapacity weekly earnings applies after 26 weeks of total incapacity.

<sup>e</sup> In New Zealand, weekly compensation is not payable for the first week of the person's incapacity. The weekly compensation is subject to a legislated minimum and maximum weekly payment amount.

<sup>2</sup> Step-down denotes the proportionate reduction in the entitlements paid to an injured worker to the increase in time lost (in weeks) from work.

## 1.2 Permanent impairment (scenario)

Impairment is assessed as permanent when it has reached maximal medical improvement. Maximal medical improvement generally refers to where the impairment has become stable and is unlikely to change, with or without medical treatment. Over time, there may be some change; however, further recovery or deterioration is not anticipated.

Entitlements may be paid as two components.

- A statutory component that may include both weekly payments and/or a lump sum.

The statutory component includes the weekly benefits payable for the remainder of the employee's working life. This amount is commonly dependent on the assessment of the workers percentage of whole person impairment.

- A common law component paid as a lump sum.

The common law component is an estimate of the additional payment available under a common law settlement, where applicable. All figures exclude medical and like services such as attendant care. If a common law component is paid, previous statutory components (e.g. weekly benefits) can be deducted from the amount. Common law payments may or may not be fixed calculated amounts and can vary broadly. Some jurisdictions have a maximum amount (i.e. a cap) that a worker can receive if they decide to pursue common law proceedings.

This scenario shows the estimated entitlements payable for a degree of permanent impairment caused by a workplace injury.

***Scenario: As a result of a workplace incident the employee was diagnosed with complete tetraplegia below the 6th cervical neurological segment. This resulted in paralysis of his hands, impaired upper body movement and paralysis of the trunk and lower limbs. He lost all lower body function including bowel, urinary and sexual function. He was wheelchair bound. Incapacity was total and permanent. The worker required a carer five hours a day, seven days a week.***

***The employee's pre-injury earnings were \$1,600 gross per week. The employee is 35 years of age and has a dependant spouse and two children aged seven and eight. The younger child entered the workforce at 16 and the older child remained in full-time education until age 25. The employee contributed to a superannuation fund. There was no contributory negligence on his part; however, there was negligence on the part of the employer.***

Indicator 16 shows that:

- All jurisdictions provide statutory benefits. The amounts vary depending on the scheme, the entitlement and the assumptions used (for example whether they have applied an assessment of the workers percentage of whole person impairment). These figures are calculated based on entitlements as at 1 January 2021.
- Comparisons between jurisdictions should be made with caution as there are many differences between compensation schemes.
- Weekly benefits are based on a 30 year estimate being the injured worker's working life. This may not accurately reflect the entitlement ages in each jurisdiction (e.g. in the Northern Territory they would be entitled for an extra 2 years, until 67) and it does not take into account indexation of the payment.
- The entitlements provided by the New Zealand scheme in this scenario are comparable to those provided by Australian jurisdictions. However, there is no access to common law under the New Zealand scheme.



## Indicator 16 – Estimated entitlements payable for permanent incapacity as at 1 January 2021



### Western Australia

#### **Statutory benefit of \$412,900.**

Based on the maximum statutory entitlement to injured workers and an assumption that they qualify for additional 75% (based on their circumstances).

#### **Common law payment of \$4,477,700.**

Based on the average of the five highest common law payments finalised between 2016-17 and 2020-21.



### Northern Territory

#### **Statutory benefit of \$2,224,100.**

- \$1,887,900 total weekly benefits
- \$336,200 lump sum

Common law payment is not available.



### Queensland

#### **Statutory benefit of \$1,437,600.**

- \$347,900 total weekly benefits
- \$1,089,800 lump sum

#### **Common law payment of \$1,448,000.**

There is no maximum to this amount.



### New South Wales

#### **Statutory benefit of \$2,662,900.**

- \$1,999,900 total weekly benefits
- \$662,900 lump sum

This assumes the worker was assessed with a permanent impairment over 75%.

Common law payment was not estimated as it is uncapped. However, some limits would apply (e.g. it would be limited to Work Injury Damages).



### Australian Capital Territory

#### **Statutory benefit of \$1,867,000.**

- \$1,637,000 total weekly benefits
- \$230,100 lump sum

This assumes the worker was entitled to the maximum lump sum amount for multiple injuries.

Common law payment was not estimated as it is uncapped.



### Victoria

#### **Statutory benefit of \$636,500.**

Based on the statutory lump sum provided to injured workers.



### South Australia

#### **Statutory benefit of \$2,540,100.**

- \$2,013,400 total weekly benefits
- \$526,620 lump sum

This assumes the worker's impairment was assessed as 50% or greater.

#### **Common law payment of \$1,415,600.**

Based on the maximum they could be eligible for.



#### Tasmania

##### **Statutory benefit of \$2,409,400.**

- \$2,013,400 total weekly benefits
- \$396,000 lump sum

This assumes the worker's impairment was assessed as 70% or greater.

##### **Common law payment of \$491,900.**



#### Australian Government

##### **Statutory benefit of \$2,159,800.**

- \$1,890,000 total weekly benefits
- \$269,800 statutory amount.

This assumes the worker was entitled to the maximum lump sum amount (i.e. the permanent impairment was in the order of 99%).

##### **Common law payment of \$110,000.**

Based on the maximum payable for non-economic loss



#### New Zealand

##### **Statutory benefit of \$2,140,600**

- \$1,996,800 total weekly benefits
- \$143,800 statutory amount.

This assumes the worker was entitled to the maximum lump sum amount.

Common law payment was not estimated as it is uncapped.

## **1.3 Workplace fatality (scenario)**

This example examines the entitlements payable to dependants of an employee who died as a result of a work-related injury. Dependants include both the worker's spouse and/or children.

Entitlements to dependants are paid by way of a lump sum and/or weekly benefits, depending on the employee's family circumstances (both at the time of the fatality and in the future) and scheme design. Many jurisdictions will vary the weekly payment amount and eligibility of the payments depending on the dependants' changing circumstances (e.g. the child's age, whether they are in full time education, if the spouse remarries etc).

***Scenario: The employee and family circumstances in this scenario are the same as the previous example, but in this case the workplace incident resulted in death on 1 January 2021.***

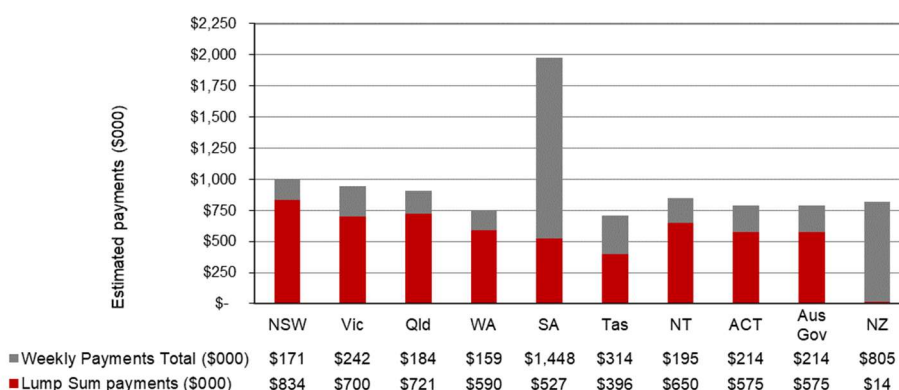
***As noted above, the worker has a dependant spouse and two children aged seven and eight. The younger child entered the workforce at 16 and the older child remained in full-time education until age 25. The spouse did not re-enter the workforce or re-marry for 10 years.***

Indicator 17 shows the total entitlements payable to dependants in the case of a fatality varied across jurisdictions. In particular:

- South Australia provided the highest entitlement payable to dependants in Australia based on the fatality scenario (a total of \$1,975,000).
  - In their explanation they noted that \$526,620 was the maximum lump sum payable on death (as at 1 January 2021). The remainder (\$1,448,202) is paid as weekly benefits and assumes total dependency of the worker's dependents and that the payment to the spouse would not be reduced (up to their retirement age) due of any changes to their circumstances.

- This was followed by New South Wales (\$1,005,000), Victoria (\$942,000) and Queensland (\$905,000). These jurisdictions had much shorter durations of estimated dependency. In particular:
  - New South Wales and Queensland estimates did not pay a weekly benefit to the dependent spouse. Their weekly benefits are based on the weekly benefits provided to the dependent children (until they are no longer eligible). There were several other jurisdictions that also only provided estimates based on weekly payments to the children (Western Australia, the Northern Territory, the Australian Capital Territory and the Australian Government).
  - Victoria calculated payments for the dependent spouse for 3 years and for the dependent children (until they are no longer eligible).
- The lowest entitlements for a fatality were provided in Tasmania (\$710,000).
  - This included weekly benefits for the dependent spouse for 2 years and weekly benefits to the dependent children (until they were no longer eligible).
- New Zealand provided a comparable amount to those offered by the Australian Jurisdictions (\$819,000), but 98% of these benefits will be paid via weekly benefits.

#### Indicator 17 – Estimated entitlements payable for a workplace fatality as at 1 January 2021



These figures are calculated based on entitlements as at 1 January 2021. Many payments made by the jurisdictions are indexed regularly and these have generally been excluded when estimating payments for the scenarios (as they are not yet known).

## Appendix 1 – Jurisdictional contact information

Jurisdiction	Organisation	Contact details
New South Wales	State Insurance Regulatory Authority	13 10 50 <a href="mailto:contact@sira.nsw.gov.au">contact@sira.nsw.gov.au</a> <a href="http://www.sira.nsw.gov.au">www.sira.nsw.gov.au</a>
	SafeWork NSW	<a href="mailto:contact@safework.nsw.gov.au">contact@safework.nsw.gov.au</a> <a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a>
	NSW Personal Injury Commission	1800 742 679 <a href="http://www.pi.nsw.gov.au">www.pi.nsw.gov.au</a>
	icare NSW	<a href="https://www.icare.nsw.gov.au/">https://www.icare.nsw.gov.au/</a>
	Independent Review Office	13 94 76 <a href="http://www.iro.nsw.gov.au">www.iro.nsw.gov.au</a>
Victoria	WorkSafe Victoria	Advisory Service 1800 136 089 <a href="mailto:info@worksafe.vic.gov.au">info@worksafe.vic.gov.au</a> <a href="http://www.worksafe.vic.gov.au">www.worksafe.vic.gov.au</a>
Queensland	Office of Industrial Relations	Infoline 1300 362 128 <a href="http://www.worksafe.qld.gov.au">www.worksafe.qld.gov.au</a>
Western Australia	WorkCover WA	1300 794 744 <a href="http://www.workcover.wa.gov.au">www.workcover.wa.gov.au</a>
	Department of Mines, Industry Regulation and Safety – WorkSafe	1300 307 877 <a href="http://www.dmirs.wa.gov.au">www.dmirs.wa.gov.au</a>
South Australia	ReturnToWorkSA	13 18 55 <a href="http://www.rtwsa.com">www.rtwsa.com</a>
	SafeWork SA	1300 365 255 <a href="http://www.safework.sa.gov.au">www.safework.sa.gov.au</a>
Tasmania	WorkSafe Tasmania	1300 366 322 (inside Tas) (03) 6166 4600 (outside Tas) <a href="mailto:wstinfo@justice.tas.gov.au">wstinfo@justice.tas.gov.au</a> <a href="http://www.worksafe.tas.gov.au">www.worksafe.tas.gov.au</a>
Northern Territory	NT WorkSafe	1800 019 115 <a href="mailto:ntworksafe@nt.gov.au">ntworksafe@nt.gov.au</a> <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>
Australian Capital Territory	WorkSafe ACT	13 22 81 <a href="http://www.worksafe.act.gov.au">www.worksafe.act.gov.au</a>
Seacare	Seacare Authority	(02) 6275 0070 <a href="mailto:seacare@comcare.gov.au">seacare@comcare.gov.au</a> <a href="http://www.seacare.gov.au">www.seacare.gov.au</a>
Australian Government	Comcare	1300 366 979 <a href="http://www.comcare.gov.au">www.comcare.gov.au</a>
New Zealand	Accident Compensation Corporation	64 7 848 7400 <a href="http://www.acc.co.nz">www.acc.co.nz</a>
	WorkSafe New Zealand	0800 030 040 <a href="http://www.worksafe.govt.nz">www.worksafe.govt.nz</a>