

24th Edition

# Comparative Performance Monitoring Report 24 /

Work Health and  
Safety Compliance  
and Enforcement



**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**

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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 %)

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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. This section includes:
- Work health and safety compliance and enforcement activities (this section) – 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. This section includes:
- Entitlements under workers' compensation (scenarios) – illustrates the differences in entitlement levels across jurisdictions under several scenarios. This section includes:
- 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. This section includes:
- Workers' compensation disputes – includes information about disputes against an insurer's decision or decisions relating to compensation. This section includes:

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.

The CPM report does not include any information on compliance and enforcement activities relating to the mining industry, including the offshore petroleum industry. This is to ensure jurisdictional data are comparable, as not all jurisdictions' WHS authorities conduct these activities. Rather they are in some cases conducted by separate specific agencies.

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.

When reviewing Seacare compliance and enforcement data, it should be noted that the Australian Maritime Safety Authority (AMSA/Seacare) does not collect data/perform inspections in the same way as other WHS regulators. The OHS(MI) activities are incorporated as part of AMSA's wider functions, hence they do not solely focus on WHS and include other operational safety related components, so interpretation of data should be done with caution.

## Key findings

# Comparative Performance Monitoring Report

/ WHS Compliance and Enforcement

## Workplace interventions (2020-21)



WHS authorities across Australia undertook

**248,973**

workplace interventions



**79,137**

were **proactive** visits



**59,900**

were **reactive** visits



Proactive workplace visits and reactive visits both **decreased by 4%** since 2019-20. Other reactive intervention activities **increased by 24%**

## Breakdown of workplace interventions in Australia (2020-21)

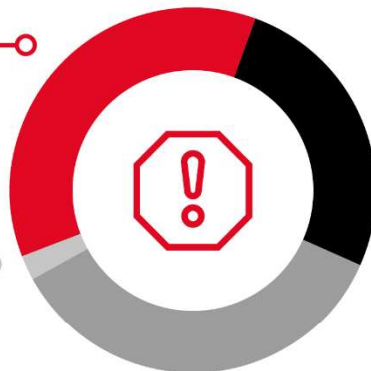
\*these figures have been rounded and may not equal 100%

**32%**

proactive workplace visits

**1%**

workshops, presentations and/or seminars



**24%**

reactive workplace visits

**43%**

other reactive interventions

## Inspectors (2020-21)



**1,374**

total number of active field inspectors across Australia

## Notices issued (2020-21)



Australian jurisdictions issued **57,204** notices

**6,686**

prohibition notices

**48,729**

improvement notices

**1,789**

infringements notices

↑ **9% increase**  
from previous year

↑ **4% increase**  
from previous year

✗ **0% no change**  
from previous year



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## Comparative Performance Monitoring Report

 WHS Compliance and Enforcement

### Enforceable undertakings (2020-21)



Australian regulators accepted  
**24 enforceable undertakings**

The number of enforceable undertakings has

 **decreased by 25% since 2019-20**

### Legal proceedings in Australia (2020-21)



**276**

legal proceedings in 2020-21  
resulted in a conviction, order or agreement

**compared to 307  
in 2019-20**

### Fines in Australia (2020-21)



**\$27.3 million**

the total amount of fines awarded by Australian courts in 2020-21

 **increase of \$4.6 million since 2019-20**



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## 1.1 Interventions

### National

In 2020-21, jurisdictional WHS authorities undertook a total of **248,973** workplace interventions. This comprised of:

- **79,137** proactive workplace visits (↓ **down 4%** from the previous financial year)
- **3,686** proactive workshops, presentations, or seminars (↓ **down 27%** from the previous financial year)
- **59,900** reactive workplace visits (↓ **down 4%** from the previous financial year), and
- **106,250** other reactive intervention activities, such as desk-based audits, meetings, telephone advice and written correspondence that were directly related to the resolution of an incident or complaint (↑ **increased by 24%** from the previous financial year).

### Jurisdictions

Approaches to interventions vary across jurisdictions. Changes from one year to the next can be impacted by several factors, including changes required to respond to the continuing challenges of the COVID-19 pandemic. The largest variations in each type of workplace interventions between 2020-21 and 2019-20, were experienced in:

#### Proactive visits (↓ **down 4%** nationally)

- Tasmania (↑ **up 61%**) and Northern Territory (↑ **up 53%**) recorded the largest increases.
- Victoria (↓ **down 27%**) and Queensland (↓ **down 20%**) recorded the largest decreases – In Queensland the reduction was due to COVID-19 restrictions limiting site visits.

#### Proactive workshops, presentations and seminars (↓ **down 27%** nationally)

- Australian Capital Territory (↓ **55% decrease**) – from recording proactive workshops, presentations and seminars in 2019-20 to 9 in 2020-21.
- Queensland (↓ **43% decrease**) – This was primarily due to COVID-19 restrictions, which limited WorkSafe QLD's capacity to conduct gatherings.
- The Australian Government was the only jurisdiction that recorded an increase in proactive workshops, presentations and seminars activities (↑ **up 11%**).

#### Reactive visits (↓ **down 4%** nationally)

- Northern Territory (↓ **down 20%**) followed by Victoria (↓ **down 11%**).
- Australian Capital Territory (↑ **up 35%**) followed by the Australian Government (↑ **up 10%**).

#### Other reactive intervention activities (↑ **24% increase** nationally)

- Australian Government (↑ **up 37% increase**).
- New South Wales recorded an increase (↑ **29% increase**) due to extensive COVID-19 lockdowns and inspectors using other tools than workplace visits to respond to matters.
- Western Australia experienced an increase (↑ **up 25%**) which was primarily due to a rise in reactive desktop audit related activities during COVID-19 restrictions.
- Queensland also reported a significant increase (↑ **25%**) in other reactive intervention activities due to COVID restrictions changing inspectorate work processes.
- South Australia was the only jurisdiction that recorded a decrease in other reactive intervention activities (↓ **down 6%**).

More detailed information is available in Indicator 12a.

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

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aus Gov	Seacare	Total Aus <sup>(a)</sup>	NZ
<b>Number of workplace visits: Proactive</b>	2016-17	22,139	23,646 <sup>(b)</sup>	17,386	5,168 <sup>(c)</sup>	8,815	3,826	1,477	1,933 <sup>(d)</sup>	2,000	72 <sup>(e)</sup>	86,462	13,405 <sup>(f)</sup>
	2017-18	22,765	24,007 <sup>(b)</sup>	16,063	4,270 <sup>(c)</sup>	5,680	1,913	872	2,424 <sup>(d)</sup>	2,981	71 <sup>(e)</sup>	81,046	14,270 <sup>(f)</sup>
	2018-19	19,809	23,606 <sup>(b)</sup>	19,845	4,861 <sup>(c)</sup>	3,282	1,137	486	1,207 <sup>(d)</sup>	3,326	73 <sup>(e)</sup>	77,632	14,005 <sup>(f)</sup>
	2019-20	22,629	22,195 <sup>(b)</sup>	23,683	4,475 <sup>(c)</sup>	2,071	2,137	556	1,480 <sup>(d)</sup>	3,053	102 <sup>(e)</sup>	82,381	13,074 <sup>(f)</sup>
	2020-21	27,207	16,286 <sup>(b)</sup>	18,972	6,027 <sup>(c)</sup>	2,016	3,444	848	1,531 <sup>(d)</sup>	2,696	110 <sup>(e)</sup>	79,137	14,172 <sup>(f)</sup>
<b>Number of workshops/ presentations / seminars: Proactive</b>	2016-17	706	u/a	4,017	275 <sup>(g)</sup>	358	1,126	240	191	1,198	n/a	8,111	u/a
	2017-18	818	u/a	2,092	264 <sup>(g)</sup>	329	351	240	176	1,521	n/a	5,791	u/a
	2018-19	1,421	u/a	2,175	236 <sup>(g)</sup>	269	125	272	261	1,471	n/a	6,230	u/a
	2019-20	837	u/a	2,276	206 <sup>(g)</sup>	145	83	351	20	1,119	0	5,037	u/a
	2020-21	579	u/a	1,286	157 <sup>(g)</sup>	119	55	243	9	1,238	0	3,686	u/a
<b>Number of workplace visits: Reactive</b>	2016-17	9,917	22,166 <sup>(b)</sup>	9,515	2,950 <sup>(c)</sup>	12,525	2,028	4,429	2,990 <sup>(d)</sup>	342	u/a	66,862	u/a
	2017-18	12,739	24,944 <sup>(b)</sup>	10,610	3,180 <sup>(c)</sup>	8,261	1,533	4,299	1,710 <sup>(d)</sup>	1,566	u/a	68,842	u/a
	2018-19	12,669	25,907 <sup>(b)</sup>	11,742	3,184 <sup>(c)</sup>	7,465	1,109	3,343	815 <sup>(d)</sup>	1,602	u/a	67,836	u/a
	2019-20	11,821	23,921 <sup>(b)</sup>	13,273	2,556 <sup>(c)</sup>	4,445	784	3,072	724 <sup>(d)</sup>	1,480	u/a	62,076	u/a
	2020-21	12,301	21,394 <sup>(b)</sup>	13,028	2,687 <sup>(c)</sup>	4,618	795	2,466	979 <sup>(d)</sup>	1,632	u/a	59,900	u/a
<b>Other reactive interventions</b>	2016-17	5,020	u/a	41,899	15,265	4,107	0	u/a	u/a <sup>(h)</sup>	2,925	0	69,216	354
	2017-18	7,651	u/a	44,051	16,658	4,538	0	u/a	u/a <sup>(h)</sup>	2,198	0	75,096	242
	2018-19	9,302	u/a	48,551	13,281	4,092	0	u/a	u/a <sup>(h)</sup>	2,038	0	77,264	212
	2019-20	9,636	u/a	52,172	16,610	5,028	0	u/a	u/a <sup>(h)</sup>	2,126	0	85,572	130
	2020-21	12,454	u/a	65,420	20,707	4,747	0	u/a	u/a <sup>(h)</sup>	2,922	0	106,250	185

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

## 1.2 Inspectors

Field active inspectors are gazetted inspectors whose role is to spend the majority of their time ensuring compliance with the provisions of WHS legislation. Duties of field active inspectors may include worksite visits, investigations, conducting audits or other activities to improve the WHS capability of businesses and workplaces. Vacant positions, staff on extended leave, managers of the inspectorate and auditors are included in the data for field active inspectors. Staff involved in giving advice and information packs from the office, and business advisory officers and community education officers, are excluded.

### National

In 2020-21, there were **1,374 field inspectors** employed around Australia.

This number has risen since 2019-20, **increasing 12%** from 1,223 employees. This was also reflected in a higher number of field active inspectors per 10,000 employees (increasing from 1.0 to 1.1).

### Jurisdictions

The largest increase in the number of field inspectors since 2019-20 was in Victoria (**↑ up 39%**), followed by ACT (**↑ up 17%**). In Victoria, a substantial amount of this increase was driven by the introduction of new psychosocial regulations and government commitments. The ACT's inspector numbers are smaller on an absolute scale, and so the addition of 5 new officials caused a relatively noticeable shift.

There was also a small variance in South Australia's active inspector figures (**↑ up 3%**), explained by the introduction of 3 Principal Investigator positions to the Team.

The largest decrease in the number of field inspectors since 2019-20 was in the Northern Territory (**↓ down 9%**).

More detailed information is available in Indicator 12b.

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

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aus Gov	Seacare	Total Aus <sup>(a)</sup>	NZ
Number of field active inspectors	2016-17	315	253	217	93	96	25	26	30	50	2	1,107	181 <sup>(i)</sup>
	2017-18	315	271	227	93	96	26	32	28	52	2	1,142	183 <sup>(i)</sup>
	2018-19	330	278	244	99	96	38	32	29	52	2	1,200	187 <sup>(i)</sup>
	2019-20	330	269	249	122	94	44	32	29	52	2	1,223	185 <sup>(i)</sup>
	2020-21	370	375	240	120	97	49	29	34	58	2	1,374	171 <sup>(i)</sup>
Number of field active inspectors per 10 000 Employees	2016-17	0.9	0.9	1.0	0.8	1.3	1.2	2.0	2.1	1.2	4.4	1.0	0.8
	2017-18	0.9	0.9	1.0	0.8	1.3	1.2	2.4	1.9	1.3	3.9	1.0	0.8
	2018-19	0.9	0.9	1.1	0.9	1.2	1.7	2.4	2.0	1.2	4.5	1.0	0.8
	2019-20	0.9	0.8	1.1	1.1	1.3	1.9	2.5	2.0	1.2	5.1	1.0	u/a
	2020-21	1.0	1.2	1.0	1.0	1.3	2.1	2.3	2.3	1.3	8.7	1.1	u/a
Number of other staff undertaking non-inspectorate activities	2016-17	0	u/a	68	3	11	9	2	4	49	2	148	0
	2017-18	0	u/a	82	4	11	9	2	7	22	2	139	0
	2018-19	0	u/a	82	4	11	8	2	7	22	1	137	0
	2019-20	0	u/a	80	4	5	8	2	7	12	1	119	0
	2020-21	0	u/a	83	3	4	6	2	4	14	1	117	0

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

## 1.3 Notices

In line with the requirements under the model WHS laws, some jurisdictions have created infringement notice schemes for certain offences. Where inspectors identify a breach under their WHS legislation, a notice may be issued.

### National

In 2020-21, there were a total number of **57,204 notices issued** across Australia. Overall, the total number of notices **slightly increased** from the previous year (2019-20), where 54,995 notices were issued. In 2020-21 there were:

- **1,789 infringement notices** issued (→ **0%** since 2019-20)
- **48,729 improvement notices** issued (↑ **up 4%** since 2019-20), and
- **6,686 prohibition notices** issued (↑ **up 9%** since 2019-20).

### Jurisdictions

Data on notices cannot be compared directly across jurisdictions as notices are issued differently in each jurisdiction. In some instances, a single notice may be issued for multiple breaches of work, health and safety legislation, while in other instances separate notices are issued for each identified breach. However, the movement of notices issued over time within a jurisdiction can be compared.

#### Infringement notices (→ **0%** nationally)

- Despite the flat trend nationally in infringement notices, the jurisdictions themselves recorded changes:
  - Northern Territory (↑ **up 325%**, from issuing 4 notices in 2019-20 to 17 in 2020-21).
  - South Australia (↑ **up 50%**, from issuing 6 notices in 2019-20 to 9 in 2020-21).
  - Tasmania (↓ **down 77%** from issuing 52 notices in 2019-20 to 12 in 2020-21).

#### Improvement notices (↑ **up 4%** nationally)

- The Australian Government had the largest increase in improvement notices issued since the previous year (↑ **up 243%**, from 7 to 24 notices), however this was largely in line with the number of improvement notices issued in 2017-18 and 2018-19.
- Victoria had the largest decrease in improvement notices issued since the previous year (↓ **down 28%**).

#### Prohibition notices (↑ **up 9%** nationally)

- The Australian Government had the largest percentage increase in prohibition notices issued since the previous year (from issuing 1 notice in 2019-20 to 10 in 2020-21).
- The Northern Territory (↑ **up 97%**) also recorded a large increase in prohibition notices issued.
- Victoria had the largest decrease in prohibition notices issued since the previous year (↓ **down 15%**).

More detailed information is available in Indicator 12c.

## 1.4 Enforceable undertakings

An enforceable undertaking is a legally binding agreement made in response to the contravention of a WHS law, which is entered into as an alternative to legal proceedings. An enforceable undertaking provides an opportunity for significant WHS remediation to be undertaken, while avoiding the costs and time burden associated with court actions. Typically, the activities associated with an undertaking are substantial with the aim of delivering tangible benefits to the workplace, industry, or the broader community.

Enforceable undertakings are an important compliance tool under the model WHS legislation. An enforceable undertaking will generally not be accepted where the offence relates to reckless conduct or where an infringement notice has been issued for the contravention.

### National/Jurisdictions

Nationally there were **24 enforceable undertakings** accepted by regulators in 2020-21. This is a **decrease of 25%** from the previous year when 32 notices were issued.

Overall, New South Wales accounted for the largest proportion (38%) of the 24 enforceable undertakings in 2020-21. Since the previous year, enforceable undertakings accepted by New South Wales regulators **decreased by 47%** (from 17 in 2019-20 to 9 in 2020-21).

More detailed information is available in Indicator 12c.

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

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aus Gov	Seacare	Total Aus *	NZ
<b>Number of infringement notices issued</b>	2016-17	160	n/a <sup>(i)</sup>	123	n/a <sup>(i)</sup>	1	12	1	1	n/a <sup>(i)</sup>	n/a <sup>(i)</sup>	298	12
	2017-18	324	n/a <sup>(i)</sup>	221	n/a <sup>(i)</sup>	0	20	2	37	n/a <sup>(i)</sup>	n/a <sup>(i)</sup>	604	10
	2018-19	636	n/a <sup>(i)</sup>	812	n/a <sup>(i)</sup>	1	26	4	24	n/a <sup>(i)</sup>	n/a <sup>(i)</sup>	1,503	6
	2019-20	561	n/a <sup>(i)</sup>	1083	n/a <sup>(i)</sup>	6	52	4	76	n/a <sup>(i)</sup>	n/a <sup>(i)</sup>	1,782	6
	2020-21	520	n/a <sup>(i)</sup>	1135	n/a <sup>(i)</sup>	9	12	17	96	n/a <sup>(i)</sup>	n/a <sup>(i)</sup>	1,789	7
<b>Number of improvement notices issued</b>	2016-17	7,513	15,869	2,485	11,341	2,342	212	169	141 <sup>(k)</sup>	8	3	40,083	2,117
	2017-18	9,210	15,148	4,899	8,525	2,468	251	208	205 <sup>(k)</sup>	24	0	40,938	3,595
	2018-19	10,157	13,852	11,398	9,046	2,441	460	116	669 <sup>(k)</sup>	20	0	48,159	5,385
	2019-20	9,303	12,699	14,016	7,022	2,406	565	127	922 <sup>(k)</sup>	7	1	47,068	3,962
	2020-21	9,985	9,188	13,988	10,554	2,221	626	302	1,840 <sup>(k)</sup>	24	1	48,729	4,501
<b>Number of prohibition notices issued</b>	2016-17	1,041	575	659	278	650	95	148	58 <sup>(k)</sup>	9	0	3,513	1,131
	2017-18	1,810	555	1249	233	791	79	80	95 <sup>(k)</sup>	17	3	4,912	1,194
	2018-19	1,905	477	2218	256	703	94	66	151 <sup>(k)</sup>	14	0	5,884	1,614
	2019-20	2,154	518	2171	177	584	103	64	373 <sup>(k)</sup>	1	0	6,145	1,308
	2020-21	2,363	440	2300	271	614	102	126	459 <sup>(k)</sup>	10	1	6,686	1,169
<b>Number of enforceable undertakings</b>	2016-17	10	12	5	0	3	0	2	2	0	n/a <sup>(l)</sup>	34	1
	2017-18	7	5	3	0	2	0	3	2	0	n/a <sup>(l)</sup>	22	15 <sup>(m)</sup>
	2018-19	5	7	1	0	2	0	4	4	0	n/a <sup>(l)</sup>	23	8 <sup>(m)</sup>
	2019-20	17	8	2	0	0	0	3	2	0	n/a <sup>(l)</sup>	32	7 <sup>(m)</sup>
	2020-21	9	6	1	0	2	1	0	4	1	n/a <sup>(l)</sup>	24	2 <sup>(m)</sup>

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

## 1.5 Legal proceedings

Legal proceedings are any investigation activity where a complaint has been laid or a summons issued against a company or individual under the relevant WHS laws. Data collected on legal proceedings in Indicator 12d focuses on:

- legal proceedings finalised
- finalised legal proceedings that have resulted in a conviction, order or agreement, and
- total amount of fines ordered by the court (see 1.6 Fines).

All legal proceedings finalised in the reference year are counted regardless of when the initial legal action commenced.

### National

In 2020-21, there were **304 legal proceedings** against duty holders finalised in Australia. This was an **8% increase** in the overall number of legal proceedings finalised compared to the previous year.

Overall, there was a **10% decrease** in the finalised legal proceedings that have resulted in a conviction, order, or agreement in 2020-21 from the previous year (from 307 proceedings in 2019-20 to **276 proceedings in 2020-21**).

### Jurisdictions

Legal proceedings in New South Wales account for 37% of the 2020-21 finalised legal proceedings that have resulted in a conviction, order, or agreement nationally. In 2020-21, New South Wales recorded an increase in legal proceedings finalised (**↑ up 9%**) and a decrease in proceedings resulting in a conviction, order, or agreement (**down 34%**).

Overall, there was a general increase in numbers of proceedings finalised:

- Queensland – with legal proceedings **up 80%** and those that resulted in a conviction, order, or agreement **up 83%**.
- Western Australia – with legal proceedings **up 325%** (from 4 in 2019-20 to 17 in 2020-21) and those that resulted in a conviction, order, or agreement **up 300%** (from 4 in 2019-20 to 16 in 2020-21). It should be noted that in the previous year, both senior prosecutors were involved in a resource intensive trial, reducing processing capacity. Furthermore, COVID-19 court delays pushed some court dates beyond the 2019-20 period.
- South Australia – with legal proceedings **up 40%** and those that resulted in a conviction, order, or agreement **up 40%** (both from 5 in 2019-20 to 7 in 2020-21).

Data for Victoria, New South Wales and the Australian Capital Territory is limited to the number of successful prosecutions resulting in a conviction, fine or both. Data for these jurisdictions do not include other finalised proceedings.

## 1.6 Fines

Fines data for Indicator 12d only includes fines known publicly and not amounts that have been ordered to remain confidential by a court. Fines are recorded in the year the court makes an order and not when the proceedings commenced.

### National/Jurisdictions

In 2020-21, there was a total of **\$27.3 million** in fines issued by Australian courts, an **increase of 21%** compared to the previous year. Three jurisdictions accounted for 87% of this total:

- New South Wales – Despite a significant reduction in proceedings resulting in a conviction, order, or agreement, the courts ordered a total of \$12.7 million in fines (**↑ 44% increase** from the previous year).
- Victoria –observed a **decrease of 55%** in fines, down from \$6.8 million the previous year to \$3.0 million). This might be partly explained by the **28% decrease** in proceedings that resulted in a conviction, order, or agreement in 2020-21 from the previous year.
- Queensland – Unlike the other two states, Queensland experienced an increase in court proceedings finalised and resulting in a conviction, order or agreement. This may have contributed to the overall rise in fines issued from the previous year from \$5.5 million to \$8.1 million (**↑ increase of 48%**).

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

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aus Gov	Seacare	Total Aus *	NZ
Number of legal proceedings finalised	2016-17	34 <sup>(n)</sup>	91	69	14	16	5	1	6	2 <sup>(o)</sup>	0	238	65 <sup>(p)</sup>
	2017-18	61 <sup>(n)</sup>	129	65	11	16	4	3	2	0 <sup>(o)</sup>	0	291	71 <sup>(p)</sup>
	2018-19	60 <sup>(n)</sup>	166	64	10	9	2	4	2	2 <sup>(o)</sup>	0	319	82 <sup>(p)</sup>
	2019-20	95 <sup>(n)</sup>	116	45	4	5	5	7	2	2 <sup>(o)</sup>	0	281	75 <sup>(p)</sup>
	2020-21	104 <sup>(n)</sup>	82	81	17	7	5	5	1	2 <sup>(o)</sup>	0	304	60 <sup>(p)</sup>
Number of legal proceedings resulting in a conviction, order or agreement	2016-17	33	82	64	13 <sup>(q)</sup>	12	1	2	1	2 <sup>(o)</sup>	0	210	58 <sup>(r)</sup>
	2017-18	59	117	56	11 <sup>(q)</sup>	15	4	3	2	0 <sup>(o)</sup>	0	267	49 <sup>(r)</sup>
	2018-19	59	143	53	9 <sup>(q)</sup>	5	2	3	2	1 <sup>(o)</sup>	0	277	69 <sup>(r)</sup>
	2019-20	153	90	42	4 <sup>(q)</sup>	5	5	4	2	2 <sup>(o)</sup>	0	307	59 <sup>(r)</sup>
	2020-21	101	65	77	16 <sup>(q)</sup>	7	4	4	1	1 <sup>(o)</sup>	0	276	54 <sup>(r)</sup>
Total amount of fines ordered by the courts (\$'000)	2016-17	\$4,464	\$3,612	\$2,594	\$415	\$721	\$225	\$27	\$140	\$908	\$0	\$13,106	\$1,823
	2017-18	\$4,112	\$9,076	\$2,569	\$788	\$1,395	\$335	\$196	\$61	\$0	\$0	\$18,531	\$4,348
	2018-19	\$3,570	\$6,536	\$6,043	\$382	\$996	\$135	\$366	\$32	\$200	\$0	\$18,260	u/a
	2019-20	\$8,800	\$6,768	\$5,501	\$257	\$234	\$321	\$229	\$180	\$375	\$0	\$22,665	\$5,609
	2020-21	\$12,657	\$3,016	\$8,126	\$1,331	\$1,337	\$247	\$245	\$8	\$350	\$0	\$27,317	\$6,614

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

# Appendix 1 — Explanatory notes

## Indicator 12 – Footnotes

- n/a Data is not applicable, indicating that the measure/activity is not relevant (e.g. the activity is not performed by the jurisdiction)
- u/a Data is unavailable, indicating that while the measure/activity is relevant, this information is cannot be reported (e.g. due to systems builds information about this measure cannot be extracted).
- 0 Data is applicable and available, however there have been no items recorded against the relevant financial year.
- (a) Totals only include jurisdictions that supplied the relevant data.

### Footnotes for Indicator 12a

- (b) Victoria also conducts 'virtual enquiries' (non-physical workplace inspections). These have not been included in the number of visits.
- (c) Workplace visits have been counted as number of workplaces visited, irrespective of how many inspectors attended.
- (d) The 2020-21 number reflects each workplace visit as one intervention, independent of the number of inspectors in attendance. It is noted previous reporting periods may have applied a different definition.
- (e) Inspections (investigations) are not identified as proactive or reactive
- (f) The numbers provided were the number of total workplace assessments undertaken.
- (g) Figures may be inflated when inspectors and community education officers, on occasions, present or attend the same event. It is not possible to identify and separate such events from these figures.
- (h) Data for this enforcement activity is not collected separately; it is included within the case file with the workplace visit and all accompanying regulatory activities required to determine and enforce compliance.

### Footnotes for Indicator 12b

- (i) The number of field active inspectors for New Zealand excludes field active inspectors operating in Maritime, Aviation and High Hazard areas.

### Footnotes for Indicator 12c

- (j) There is no legislative requirement for infringement notices in Western Australia, Victoria, and the Australian Government. There is no provision under the OHS(MI) Act for issuing of infringement notices in the Seacare scheme.
- (k) In October 2020 WorkSafe ACT commenced using a new CRM system for data collection. Data from July through October 2020 has a margin of error because of the manual nature of data collection during this transitional period.
- (l) There is no provision under the OHS(MI) Act for Enforceable Undertakings in the Seacare Scheme.
- (m) New Zealand introduced enforceable undertakings in 2016, and the first full year of data for this is 2017–18.

### Footnote for Indicator 12d

- (n) Data shows the number of defendants in successful WHS prosecutions only.
- (o) The Australian Government may have multiple defendants in one proceeding. There may be matters where a conviction has been recorded for one defendant in the proceeding, but the legal proceeding continues against the remaining defendant.

- (p) This figure represents the number of defendants for which a case was disposed of during that financial year. It includes convictions, withdrawn and dismissed cases. It includes prosecutions only (e.g. not appeals).
- (q) A prosecution is counted as a conviction if at least one charge is successful. A conviction that is subsequently appealed but remains unresolved is recorded as a conviction.
- (r) This figure represents the number of defendants that were convicted.

## Appendix 2 – 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="http://www.icare.nsw.gov.au">www.icare.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>