

Safe Work Australia

29th Edition

Comparison of Workers' Compensation Arrangements in Australia and New Zealand

2023



safe work australia

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Comparison report

Workers' Compensation Arrangements in Australia and New Zealand (2023)

Foreword

The 29th edition of the Comparison of Workers' Compensation Arrangements in Australia and New Zealand (the report) provides information on the operation of workers' compensation schemes in each of the jurisdictions in Australia and New Zealand. The report provides background information and discusses the way each scheme deals with key issues including coverage, benefits, return to work provisions, self-insurance, common law, dispute resolution and cross-border arrangements.

The majority of tables in this report, unless otherwise indicated, provide a snapshot of workers' compensation arrangements as at 31 December 2023. As each jurisdiction may vary its arrangements from time to time and there may be some exceptions to the arrangements described in this edition of the report, readers wanting more up-to-date information should check with the relevant workers' compensation authority.

On behalf of the Heads of Workers' Compensation Authorities, the Victorian WorkCover Authority produced this publication from 1993 to 2005. The Australian Safety and Compensation Council took over responsibility for the report in 2006 and produced it in 2006 and 2007. Safe Work Australia has been producing the report since 2008. The work of the Victorian WorkCover Authority and the Australian Safety and Compensation Council in developing previous editions of the report is acknowledged.

Safe Work Australia thanks representatives from each jurisdiction for the valuable assistance they have provided in producing this 29th edition of the Comparison of Workers' Compensation Arrangements in Australia and New Zealand report.

Contents

Chapter 1: History of workers' compensation schemes in Australia and New Zealand	8
Overview	9
New South Wales (NSW).....	11
Victoria (Vic).....	15
Queensland (Qld).....	22
Western Australia (WA).....	24
South Australia (SA).....	26
Tasmania (Tas).....	28
Northern Territory (NT).....	34
Australian Capital Territory (ACT).....	41
The Commonwealth.....	45
New Zealand.....	48
Chapter 2: Recent developments in workers' compensation schemes in Australia and New Zealand.....	51
Overview	52
New South Wales.....	52
Victoria	53
Queensland.....	56
Western Australia.....	58
South Australia.....	59
Tasmania.....	60
Australian Capital Territory.....	63
Northern Territory.....	64
Commonwealth	66
New Zealand.....	71
Chapter 3: Schemes at a glance.....	72
Schemes	73
Table 3.1: Key features of schemes	74
Table 3.2a: Summary of coverage.....	75
Table 3.2b: Guidelines and information for determining coverage of workers	80
Table 3.2c: Coverage of journeys and breaks	81
Table 3.2d: Definition of injury and employment contribution.....	82
Table 3.2e: Coverage of retirement provision	85
Table 3.3: Summary of entitlements	87
Table 3.4: Prescribed time periods for injury notification.....	95
Table 3.5: Prescribed time periods for claim submission	97
Table 3.6: Prescribed time periods for payments	104

Table 3.7: Dispute resolution process	106
Table 3.8: Definition of remuneration for the purpose of premium calculation	110
Table 3.9: Employer excess	111
Table 3.10: Uninsured employer provisions	112
Table 3.11: Leave while on workers' compensation	114
Table 3.12: Superannuation and workers' compensation	117
Chapter 4: Coverage and eligibility for benefits	118
Coverage and eligibility	119
Table 4.1a: Definition of worker	120
Table 4.1b: Coverage of contractors and labour hire workers	122
Table 4.2: Deemed workers.....	124
Table 4.3: Workers' compensation coverage for volunteers	128
Table 4.4: Treatment of sportspersons and sporting injuries	130
Table 4.5: Workers' compensation arrangements for government employers.....	132
Table 4.6: Workers' compensation arrangements for judges and members of parliament.....	134
Table 4.7: Definition of work — journeys and breaks	136
Table 4.8: Definition of injury and relationship to employment — detailed.....	138
Table 4.9: Industrial deafness thresholds	141
Coverage of disease	142
Table 4.10: Presumptive Legislation for firefighters	143
Table 4.11: Presumptive Legislation (other)	151
Table 4.12: Occupational diseases caused by agents arising from work activities.....	153
Table 4.13: Occupational cancers caused by agents arising from work activities	173
Permanent Impairment.....	179
Table 4.14: Statutory definitions of permanent and impairment and criteria for determining whether impairment is permanent	180
Table 4.15: Permanent impairment guides.....	183
Table 4.16: Discounting of prior conditions.....	188
Exclusionary provisions.....	190
Table 4.17: Exclusionary provisions (general).....	191
Table 4.18: Exclusionary provisions for psychological injuries.....	194
Cross-border provisions	198
Table 4.19: Cross border provisions.....	199
Chapter 5: Benefits	200
Benefits	201
Table 5.1: Income replacement	203
Table 5.2: Medical, hospital and other costs	214
Table 5.4: Death entitlements	228
Table 5.5: Definitions of dependants/spouse for death benefits	231
Table 5.6: Common law provisions.....	237

Table 5.7: Suspension and cessation of benefits	241
Table 5.8: Incapacity benefits settlements.....	246
Chapter 6: Return to work	247
Return to work.....	248
Table 6.1: Sections of workers' compensation Acts and guidance material relating to return to work.....	249
Table 6.2a: Requirement to have a return to work/workplace rehabilitation program or policy ..	254
Table 6.2b: Return to work plans — individual return to work plans	259
Table 6.2c: Suitable duties	265
Table 6.2d: Other requirements of employers	272
Table 6.3: Responsibilities of workers	274
Table 6.4: Injured worker placement incentives	279
Table 6.5: Responsibilities of authority/insurer	283
Functions and training of workplace rehabilitation coordinators	285
Table 6.6: Functions and training of workplace rehabilitation coordinators.....	286
Workplace rehabilitation providers.....	291
Table 6.7a: Responsibilities of workplace rehabilitation provider.....	292
Table 6.7b: Rehabilitation provider qualifications and fee structure.....	295
Table 6.8: Prescribed time periods to establish a return to work plan.....	297
Chapter 7: Self-insurer arrangements	299
Self-insurers	300
Table 7.1: Workers' compensation and self-insurance coverage.....	301
Table 7.2: Criteria for becoming a self-insurer	302
Table 7.3: Approval process, application and ongoing costs and duration of licence.....	306
Ongoing requirements.....	309
Table 7.4: Work health and safety requirements and auditing	310
Table 7.5: Bank guarantees/prudential margins and excess of loss requirements.....	312
Table 7.6: Self-insurance restraints on company structure	315
Table 7.7: Outsourcing of case management.....	316
Table 7.8: Other ongoing licence requirements.....	317
Table 7.9: Reporting requirements	321
Table 7.10: Requirements for surrendering a self-insurance licence and penalties for exiting the scheme	330
Chapter 8: Scheme administrative and funding arrangements	334
Administrative and funding arrangements	335
Table 8.1: Applicable workers' compensation legislation	336
Table 8.2: Transitional legislation provisions	337
Table 8.3a: Minor schemes — New South Wales	338
Table 8.3b: Minor schemes — Victoria.....	339
Table 8.3c: Minor schemes — Western Australia	340

Table 8.3d: Minor schemes — South Australia	341
Table 8.3e: Minor schemes — Tasmania	342
Table 8.3f: Minor schemes — Commonwealth.....	343
Table 8.3g: Minor schemes — New Zealand	344
Scheme funding arrangements.....	345
Table 8.4: Schemes' funding positions as at 30 June 2023 and 30 June 2022	346
Premiums	347
Table 8.5: Standardised average premium rates 2017-18 to 2021-22 (% of payroll)	348
Table 8.6: Selected industry premium rates as at 31 December 2023 (% of payroll)	350
Premium setting: Notes relating to the industry rates comparison table	354
Calculation of industry rates.....	355
Scheme expenditure	357
Table 8.7: Scheme expenditure (\$m)	357
Direct compensation payments.....	359
Table 8.8: Direct compensation payments by type and jurisdiction, 2020–21	359
Appendix 1 – Jurisdictional contacts	360
Appendix 2 – Agencies responsible for overseeing workers' compensation in each jurisdiction	362
Glossary	364
Acronyms and abbreviations.....	367



Chapter 1:

History of workers' compensation schemes in
Australia and New Zealand



Overview

This chapter provides an historical overview of the development of workers' compensation schemes in Australia at both the national and jurisdictional level, and for New Zealand.

In preparing this chapter the following publications were used: Kevin Purse, 'The Evolution of workers' compensation policy in Australia', 2005, from the Health Sociology Review; the CCH Workers' Compensation Guide, Volume 1; and the Productivity Commission's 2004 report *National Workers' Compensation and Occupational Health and Safety Frameworks*.

The national perspective

There are 11 main workers' compensation systems in Australia. Each of the 8 Australian states and territories has developed its own workers' compensation scheme and there are 3 Commonwealth schemes that cover:

- Australian Government employees and the employees of licensed self-insurers under the *Safety, Rehabilitation and Compensation Act 1988* (Cth) and Australian Defence Force personnel with service prior to 1 July 2004 under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (Cth)
- Certain seafarers under the *Seafarers Rehabilitation and Compensation Act 1992* (Cth), and
- Australian Defence Force personnel for service on or after 1 July 2004 under the *Military Rehabilitation and Compensation Act 2004* (Cth). The *Veterans' Entitlements Act 1986* (Cth) also provides compensation coverage to veterans and other Australian Defence Force personnel with certain periods of service prior to 1 July 2004.

The origin of these Australian workers' compensation systems lies in 19th century British law. Before the implementation of workers' compensation arrangements, an injured worker's only means of receiving compensation was to sue their employer for negligence at common law. Workers rarely succeeded in these actions due to the 'unholy trinity' of legal defences: common employment, voluntary assumption of risk and contributory negligence. To limit the application of those defences, the *Employment Liability Act 1880* was enacted in Britain. Australian colonies adopted this Act between 1882 and 1895. While these Acts were well intentioned, their adoption did not lead to any significant improvement in outcomes for injured workers.

Workers' compensation laws incorporating a 'no-fault' principle came about after Federation in Australia. New laws were prompted by the failure of the *Employment Liability Act 1880* to improve conditions for injured workers, increasing industrialisation and the rise of the labour movement and popular support for state intervention on behalf of workers. To be eligible for workers' compensation under the no-fault principle, workers covered by the legislation merely had to prove that their injuries were work-related. It was no longer necessary to prove negligence on the employer's part. However, early no-fault coverage was limited. Although the new laws provided for some benefits, it was not compulsory for employers to take out insurance. Additionally, to be eligible for workers' compensation, an injury had to be found to have arisen out of **and** in the course of employment.

In keeping with contemporary attitudes, the first workers' compensation laws in Australia were generally known as workmen's compensation and did not expressly cover female workers until challenged by the women's movement of the 1970s. Coverage for workers' compensation gradually expanded to include most workers, and lump sum payments for the loss of body parts were introduced. By 1926, New South Wales had introduced compulsory insurance which became the model for most workers' compensation schemes around Australia.

Between the 1920s and 1970s, incremental reforms took place across the jurisdictions. Eligibility continued to widen with the broadening of the definition of injury to 'arising out of **or** in the course of employment'. Reforms from the 1970s to the mid-1980s generally improved compensation benefits for workers. However, economic difficulties in the mid-1980s and early 1990s shifted the focus onto reducing the cost of workplace injuries, containing insurance premiums, underwriting arrangements and administrative efficiency.

Since the introduction of the first workers' compensation laws, each jurisdiction has developed its own arrangements. This has resulted in differences in the operation and application of workers' compensation laws. Some of the differences include scheme funding, common law access, level of entitlements, return to work and coverage. These differences can be attributed in part to the varying

industry profiles and economic environments of each jurisdiction and judicial decisions that have led to legislative amendments. However, as businesses and workers become increasingly mobile, the need to understand the various workers' compensation systems at the national level is becoming increasingly important.

In the 21st century, workers' compensation systems have continued to adapt to changing societal expectations and increasing knowledge regarding the impact of work on health. This is reflected through reviews into the impact of the gig economy, additional diseases such as silicosis added to deemed disease lists and the introduction of presumptive legislation. In particular, presumptive legislation for firefighters and first responders which acknowledge that these occupations have an increased risk of developing certain forms of cancers and post-traumatic stress disorder.

The COVID-19 global pandemic is also still reflected in legislative developments for workers' compensation schemes with the ongoing use of presumptive laws in certain jurisdictions for occupations with an increased risk of contracting COVID-19 in the workplace and a number of jurisdictions which have made other adjustments to their benefits and payments.

It is anticipated that workers' compensation schemes will continue to evolve to meet emerging societal trends in relation to the changing nature of work.

New South Wales (NSW)

1910–1987

NSW introduced the *Workmen's Compensation Act 1910*. It applied to personal injury by accident arising in the course of employment, which was limited to defined 'dangerous occupations'. Compulsory insurance for employers and the first specialised workers' compensation tribunal in Australia, the Workers' Compensation Commission, were introduced in the *Workers' Compensation Act 1926*. This Act remained essentially unchanged until the mid-1980s.

1987–2012

The *Workers Compensation Act 1987* repealed the 1926 Act and introduced a radically different scheme which included public underwriting of the scheme and removing the right of workers to make common law damages claims against their employers. In 1989 the *Workers Compensation (Compensation Court Amendment) Act 1989* re-established common law rights and set out the role of the Compensation Court.

From 1987 to 1991 the workers' compensation scheme performed well and in the early 1990s premium levels were reduced and there were a number of legislative amendments that expanded the range and level of benefits. However, the previous surplus of almost \$1 billion quickly eroded and by mid-1996 there was a \$454 million deficit. The Grellman Inquiry of 1997 was initiated to address continuing financial problems. The inquiry recommended structural changes including stakeholder management, accountability controls and greater incentives for injury management.

Changes in the period 2000–2005 continued to focus on greater competition and choice for employers, improved outcomes for injured workers and reducing the scheme's deficit, which was eliminated in mid-2006.

The improved performance of the NSW WorkCover Scheme saw the target premium collection rate for NSW employers reduced by an average 30% between November 2005 and 2008. A 10% increase in lump sum compensation benefits for permanent impairment was also implemented for injuries received on or after 1 January 2007.

The structure of the Scheme also continued to evolve. In 2005 the Scheme transitioned from using insurers on open-ended licences to appointing Scheme Agents on commercial performance contracts for claims management and policy administration services that commenced on 1 January 2006. The contracts made Agents more accountable for delivering good Scheme outcomes and improved service standards.

From 30 June 2008 employers whose annual wages are \$7,500 or less receive automatic coverage and are no longer required to hold workers' compensation insurance, except where an employer engages an apprentice or trainee or is a member of a group of companies for workers' compensation purposes.

In December 2008 the compensation available to families of workers who die as a result of a workplace injury or illness was increased for deaths occurring on or after 24 October 2007. The lump sum death benefit was increased from \$343,550 to \$425,000 (indexed). The changes also required payment of the lump sum to be made to a deceased worker's estate where they leave no financial dependants. Previously only financial dependants were entitled to the lump sum payment.

An optional alternative premium calculation method for large employers based on commercial retro-paid loss premium arrangements was introduced from 30 June 2009. The retro-paid loss premium method derives an employer's premium almost entirely from their individual claims experience and success in injury prevention and claims management during the period of the insurance policy. This provides a strong financial incentive for these employers to reduce the number and cost of workers' compensation claims.

2012

In June 2012 the NSW Government introduced significant changes to the NSW workers' compensation system. The *Workers Compensation Legislation Amendment Act 2012* was assented on 27 June 2012 and amended the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*. The changes affected all new and existing workers' compensation claims, except for claims from:

- police officers, paramedics and fire fighters
- workers injured while working in or around a coal mine
- bush fire fighter and emergency service volunteers (Rural Fire Service, Surf Life Savers, SES volunteers), and
- people with a dust disease claim under the Workers' Compensation (Dust Diseases) Act 1942.

Claims by these exempt workers will continue to be managed and administered as though the June 2012 changes never occurred. The changes came into effect in stages and included:

- changes to permanent impairment lump sum compensation claims made on or after 19 June 2012
- changes to parameters around journey claims, heart attack and stroke injuries and disease injuries for an injury received on or after 19 June 2012
- reforms for seriously injured workers (injured workers with a permanent impairment of more than 30%) which came into effect on 17 September 2012
- changes to weekly payments (1 October 2012 for new claims, 1 January 2013 for existing claims) including calculation methods, step-downs and caps
- the introduction of work capacity assessments
- the establishment of the WorkCover Independent Review Officer (now Workers' Compensation Independent Review Officer) from 1 October 2012, and
- changes to medical and related treatment (1 October 2012 for new claims, and 1 January 2013 for existing claims).

2014

The *Workers Compensation Amendment (Existing Claims) Regulation 2014* was made on 3 September 2014 and applies some benefit reforms to workers who made a claim for compensation before 1 October 2012.

2015

In August 2015, the NSW Government announced a \$1 billion staged reform package with 3 elements:

- enhanced benefits for injured workers, including changes to lump sum compensation for permanent impairment, increased death benefit lump sum and funeral expenses, extension of weekly payments beyond retiring age, extended medical entitlements, the introduction of work capacity decision 'stay', the introduction of new return to work assistance benefits, the regulation of legal costs for work capacity decision reviews and the regulation of pre-injury average weekly earnings.
- premium reductions for employers with good safety and return to work records
- structural reform for better service and regulation

On 1 September 2015 the *State Insurance and Care Governance Act 2015* commenced, paving the way for 3 new organisations - Insurance & Care NSW (icare), the State Insurance Regulatory Authority (SIRA), and SafeWork NSW. icare manages approximately \$30 billion in assets and \$26 billion in liabilities, making it the largest general insurer service provider in Australia.

SIRA is a statutory body governed by an independent Board and regulates workers' compensation insurance and related activities, motor accidents CTP insurance and home building compensation insurance in NSW. SIRA approves premium, licensing and policy frameworks for insurers, supervises insurers, and monitors the financial solvency and performance of the 3 compulsory insurance

schemes. SIRA also plays a role in funding, promoting and informing injury prevention in relation to the schemes it regulates. SIRA also has specific functions within the Lifetime Care and Support Scheme and the Dust Diseases Scheme. SIRA aims to ensure that people who suffer injury or loss are supported, and insurance is affordable, well managed and sustainable.

2016

From 2016-17, annual Market Practice and Premiums Guidelines replaced the publication of the WorkCover Insurance Premiums Order and provided a new mechanism for the setting and assessment of workers' compensation premiums.

The *Workers Compensation Amendment (Legal Costs) Regulation 2016* was made on 16 December 2016 and provides for the recovery of legal costs for merit reviews of work capacity decisions. Further transitional arrangements for workers receiving weekly payments of compensation before 1 October 2012 were also made on 16 December 2016 under the *Workers Compensation Amendment (Transitional Arrangements for Weekly Payments) Regulation 2016*.

2018

The *Workers Compensation Legislation Amendment (Firefighters) Act 2018* introduced presumptive legislation for eligible firefighters diagnosed with any of the 12 specified cancers and who met the minimum periods of service.

The *Workers Compensation Legislation Amendment Act 2018* introduced changes to simplify workers compensation dispute resolution processes and to restore the Workers Compensation Commission's exclusive jurisdiction for all disputes under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*.

Revisions were made to the Market Practice and Premiums Guidelines (MPPGs) to ensure insurance policies and premiums were fair, affordable and appropriate with each employer's risks in line with the system objectives.

2019

The *Workers compensation guidelines and Standards of practice* were introduced to support the delivery of the objects of the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* and associated regulations by informing and guiding insurers, workers, employer's injury management consultants, independent medical examiners and other stakeholders on the process of claiming workers compensation in NSW.

The *Workers Compensation Amendment (Pre-injury Average Weekly Earnings) Regulation 2019* was introduced to improve the calculation of PIAWE. It made detailed provision for the calculation of PIAWE for short term workers, apprentices and trainees along with other additional exclusions and adjustments.

The *Statute Law (Miscellaneous Provisions) Act (No 2) 2019* was amended to increase the maximum amount payable for funeral expenses from \$9,000 to \$15,000 in respect of the death of a worker resulting from a dust disease, as defined in the *Workers' Compensation (Dust Diseases) Act 1942*.

2020

The *COVID-19 Legislative Amendment (Emergency Measures) Act 2020* was introduced in response to the COVID-19 pandemic. It provided a presumption that workers who contracted COVID-19 whilst working in prescribed employment were considered to have contracted COVID-19 in the course of their employment. It made provision for the calculation of weekly payments to accommodate the payment of subsidies to workers and the disrupted working arrangements for workers during the COVID-19 pandemic and provided more flexibility to general practitioners in issuing second and subsequent certificate of capacity as a way to relieve the pressure on the health system.

Revisions were made to the Workers Compensation Market Practice and Premium Guidelines (MPPGs) to address the impact of wage subsidy programs such as JobKeeper on wages for the purposes of calculating workers compensation premiums.

2021

The *Personal Injury Commission Act 2020* (PIC Act) established the Personal Injury Commission of New South Wales. From 1 March 2021, the Personal Injury Commission (Commission) replaced the Workers Compensation Commission and SIRA's Dispute Resolution Service as a single, independent tribunal that manages disputes involving injured workers and road users. The *PIC Act* also established the Independent Review Officer (IRO) to replace the Workers Compensation Independent Review Office and extended its function to complaints in the motor accident scheme.

2022

The *Motor Accidents and Workers Compensation Legislation Amendment Act 2021* was assented to on 16 June 2022 and made various miscellaneous amendments including:

- more closely harmonising workers compensation entitlements for certain volunteers (volunteer firefighters, State Emergency Service workers and surf life savers) and paid workers
- creating a new entitlement to compensation for children of deceased workers to cover costs associated with the NSW Trustee and Guardian (TAG) managing their lump sum until they reach 18, and
- granted additional powers to regulate health service providers.

The *Workers' Compensation (Dust Diseases) Amendment Act 2022* made amendments regarding rates of compensation payable to workers suffering from dust diseases and validated certain past payments of compensation.

The *Workers' Compensation (Dust Diseases) Amendment (Scheduled Diseases) Regulation 2022* amended the *Workers' Compensation (Dust Diseases) Act 1942* to add 5 additional compensable dust diseases (diffuse dust-related pulmonary fibrosis, hypersensitivity pneumonitis, pneumoconiosis [any form], silica-induced carcinoma of the lung and systemic sclerosis).

Victoria (Vic)

Victoria introduced the *Workers' Compensation Act 1914* with benefits payable to workers arising 'out of and in the course of' employment. The *Workers' Compensation Act 1946* changed to arising 'out of or in the course of' employment. Major amendments were made in 1984 and the *Accident Compensation Act 1985* was introduced. The *Accident Compensation Act 1985* made sweeping changes to the system including public underwriting, vocational rehabilitation, work health and safety reforms and a new dispute resolution system.

The Act has been constantly updated with major reforms as follows:

1992

- restricting weekly benefits for workers with a partial work capacity
- introducing a non-adversarial dispute resolution system via conciliation
- establishing expert Medical Panels to determine medical questions
- limiting access to common law to seriously injured workers, and
- reinstating the right to sue for economic loss.

1993

- introducing the premium system.

1997

- removing access to common law
- significantly changing the structure of weekly benefits
- introducing impairment benefits to replace the Table of Maims, and
- restructuring death benefits.

2000

- reinstating access to common law damages for seriously injured workers with a new threshold for economic loss.

2004

- improving the efficiency of the claims process, and
- facilitating early and sustainable return to work.

2005

- making provision for previously injured workers whose employers exit the Victorian scheme to become licensed corporations under the Comcare scheme.

2006

- enhancing existing benefits including death benefits and the extension of the weekly benefits entitlement period from 104 to 130 weeks with increased payments for workers with a partial work capacity.

2007

- clarifying the financial guarantee requirements on employers who exit the Victorian WorkCover scheme (or Victorian self-insurer arrangements) to self-insure under the federal Comcare scheme
- mandating the return of the management of tail claim liabilities to the Victorian WorkCover Authority (WorkSafe Victoria) for Victorian self-insurers who cease their self-insurance arrangements under the Victorian scheme

- restoring the original approach to the assessment of permanent impairment for injured workers who suffer spinal injuries prior to the decision of the Full Court of the Supreme Court in *Mountain Pine Furniture Pty Ltd v Taylor*
- confirming that compulsory employer superannuation payments are not taken into account in the calculation of weekly benefit compensation
- improving counselling benefits for the families of deceased or seriously injured workers, and
- contributions towards the purchase price of a car where the current car is unsuitable for modification, home relocation costs and portable semi-detachable units in addition to car and home modifications.

2008

- preservation of the higher impairment rating regime for workers with musculoskeletal injuries assessed under Chapter 3 of the American Medical Association Guides (4th edition) in place since 2003
- retrospective amendments to the Act to maintain the status quo regarding recovery rights against negligent third parties that contribute to the compensation costs payable for a worker's injury, and
- workers with asbestos-related conditions can claim provisional damages and access expedited processes to bring on court proceedings quickly where the worker is at imminent risk of death.

2009

- on 17 June 2009 the Victorian Government responded to 151 recommendations made in a commissioned report following a review undertaken in 2008 by Mr Peter Hanks QC of the Accident Compensation Act 1985 and associated legislation, and
- improvements to benefit both workers and employers and aimed at enhancing the scheme as a whole were introduced into Parliament in December 2009.

2010

The *Accident Compensation Amendment Act 2010* was passed with the majority of the reforms commencing from 5 April 2010, except for new return to work rights and obligations commencing from 1 July 2010. The Act introduced the following changes:

- almost a doubling of lump sum death benefits, and improved access to pensions for dependants of deceased workers

For injured workers who suffer a permanent impairment, the reforms provided:

- a 10% increase in no-fault lump sum benefits for workers with spinal impairments
- a 25% increase in the maximum impairment benefit, increasing no-fault lump sum benefits for the most profoundly injured workers, and
- a 5-fold increase in benefits awarded to workers who suffer a serious psychiatric impairment.

For injured workers who receive weekly payments:

- an increase in the rate of compensation from 75% to 80% of income after workers have received compensation for 13 weeks
- a superannuation contribution for long term injured workers
- the extension of the inclusion of overtime and shift allowances from 26 weeks to 52 weeks when calculating a worker's weekly payments
- increasing the statutory maximum for weekly payments to twice the state average weekly earnings, and
- payment of limited further weekly payments for workers who have returned to work, but who require surgery for their work-related injury.

Other changes include:

- the replacement of prescriptive return to work requirements with a performance based regulatory framework from 1 July 2010 and the appointment of a Return to Work (RTW) Inspectorate with the power to enter workplaces and issue return to work improvement notices for any contravention by an employer of the return to work part of the Act
- greater accountability and transparency of decisions made by Victorian WorkCover Authority and its agents, including the right of employers to request written reasons for agents' claims decisions and to appeal premium determinations, and
- less red tape for employers and improved understanding and usability of the legislation by the removal or reform of anomalous, obsolete, inoperative or unclear provisions.

Further reforms were introduced in the latter half of 2010 with amendments to:

- streamline the provision that sets out the calculation of pre-injury average weekly earnings (PIAWE) and correct an anomaly in relation to the incorporation of commissions into PIAWE
- codify current policies that relate to the impact on remuneration of salary packaging and injury prior to taking up a promotion, on the calculation of PIAWE
- restructure and streamline the provisions that govern the coverage of contractors
- align the value of impairment benefits for injured workers assessed at 71% WPI or above with the equivalent value of common law damages payable for pain and suffering on an ongoing basis
- introduce greater clarity and equity for dependants of deceased workers in relation to medical and like benefits, how earnings are calculated and how partial dependant partners of deceased workers are compensated
- improve the usability of provisions relating to medical expenses, and
- extend an existing provision in the Act to allow the making of a Governor in Council Order that would permit the introduction of a fixed costs model (FCM), with built-in increases linked to inflation, for plaintiff's legal costs in the litigated phase of serious injury applications.

2011

On 1 July 2011, the new ANZSIC 2006 based WorkCover Industry Classification (WIC) system commenced.

2014

Workplace Injury Rehabilitation and Compensation Act 2013

The *Workplace Injury Rehabilitation and Compensation Act 2013* commenced on 1 July 2014. The Act recast the *Accident Compensation Act 1985* and the *Accident Compensation (WorkCover Insurance) Act 1993* into a single Act. The WIRC Act also repealed the *Accident Compensation (WorkCover Insurance) Act 1993* and streamlined provisions of the AC Act.⁴

The WIRC Act:

- applies to injuries including physical and mental injuries, diseases, and industrial deafness
- defines the term 'worker' and stipulates that a worker may be entitled to compensation for an injury arising out of or in the course of any employment, or to the exacerbation of which work has been a significant contributing factor
- provides the framework for decisions about a worker's claim and the respective roles, rights and duties of the worker, employer, WorkSafe and others
- outlines what must legally happen when a Victorian worker is injured at work or loses their life because of a workplace injury
- covers insurance, workers' compensation, claims, rehabilitation, return to work, and dispute resolution
- allows for employers to apply to be self-insurers and to manage and bear the costs and risks of their own workers' compensation claims
- covers the requirements and process of registration of employers, and determination and obligations regarding premiums.

In doing so, the objectives of the WIRC Act are to:

- reduce the incidence of accidents and diseases in the workplace
- make provision for the effective occupational rehabilitation of injured workers and their early return to work
- increase the provision of suitable employment to workers who are injured to enable their return to work
- ensure appropriate compensation under the WIRC Act or the AC Act is paid to injured workers in the most socially and economically appropriate manner, as expeditiously as possible
- ensure workers compensation costs are contained, to minimise the burden on Victorian businesses
- establish incentives that are conducive to efficiency and discourage abuse
- enhance flexibility in the system and allow adaptation to the needs of disparate work situations
- maintain a fully funded scheme
- improve the health and safety of persons at work and reduce the social and economic costs to the Victorian community of accident compensation.

Workplace Injury Rehabilitation and Compensation Regulations 2014

The *Workplace Injury Rehabilitation and Compensation Regulations* were made in 2014 following the introduction of the WIRC Act.

The Regulations set out additional details and particulars surrounding compensation arrangements, such as amounts not to be taken as remuneration for certain classes of contractors, the formula for calculating contributions payable to the WorkCover Authority Fund by self-insurers, and prescribing certain other matters or things required or permitted to be prescribed or necessary to be prescribed to give effect to the WIRC Act and the AC Act.

The Regulations are important for the effective operation of the WIRC Act and prescribe the following:

- the prescribed particulars that, if certified in a certificate issued by WorkSafe, can be taken as evidence of those matters (for instance, the certificate can be used as evidence of payments made in fraud prosecutions)
- the form search warrants should take
- how inquiries and investigations into fraud should be conducted
- the prescribed hours an employee must work to be considered a full-time worker when there is no applicable award
- the prescribed hours for calculating injury payments when a worker works for more than one employer and there is no applicable award
- the percentage of amount payable under timber contracts to a timber contractor that is not deemed to be remuneration
- the percentage of amount payable under certain contracts to contractors deemed to be workers under the WIRC Act and the AC Act that are not deemed to be remuneration
- payments to workers residing overseas
- the period after which WorkSafe must pay interest to employers on reimbursements
- the formula for calculating contributions payable by self-insurers to WorkSafe

2019

Firefighters' Presumptive Rights and Fire Services Amendment Legislation (Reform) Act 2019

The *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* came into effect in July 2019. It allows career and volunteer firefighters to access presumptive compensation for specified cancers contracted while serving as a firefighter. The compensation applies to career and volunteer firefighters who:

- have served in active firefighting roles for a specified number of years, depending on the cancer type
- have been diagnosed since 1 June 2016 with one of 12 specified cancer types
- are diagnosed during their service or within 10 years after the conclusion of their service, and
- have a listed cancer because of an exceptional exposure event in a firefighting capacity.

An advisory committee was established to provide advice to WorkSafe regarding the scheme.

2020

Justice Legislation Amendment (Supporting Victims and Other Matters) Act 2020

The *Justice Legislation Amendment (Supporting Victims and Other Matters) Act 2020* was passed in November 2020. The Act temporarily amended the WIRC Act and AC Act to exclude earnings for workers financially impacted by the effects of COVID-19 for the period between 1 March 2020 and 31 December 2020. The intended effect of this was to ensure that a worker's PIAWE are calculated as if the worker was not financially disadvantaged by the impacts of COVID-19. The rationale for the proposed amendments is as follows:

- COVID-19 had a significant impact on Victoria with businesses and many workers needing to reduce hours and earnings or losing jobs as a result of COVID-19 restrictions.
- The reduction in a workers' hours and earnings due to COVID-19 restrictions has a direct impact on PIAWE calculation and therefore a workers' weekly compensation entitlements. A lower PIAWE will result in the worker being financially disadvantaged for the life of their claim.

Provisional Payments for mental injury

In June 2019, the Victorian Government launched a Provisional Payments Pilot (pilot) for eligible emergency services industry workers and volunteers who lodge a claim for mental injury. The pilot preceded legislation in 2021 which provides all Victorian workers who lodge a mental injury claim with provisional payments.

The pilot was expanded in November 2020 to also apply to all public health staff, including medical and support staff, who lodge a new mental injury claim. The inclusion of this cohort intended to provide additional support to healthcare workers in response to the pandemic.

Under the pilot, eligible workers or volunteers who submit a claim for a primary mental injury were eligible to receive payments for medical and like services, prior to their claim being determined. The pilot also offers payments for medical and like expenses for up to 13 continuous weeks, from the date of lodgement, for participants where their claim is not accepted.

COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020

The *COVID-19 Omnibus (Emergency Measures) Act 2020* and the *COVID-19 Omnibus (Emergency Measures) Amendment Act 2020* (COVID-19 Omnibus Acts) were passed in October 2020, amending the *Workplace Injury Rehabilitation and Compensation Act 2013* (WIRC Act). The amendments extended the notice period given to an injured worker for second entitlement determinations made during relevant period from 13 weeks to 39 weeks.

Prior to the COVID-19 Omnibus Acts amendments, the WIRC Act specifies that a worker's entitlement to weekly payments must not be terminated on the ground that the second entitlement period has expired, unless and until the Victorian WorkCover Authority or the self-insurer has made a second entitlement determination and has given at least 13 weeks' notice of the decision to terminate weekly payments.

The effect of the COVID-19 Omnibus Act's amendments is that injured workers whose weekly payments are terminated as a result of the second entitlement period determination during the

relevant period receive 39 weeks' notice of termination, in lieu of the current 13 week notice period. The relevant period initially set by the first of the COVID-19 Omnibus Acts was to apply to workers who were due to receive their notice of termination between 1 December 2019 and 23 October 2020. The second of these Acts further extended the period to 31 December 2020.

2021

The WIRC Act and AC Act were amended in 2021 to:

- allow the Accident Compensation Conciliation Service (ACCS) to hear and make binding determinations on disputes not resolved by conciliation.
- give workers the choice to have their matter arbitrated by the ACCS instead of going to court
- introduce provisional payments for up to 13 weeks for workers who seek compensation for a mental injury under WorkCover to cover reasonably medical expenses while they await the outcome of their claim
- require employers to provide early notification of mental health claims to their agent (within 3 business days), agents to determine whether provisional payments should be provided (within 2 days) and self-insurers to determine whether provisional payments should be provided (within 5 business days).

Workplace Injury Rehabilitation and Compensation Amendment (Provisional Payments) Act 2021

The Workplace Injury Rehabilitation and Compensation Amendment (Provisional Payments) Act 2021 came into effect on 1 July 2021. This amended the WIRC and AC Acts to provide for a provisional payments scheme for workplace mental injuries.

Under the scheme, Victorian workers who seek compensation for a mental health injury under WorkCover will receive payments to cover reasonable medical expenses while they await the outcome of their claim. Provisional payments are payable up to the date of claim acceptance or, in any other case, 13 weeks after the day the worker is determined to be entitled to provisional payments.

The legislation also requires employers to provide early notification of mental injury claims to their Agent (within 3 business days of receiving the claim). Agents will then need to determine whether a claim is eligible to receive provisional payments within 2 business days. Self-insurers will have 5 business days to determine a provisional payments claim. Where employers do not meet these early notification requirements penalties will be applied.

Forests Amendment (Forest Firefighters Presumptive Rights Compensation) Act 2021

The Forests Amendment (Forest Firefighters Presumptive Rights Compensation) Act 2021 expanded the presumptive rights compensation scheme to cover eligible forest firefighters. This means that if a forest firefighter who satisfies the relevant criteria is diagnosed with a specified cancer, they no longer need to prove that the cancer is directly attributable to their service as a firefighter. The presumption applies unless it can be proven the cancer was not caused by firefighting.

2022

Changes to *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* (FPRC Act) commenced on 1 September 2022. The changes extend presumptive rights compensation to vehicle and equipment maintenance employees engaged by the Country Fire Authority (CFA) and Fire Rescue Victoria (FRV).

Extending presumptive rights for specified cancers to vehicle and equipment maintenance employees employed by the CFA or FRV recognises the critical role they play in maintaining firefighting equipment at the fire scene and provides equal coverage for persons employed in those roles. Vehicle and equipment maintenance employees are required to attend fires to repair and refuel fire trucks.

The Workplace Safety Legislation and Other Matters Amendment Act 2022 (Amendment Act)

The Workplace Safety Legislation and Other Matters Amendment Act 2022 (Amendment Act) commenced on 16 March 2022 and aims to prevent and better respond to workplace safety incidents,

improve outcomes for injured workers and their families, and increase WorkSafe Victoria's ability to enhance Victoria's workers' compensation scheme operations.

On 1 July 2022, changes came into effect that improve compensation arrangements for workers with silicosis and similar occupational diseases. These changes enable workers with eligible diseases to access lump sum payments without needing to prove their injury has stabilised. The changes allow injured workers who have already received compensation for silica-related diseases to make a subsequent application for damages if they develop a further related disease or injury down the track. The changes also provide greater support to Victorians who have received a lung transplant due to a work-related injury and extends compensation for counselling services to families of workers diagnosed with an eligible disease.

The Workplace Injury Rehabilitation and Compensation Amendment (Arbitration) Act 2021 (the Arbitration Act) came into effect on 1 September 2022. The Arbitration Act amended the *Workplace Injury Rehabilitation and Compensation Act 2013* (WIRC Act) and *Accident Compensation Act 1985* (AC Act). The Arbitration Act amends the WIRC Act to:

- allow the Accident Compensation Conciliation Service (ACCS) to hear and make binding determinations on disputes not resolved by conciliation, and
- give workers the choice to have their matter arbitrated by the ACCS, instead of going to court, who must commence a hearing within 30 days of the dispute being referred.

The Arbitration Act delivered on the Victorian Government's commitment to improve the dispute resolution process in line with a recommendation from the Victorian Ombudsman 2019 report "WorkSafe 2: Follow-up investigation into the management of complex workers' compensation claims".

2023

Justice Legislation Amendment Act 2023

The *Justice Legislation Amendment Act 2023* came into effect in October 2023. It expanded the presumptive rights scheme in the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* to include 3 additional cancers affecting female firefighters – primary site cervical, ovarian and uterine cancers. The rights apply to female careers and volunteer firefighters and vehicle and equipment maintenance employees who:

- have served in active roles for a qualifying period of 10 years to align with other Australian and international jurisdictions
- have been diagnosed on or after 1 June 2016 in line with cancers already included.

Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023

The Victorian Government introduced the *WorkCover Scheme Modernisation Bill* into Parliament in 2023.

The purpose of the Bill is to modernise the WorkCover scheme to better respond to mental injury claims and reinforce its financial sustainability.

Queensland (Qld)

1905–1990

Queensland's first workers' compensation legislation was the *Workers' Compensation Act 1905*. This limited scheme was repealed and replaced by the *Workers' Compensation Act 1916*, which became the foundation for workers' compensation until 1990. In the 1970s benefits were increased and a new Workers' Compensation Board was created.

1990

By the late 1980s the legislation in Queensland had become outdated and unwieldy and a review resulted in the *Workers' Compensation Act 1990*. Key features included increased and additional benefits for workers, rehabilitation initiatives, increased employer and worker representation on the Workers' Compensation Board, increased penalties for fraud and failure of employers to insure and streamlined administrative arrangements.

1996

In 1996 a further inquiry was held to address financial, regulatory and operational difficulties resulting in the *WorkCover Queensland Act 1996*. It repealed the 1990 Act and 'effected a total rewrite of the workers' compensation legislation'.

2003

Following a review under National Competition Policy, the *Workers' Compensation and Rehabilitation Act 2003* repealed the 1996 Act and introduced separate delivery and regulation of the workers' compensation scheme.

2010

Legislative amendments capping damages and increasing the onus on plaintiffs to prove negligence (in line with aspects of civil liability legislation) were passed in June 2010.

2013

Legislative amendments were passed in response to the Inquiry into the Operation of Queensland's Workers' Compensation Scheme by the Queensland Parliament's Finance and Administration Committee. A greater than 5% degree of permanent impairment threshold was introduced for injured workers seeking damages. Regulatory functions were merged into the Department of Justice and Attorney-General.

2015

The common law threshold was removed effective 31 January 2015 and deeming provisions for firefighters with prescribed diseases were introduced.

2016

The National Injury Insurance Scheme for workplace accidents connected with Queensland was introduced to provide eligible seriously injured workers with a statutory entitlement to lifetime treatment, care and support payments (from 1 July 2016).

2017

New entitlements for current and former workers with Coal Workers' Pneumoconiosis or other Coal Mine Dust Lung Diseases introduced.

2018

The second 5-yearly review of the operation of the Queensland workers' compensation scheme required under section 584A of the *Workers' Compensation and Rehabilitation Act 2003* was completed. The [report](#) of the review made 57 recommendations.

2019

Legislative amendments included:

- a mandatory requirement to refer an injured worker to an accredited rehabilitation and return to work program if the worker is receiving compensation and makes a request, or the worker's entitlement to compensation has ceased and the worker has not returned to work because of the injury
- requiring self-insured employers to notify their insurer when a worker sustains an injury for which compensation may be payable
- clarifying that insurers have a discretion to accept claims submitted more than 6 months after the injury is diagnosed, if the injured worker has lodged a claim within 20 days of developing an incapacity for work from their injury
- deeming unpaid interns as workers entitled to access workers' compensation benefits
- amending the meaning of psychiatric or psychological injury to remove 'the major' as a qualifier for employment's 'significant contributing factor' to the injury, and
- requiring insurers to take all reasonable steps to provide claimants with psychiatric or psychological injuries access to reasonable support services relating to their injury during claim determination.

2021

Presumptive workers' compensation laws for first responders and eligible employees diagnosed with post-traumatic stress disorder (PTSD) commenced. The presumption applies to workers or relevant volunteers who are first responders responding to time-critical, often life-threatening incidents (e.g. police officers, paramedics, firefighters) and eligible employees in certain first responder departments who experience repeated or extreme exposure to graphic details of traumatic incidents.

2022

Legislative protections were introduced to shield the workers' compensation scheme and injured workers from "claim farming" practices. The amendments prohibit:

- approaching or contacting another person to solicit or induce them to make a claim; and
- giving or receiving financial incentives for referring claims or potential claims.

Amendments also confirmed the policy intent for when an entitlement to terminal workers' compensation benefits arises by inserting an explicit 5-year timeframe into the definition of 'terminal condition'.

2023

The [report](#) of the 2023 review of the operation of the Queensland workers' compensation scheme was tabled in Queensland Parliament. The report made 54 recommendations of both legislative and administrative character. As at 31 December 2023 the Queensland Government was in the process of finalising a response to the recommendations.

Western Australia (WA)

1902–1991

WA introduced the *Workers' Compensation Act 1902*. There were frequent and complex amendments over the next 79 years until the *Workers' Compensation and Assistance Act 1981* amended and consolidated the law. In 1991 the Act was renamed the *Workers' Compensation and Rehabilitation Act 1981*, reflecting a general shift of emphasis to rehabilitation.

1999–2001

A number of reviews and reports between 1999–2001 recommended changes and the Workers' Compensation Reform Bill 2004 introduced changes to statutory benefits, injury management, access to common law, employer incentives in relation to return to work for disabled workers, and fairness in dispute resolution. As part of the reforms the Act was renamed the *Workers' Compensation and Injury Management Act 1981* which reflects an emphasis on injury management within the workers' compensation scheme in Western Australia.

2009–2011

In 2009 a further review of the *Workers' Compensation and Injury Management Act 1981* was undertaken. The review recommended a 2-stage process. The first stage was completed with passage of amendments in 2011 relating to the:

- removal of all aged-based limits on workers' compensation entitlements
- extension of the safety net arrangement for workers awarded common law damages against uninsured employers, and
- inclusion of various amendments of an administrative nature (including the removal of time limit for writ lodgement after election and the incorporation of diffuse pleural fibrosis into the industrial disease provisions of the legislation).

The establishment of the Conciliation and Arbitration Service and other changes to the dispute resolution process commenced on 1 December 2011.

2013–2023

The second stage of the legislative review, which aimed to modernise the workers compensation legislation, progressed in 2013/2014 and saw the release of the *Review of Workers' Compensation and Injury Management Act 1981 Discussion Paper*. Stakeholder feedback on the discussion paper informed the subsequent *Review of Workers' Compensation and Injury Management Act 1981 Final Report* (Final Report). The report contains 171 recommendations for inclusion in the new workers compensation statute.

The final report was tabled in Parliament on 26 June 2014 the Government at the time committed to draft a Bill in line with the Final Report recommendations. However, the Bill was lapsed by the change in Government in 2017.

In February 2018, the new Government approved the drafting of a Bill based on the recommendations contained in the Final Report, plus catastrophic injury amendments in line with NDIS bilateral agreement.

The Government also prioritised amendments to implement Final Report recommendations relating to entitlements for dependants of workers killed at work - to address a significant inequity in the scheme. This change was implemented 1 July 2018.

In 2020 the Government enacted other priority reforms through the *Workers' Compensation and Injury Management Amendment (COVID-19 Response) Act 2020* which removed a number of barriers and constraints in the Act relating to the COVID-19 pandemic, including Final Report recommendations to remove the common law termination day.

In 2021 the Government reiterated its commitment to introduce the Bill following public consultation, and announced the following additional election commitments for inclusion in the Bill:

- extension of weekly compensation step-down point
- doubling of medical expenses cap
- prohibition on employers attending medical appointments of injured workers, and
- introduce a rebuttable presumption that ambulance workers who claim to suffer from PTSD have developed it in the course of their work (implemented February 2022).

Workers Compensation and Injury Management Act 2023

The Bill was introduced into Parliament on 22 February 2023 and was subsequently passed on 11 October 2023.

The new Act:

- modernises WA's workers compensation laws
- builds on priority workers compensation reforms in 2018 that increased entitlements and better supported dependants of workers who die in work related accidents, and the 2020 COVID-19 reforms that removed the common law termination day
- implements the Government's 2021 election commitments for workers compensation, and
- was informed by extensive consultation with all key stakeholders, including 86 submissions on a consultation draft of the Bill over a 4-month submission period in late 2021.

Enactment

The target commencement date for the new Act is 1 July 2024.

WorkCover WA has commenced the first stage of the implementation process which involves consultation with stakeholders on key proposals for:

- regulations supporting the new Act, and
- administrative instruments supporting the new Act.

South Australia (SA)

1932

SA introduced the *Workmens' Compensation Act 1900* which was consolidated in 1932 and remained essentially in that form until the introduction of the *Workers' Compensation Act 1971*. The 1971 Act completely restructured the workers' compensation legislation in the state. The Act increased the amounts of compensation payable and broadened the grounds for which a worker could gain compensation.

1978–2006

In June 1978 the Government established a Committee of Inquiry, chaired by D. E. Byrne, to examine and report on the most effective means of compensating those injured at work. In September 1980 the Committee released the report entitled 'A Workers' Rehabilitation and Compensation Board for South Australia — the key to rapid rehabilitation and equitable compensation for those injured at work (*'Byrne Report'*). Included among the Committee's recommendations was that a new Act be introduced repealing the *Workers' Compensation Act 1971*, that a Board be established to administer a workers' compensation scheme and that the Board be responsible for overseeing and confirming rehabilitation programs.

A Joint Committee was established to investigate those areas where employers and the unions were in agreement or disagreement with respect to changing the workers' compensation system. Essentially, the Joint Committee reviewed the Byrne Committee recommendations to determine which of those should be implemented. A joint agreement was reached that led to the drafting of new legislation that was considered by Parliament in 1986 and the establishment of WorkCover in September 1987.

Amendments to the *Workers' Rehabilitation and Compensation Act 1986* were made in 1992 (abolishment of common law), 1994 (compensability, redemptions, hearing loss), 1996 (dispute resolution, rehabilitation and return to work plans, 2 year reviews and more), and 2006 (territorial).

2008

In 2008 legislative amendments followed an independent review by the South Australia Government to reassess the structure of the Scheme.

The 2008 amendments included the introduction of work capacity assessments, Medical Panels, restrictions on redemptions and changes to weekly payments (commonly referred to as 'step-downs'). The Amendment Act also included a requirement for the Minister for Industrial Relations, to initiate a further independent review in 2011 to consider the impact of the 2008 changes.

In 2008 WorkCover commenced a review of all regulations supporting the Act. All SA regulations expire after being 10 years in force (under the *Subordinate Legislation Act 1978*). In June 2010 Cabinet approved the *Workers' Rehabilitation and Compensation Regulations 2010*. The regulations were made by the Governor and published in the SA Government Gazette on 24 June 2010 and commenced on 1 November 2010.

The review (generally referred to as the Cossey Review) of the 2008 legislative amendments was undertaken by Mr Bill Cossey and Mr Chris Latham, with the report tabled in Parliament on 23 June 2011. The review found that overall it was too soon for the long term impacts of the 2008 amendments to be known. Emerging trends were identified where possible noting that trends were based on limited experience, limited data and it was unclear if they would prevail in the longer term.

2011

On 13 September 2011, the Government made a statement in relation to the Cossey Review to announce that it would continue to work on developing the Government's response, including consideration of recent court judgements and other reform proposals and working closely with employee and employer representatives, the WorkCover Board and Executive and other interested parties.

2012–2018

On 27 October 2012, the Premier announced the Workers' Compensation Improvement Project. Phase one outcomes included a new WorkCover Charter and Performance Statement signed on 19 August 2013, with a range of initiatives that were expected of WorkCover to place a greater focus on early intervention and return to work. These initiatives were intended to cap the growing unfunded liability. Amendments were also made to the *WorkCover Corporation Act 1994* in November 2013 to put the Board on a more commercial footing. Phase 2 of the Workers' Compensation Improvement Project was announced to include a root and branch recasting of the fundamental characteristics of the legislation.

On 30 October 2014 new legislation to reform workers' compensation in South Australia was passed by Parliament. The *Return to Work Act 2014* and the *South Australian Employment Tribunal Act 2014* replace the *Workers Rehabilitation and Compensation Act 1986* and establish the Return to Work scheme.

The Return to Work scheme is underpinned by the following key principles:

- a strong focus on early intervention, targeted return to work services and provision of retraining (where required)
- recognition that workers who are seriously injured require different services and support to those workers who are not seriously injured
- clearly articulated rights and obligations for all parties: workers, employers and the Corporation
- a simple and efficient dispute resolution process with an improved framework including clear boundaries and requirements for evidence-based decision making.

The Return to Work scheme became operational on 1 July 2015.

On 2 February 2015 the *WorkCover Corporation Act 1994* was amended to the *Return to Work Corporation of South Australia Act 1994*. These amendments arising from the *Return to Work Act 2014* provide for the name change of the Corporation.

On 6 February 2015 ReturnToWorkSA (RTWSA) was launched. RTWSA is responsible for insuring and regulating the Return to Work scheme. RTWSA continued to administer the WorkCover scheme until it was replaced by the Return to Work scheme on 1 July 2015.

Section 203 of the Return to Work Act 2014 required a review of the legislation after the expiry of 3 years from its commencement. The review was conducted by the Hon John Mansfield AM QC who provided the Government with his report and recommendations on 4 June 2018. The report was tabled in both Houses of Parliament on 26 July 2018.

2022

The *Return to Work (Scheme Sustainability) Amendment Act 2022* was passed by the South Australian Parliament on 6 July 2022. Amendments to the *Return to Work Act 2014* have enabled the revised interpretation brought about by the Supreme Court's decision of *Return to Work Corporation of South Australia v Summerfield* [2021] SASCFC 17 (**Summerfield**) to remain, while adjustments to other features of the benefit structure are designed to address associated Return to Work Scheme affordability and sustainability risks.

Tasmania (Tas)

1910

Tasmania first introduced workers' compensation in 1910. The *Workers' Compensation Act 1927* repealed earlier Acts and introduced compulsory insurance against injury to workers. A 1986 Tasmanian Law Reform Commission report recommended sweeping changes to the system and led to the *Workers Rehabilitation and Compensation Act 1988*. This Act introduced many new features to the Tasmanian workers' compensation scheme, including:

- the establishment of the Workers' Compensation Board which included representatives of employers, employees, insurers and the medical profession
- extension of coverage to police officers, ministers of religion and sportsmen (restricted)
- revision of payment of the costs of treatment, counselling, retraining or necessary modifications to an injured worker's home or workplace, and
- licensing of insurers and self-insurers.

1995

During 1995 amendments were made to strengthen the rehabilitation and return to work aspects of the Act, including a requirement for:

- an employer to hold an injured worker's pre-injury position open for 12 months
- an employer to provide suitable alternative duties to an injured worker for a period of 12 months
- a return to work plan to be developed if a worker is incapacitated for more than 14 days, and
- an employer with more than 20 employees to have a rehabilitation policy.

The amendments also removed a worker's right to compensation on the journey to and from work (in most circumstances) and introduced the first step-down provisions in relation to weekly benefits.

2000

In response to rising costs and concerns from unions and other groups about the fairness of the scheme, a Joint Select Committee of Inquiry into the Tasmanian workers' compensation system was initiated. Its 1998 report recommended significant changes to the workers' compensation system and resulted in the establishment of the new WorkCover Tasmania Board. Many of the recommendations of this Report were incorporated into the Workers Rehabilitation and Compensation Amendment Bill 2000 including:

- access to common law being restricted to those workers who had suffered a WPI of 30% or more
- replacing the monetary cap on weekly payments with a 10 year limit
- without prejudice commencement of weekly payments to injured workers on receipt of a workers' compensation claim form and medical certificate
- an increase in the level of benefits to the dependants of deceased workers, and
- increases in the levels of step-downs in weekly payments.

2004

In 2003 the Government initiated a review to investigate concerns that the step-downs in weekly benefits were causing hardship for some workers. The Rutherford Report was completed in March 2004 and contained a number of recommendations for both the government and the WorkCover Tasmania Board. As a result of Rutherford's report, the legislation was amended to retain the first step-down provision of 85% of Normal Weekly Earnings but increase its duration to 78 weeks and reduce the impact of the second step-down from 70% to 80% of NWE. To offset the additional cost to employers of this change, the maximum period of entitlement was reduced from 10 to 9 years. The time limit for deciding initial liability was also increased from 28 days to 12 weeks.

2007

In 2007 Parliament passed the *Workers Rehabilitation and Compensation Amendment Act 2007*. The aim of this Act was to make the system fairer and provide greater certainty for all parties. The key changes included:

- improved compensation for industrial deafness. In the past some workers were unable to establish a claim for industrial deafness because their employer had failed to conduct baseline audiometric testing — the amendments rectified this
- a fairer method of calculating the rate of weekly compensation, especially for workers who have a short employment history and where the award does not include an 'ordinary-time rate of pay'
- workers' compensation coverage for jockeys
- amendments to address a Supreme Court decision that limited the ability of employers to recover compensation costs from a negligent third party
- clarification of coverage of luxury hire car drivers and consolidation of provisions relating to taxi drivers
- amendments to the work-relatedness test for injury from 'arising out of and in the course of' to 'arising out of or in the course of', so it is clear that injuries can be compensable even when symptoms only become apparent after the worker has left the relevant employment (however, to be compensable all injuries and diseases must be caused by work), and
- measures to better deal with disputes between insurers or disputes between employers.

2009

The *Workers Rehabilitation and Compensation Amendment Act 2009* was passed by Parliament in late 2009 and commenced on 1 July 2010. The amendments had 4 main purposes:

- to implement the Government's response to the Clayton Report
- to establish the legal framework for the WorkCover Return to Work and Injury Management Model
- to amend the timing and level of weekly payment step-downs, and
- to reduce the common law threshold from 30% WPI to 20%.

The amendments:

- introduced a statement of scheme goals
- encourage early reporting by holding the employer liable for claims expenses until the claim is reported
- provide for the payment of counselling services for families of deceased workers
- provide for the payment of medical and other expenses for up to 12 months after a worker ceases to be entitled to weekly compensation (with the possibility of extension on application to the Tribunal)
- increase the maximum lump sum payable to a dependant on the death of a worker to \$266,376.05 (indexed annually)
- increase weekly payments payable to a dependant child of a deceased worker from 10% basic salary to 15% basic salary
- increase the maximum lump sum payable for permanent impairment to \$266,376.05 (indexed annually)
- provide for the extension of weekly payments from 9 years to 12 years for workers with a WPI between 15% and 19%, to 20 years for workers with a WPI of between 20% and 29% and until the age of retirement for workers with a WPI of 30% or more
- amend the first step-down to 90% of NWE rather than 85% of NWE
- delay the operation of the first step-down, so that it comes into effect at 26 weeks of incapacity rather than 13 weeks
- provide that the step-downs are not to apply where a worker has returned to work for at least 50% of their pre-injury hours or duties

- provide that the step-downs are to be discounted in circumstances where an employer refuses or is unable to provide suitable alternative duties
- reduce the threshold for access to common law damages from 30% WPI to 20% WPI, and
- repeal s138AB requiring a worker to make an election to pursue common law damages.

The amendments also included a range of measures that support the WorkCover Return to Work and Injury Management Model including:

- requirements for return to work and injury management plans
- obligations on employers to encourage early reporting of injuries and claims
- providing an entitlement to the payment of limited medical costs before the claim is accepted, and
- introduction of an injury management coordinator to oversee the injury management process.

2011

The *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* commenced on 31 October 2011. The Act establishes a scheme for the payment of compensation to workers who develop or developed asbestos-related diseases (ARD) through exposure to asbestos during the course of their employment. A person may still come within the scope of the Act notwithstanding that he or she may have retired some time ago. Compensation may also be available to certain family members of a worker that has died from an ARD.

Compensation is not available where a worker has already received compensation for the same ARD at common law or under legislation in another jurisdiction or under the *Tasmanian Workers Rehabilitation and Compensation Act 1988* or the *Workers' Compensation Act 1927*.

To be entitled to compensation under the Act, the worker must have or have had a compensable disease. A person has a compensable disease if:

- the person has an ARD, and
- the contraction by the person of the disease is reasonably attributable to exposure to asbestos in the course of the person's employment as a worker during a relevant employment period in which the person's employment is connected with Tasmania.

Compensation under the Act

Where the worker has an imminently fatal compensable ARD (less than 2 years' life expectancy from the date of correct diagnosis):

- the worker is entitled to lump sum compensation of 360 compensation units (plus a further age-based payment up to a maximum of 360 compensation units (if under 80 years of age). As at 1 January 2022, one compensation unit was \$975.12, and
- the worker is also entitled to have their reasonable medical expenses paid for by the scheme. However, when total medical expenses reach 125 compensation units a review is to be held to enable the ongoing payment of medical expenses.

Where the worker has a non-imminently fatal compensable ARD (more than 2 years' life expectancy from the date of correct diagnosis):

- a worker with a non-imminently fatal ARD must undergo an impairment assessment. Compensation is only payable if the worker has a WPI of 10% or more
- 3 lump sum payments are payable to the worker depending on the degree of impairment up to a total of 360 compensation units. However, if the worker is assessed at 51% or more WPI at their first assessment, they will receive all 3 lump sums at the same time — 360 compensation units
- the worker is also entitled to the payment of reasonable medical expenses. There is no dollar cap on the payment of these expenses
- where the worker is employed, or was employed for a certain period, weekly payments are payable for incapacity due ARD, and
- where a worker has received compensation in relation to a non-imminently fatal ARD which is subsequently diagnosed as being imminently fatal or they develop a different imminently fatal

ARD, they will be paid any remaining lump sum compensation up to 360 compensation units. They will also receive the age-based payment if eligible.

Members of the family:

- where a worker has died from a compensable ARD, the members of the worker's family are entitled to the same amount of lump sum compensation (excluding medical expenses or weekly payments) that the worker would have received had they not died. They may also be entitled to funeral expenses in relation to the deceased worker, and
- members of the family include a spouse (including a person in a significant relationship with the worker within the meaning of the Relationships Act 2003), and a child who is less than 22 years of age (natural child, adopted child and in some circumstances, a step-child).

Further information can be found at:

- [WorkSafe Tasmania – Asbestos safety](#)
- [WorkSafe Tasmania – Asbestos compensation](#)
- [Tasmanian Asbestos Compensation Information](#)
- [Guide to Asbestos Compensation in Tasmania](#)

2012

The *Workers Rehabilitation and Compensation Amendment (Validation) Act 2012* (the 2012 Validation Act) commenced on 30 August 2012. It amended the *Workers Rehabilitation and Compensation Act 1988* (the Act) to remove any doubts about the validity of versions 2 and 3 of the *Guidelines for the Assessment of Permanent Impairment* (the Guidelines). The amendments also clarified that version 2 of the Guidelines took effect on and from 1 April 2011 to Online Claims Workers Compensation Certificate Course Australia (australianonlinecourses.com.au) 2012 and version 3 of the Guidelines took effect on and from 1 October 2011. The Guidelines are used to assess the degree of WPI under both the Act and the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*. Both Acts provide lump sum compensation based on the percentage of impairment. Under the Act the level of impairment is also relevant in relation to weekly compensation and for access to common law damages.

2013

The was passed by Parliament on 26 September 2013 and commenced operation on 21 October 2013.

The legislation establishes a rebuttable presumption that particular forms of cancer developed by career and volunteer firefighters are work related for the purpose of the Act. The amendments will make the process of claiming workers' compensation less cumbersome for firefighters and recognises that firefighters are at greater risk of developing certain types of cancers as a result of exposure to hazardous substances while performing firefighting activities. Under the presumption, if a career firefighter is diagnosed with one of the 12 cancers listed in the schedule and served as a firefighter for the relevant qualifying period, it will be presumed that the cancer is an occupational disease and is therefore compensable. For volunteer firefighters there is an additional requirement that the person must have attended at least 150 exposure events within any 5 year period for brain cancer and leukaemia, and within 10 years for the remaining 10 cancers. This requirement ensures that the presumption only applies to volunteers who have had a significant level of exposure to the hazards of fire.

The legislation limits the operation of the presumption to diseases that occurred during the period of employment or up to 10 years post-retirement or resignation as a firefighter. It will only apply to firefighters, both career and volunteer, appointed or employed under the *Fire Service Act 1979*.

The Parliament endorsed an amendment to the Bill to require a review of the legislation after 12 months of operation and every 12 months thereafter. This will provide an opportunity to assess the fairness and effectiveness of the legislation and to take into account any developments in medical research.

2017

In 2017 the *Workers Rehabilitation and Compensation Act 1988* was amended by the *Workers Rehabilitation and Compensation Amendment Act 2017* and the *Workers Rehabilitation and Compensation Amendment (Presumption of Cause of Disease) Act 2017*.

The *Workers Rehabilitation and Compensation Amendment Act 2017* focussed on opportunities to reduce unnecessary administrative burden on workers' compensation scheme participants by moving away from unnecessary administrative processes to instead focus on achieving positive outcomes for all workers, employers and insurers. Two significant changes resulting from those amendments are:

- Structure of the WorkCover Tasmania Board: The membership and voting structure of the WorkCover Tasmania Board has been redesigned to ensure all members are equipped with the necessary skills and experience to advise and make decisions. The new structure brings the Tasmanian Board into closer alignment with equivalent bodies in other Australian jurisdictions and positions the Board to further advance the aims of the workers' compensation scheme.
- Removal of age restrictions for older workers: The amendments future-proof the Act from related changes to Commonwealth legislation by removing references to the specific age of 65 years and, instead, link access to weekly benefits to a person's eligibility to the Age Pension under the Social Security Act 1991 (Cth). This allows the legislation to keep pace with any future changes in retirement age. Existing protections under the Act for older workers are retained, whereby a person injured close to retirement age is entitled to receive weekly payments for up to 12 months from the date of their injury.

The *Workers Rehabilitation and Compensation Amendment (Presumption of Cause of Disease) Act 2017* removed the requirement for volunteer fire-fighters to attend a specified number of exposure events before being eligible for a presumption that some cancers may be linked to occupational exposure.

2019

In 2019 the *Workers Rehabilitation and Compensation Act 1988* was amended by the *Workers Rehabilitation and Compensation Amendment (Presumption as to Cause of Disease) Act 2019* and the *Workers Rehabilitation and Compensation Amendment Act 2019*.

The *Workers Rehabilitation and Compensation Amendment (Presumption as to Cause of Disease) Act 2019* provided presumption as to the cause of PTSD for relevant workers. These workers were defined as a worker who is employed by:

- the Crown or appointed under an Act of the State
- a Government Business Enterprise, within the meaning of the Government Business Enterprises Act 1995, or
- a State-owned company, within the meaning of the Government Business Enterprises Act 1995.

The *Workers Rehabilitation and Compensation Amendment Act 2019* amended section 69B of the *Workers Rehabilitation and Compensation Act 1988* to exempt police officers from a decrease in the weekly benefit payment made to an injured worker, after set periods of time. This amendment specifically applies to police officers who are injured whilst on front line duty.

2023

Presumptive Cancers for Fire-Fighters

The Workers Rehabilitation and Compensation Amendment Bill 2023 was passed by Parliament and amends the *Workers Rehabilitation and Compensation Act 1988* to extend the list of presumptive cancers for fire-fighters. Significantly, female reproductive cancers (such as cervical cancer) will now be included in the list of presumptive diseases (that is, it is automatically presumed that they have developed the cancer because of their firefighting work or volunteer service). The Bill will ensure gender equality and fair compensation for our female firefighters injured in the course of their work.

New WRP Framework

Tasmania introduced a new framework for accrediting workplace rehabilitation providers (WRPs) in July 2023. WorkCover Tasmania has adopted the Heads of Workers Compensation Authorities (HWCA) Principles of Practice for WRPs subject to any amendments stipulated in the [Accreditation Requirements for Workplace Rehabilitation Providers in Tasmania](#). Minimum qualifications are incorporated into the Approval Criteria.

Cessation of payments when a worker reaches pension age

Section 87 of the Act was amended to change when a workers weekly payments cease due to reaching pension age. The provision now outlines that payment ceases:

- on the date on which the worker attains pension age where the injury occurred 2 years or more before that date; or
- on the date 2 years after the injury occurred where the injury occurred less than 2 years before the date on which the worker attains the pension age.

Northern Territory (NT)

1920

The first workers' compensation statute introduced in the NT was the *Workmens' Compensation Act 1920*. Before then, the *Employer's Liability Act 1884* applied. In 1985 the name of the Act was changed to the *Workers' Compensation Act*.

1984

A review of the legislation in 1984 resulted in the *Work Health Act 1986*, which contained provisions for both work health and safety and workers' compensation. This Act provided for a scheme which is privately underwritten, featured pension based benefits and promotes rehabilitation and an early return to work. There is no access to common law for injured workers.

2007

'Cross border' amendments to the *Work Health Act 1986* commenced on 26 April 2007 so employers are only required to maintain a workers' compensation policy in the NT when they employ workers with a 'State of Connection' to the NT. The new cross-border arrangements reduce red tape for employers and make it easier to do business by removing the need for the majority of employers to obtain multiple workers' compensation policies for workers who are temporarily working interstate. All the other Australian states and territories have introduced cross-border provisions that allow workers to work across their borders for temporary periods, under an existing NT workers' compensation policy.

In December 2007 the Legislative Assembly passed the *Workplace Health and Safety Act* and the *Law Reform (Work Health) Amendment Act 2007*. These Acts separated the work health and safety and rehabilitation and workers' compensation provisions of the previous *Work Health Act 1986* into the new *Workplace Health and Safety Act* and the *Workers' Rehabilitation and Compensation Act*. The rehabilitation and workers' compensation provisions of the *Work Health Act 1986* were transferred almost unchanged into the new *Workers' Rehabilitation and Compensation Act*.

2008

On 1 July 2008 the *Workplace Health and Safety Act* and parts of the *Workers' Rehabilitation and Compensation Act* came into effect.

Prior to taking effect however, the *Workplace Health and Safety Act* underwent a number of amendments. The amendments made relate to 3 areas:

- prescribed volunteers are no longer eligible for compensation for life, but instead will now be eligible for compensation similar to that provided to other injured workers
- if an employer/insurer defers a decision on liability but fails to make a decision to accept or dispute liability within the prescribed timeframe (56 days), then the employer/insurer is deemed to have accepted the claim until 14 days after the day on which the employer notifies the claimant of a decision to accept or dispute liability
- parties are now required to provide all written medical reports and other specified written material relating to the disputed matters to NT WorkSafe so they can be considered by the parties and mediator prior to the mediation process. The mediation process must now be completed within 21 days instead of 28 days, and
- GIO became an approved insurer pursuant to s121(1) of the *Workers' Rehabilitation and Compensation Act* on 30 June 2008, bringing the total number of approved insurers in the jurisdiction to 5.

2012

The *Workers' Rehabilitation and Compensation Legislation Amendment Bill 2011* was passed in Parliament on 28 March 2012. The amendments came into effect on 1 July 2012 and are:

- [Section 3](#) - definition of 'worker' was amended to remove the reference to the Australian Business Number and to apply the 'Results Test' so that a person performing work for another person will be a worker unless, in relation to the work, the following tests apply:
 - The person is paid to achieve a stated outcome; and
 - The person has to supply the plant and equipment or tools of trade needed to carry out the work; and
 - The person is, or would be, liable for the cost of rectifying any defect in the work carried out.
- The new laws also provide that a person will not be considered a 'worker' for workers' compensation purposes where there is a personal services business determination in effect for the person performing the work under the *Income Tax Assessment Act 1997* (Cth).
- Section 65B was amended to allow access to compensation by workers injured in Australia but who reside overseas. The change will provide for weekly payments to continue if an injured worker is living outside Australia. The key elements of the change are as follows:
 - For weekly compensation payments to continue the injured worker must, at not less than 3 month intervals, provide proof of identity and proof of ongoing incapacity.
 - The duration of compensation payments will be a maximum of 104 weeks from when the worker starts living outside Australia.
 - Flexibility will exist for applications to be made to the Work Health Court for payments beyond 104 weeks if the worker is permanently and totally incapacitated, or exceptional circumstances apply. However, any such extension by the Court must be a single period that does not exceed 104 weeks.
- Section 65 was amended to provide immediate and fairer access to compensation for older workers who are injured and to reflect the Australian Government's decision to increase the qualifying age for the aged pension:
 - The new legislation establishes a link to the qualifying age for the age pension under the *Social Security Act*. This will mean that the age limit in the *Workers' Rehabilitation and Compensation Act* will increase in stages between 2017 and 2023 in line with the increase in the pension age.
 - In addition, the legislation establishes a transitional benefit for workers who sustain a work injury after 1 July 2012 and who at the time of injury are 63 years of age or over. These workers will be entitled to weekly compensation for a maximum period of 104 weeks or until the worker attains 67 years of age, whichever occurs first.
 - It should be noted that workers who are older than 67 years when they are injured, will be entitled to weekly compensation for up to 26 weeks (no change from the past situation).
- Section 49 was amended to provide certainty of the types of non-cash benefits that can be considered in calculating the worker's NWE for the purposes of payment of weekly compensation. These are limited to accommodation, meals and electricity.
- Section 89 was amended to bring the interest rate payable on late payments of weekly compensation in line with the interest rate applicable to Supreme Court judgment debts.
- Section 116 was amended to provide specific power of the Supreme Court to remit matters back to the Work Health Court in appropriate circumstances.

2015

The *Workers' Rehabilitation and Compensation Legislation Amendment Bill 2015*, was tabled in February 2015, passed in March 2015 and came into effect 1 July 2015. The key amendments are:

- **Legislation name change**
The name of the legislation has changed to '*Return to Work Act*' and Regulations. The

change is to reflect the primary objective of the legislation, which is to assist injured workers to return to work.

- **Presumptive legislation for firefighters and volunteers**
Presumptive legislation has been introduced to make it easier for firefighters and volunteer firefighters to claim workers' compensation if they are diagnosed with one of the 12 cancers listed in the legislation schedule. This change recognises that fire fighters are at greater risk of developing certain types of cancers as a result of exposure to hazardous substances while performing firefighting activities.
- **Definition of worker**
The **definition** of worker was aligned with the PAYG definition used by the Australian Taxation Office (ATO). This change will make it easier for employers and workers to identify who is covered for workers' compensation.
- **Increased period of compensation for older workers**
This change recognised that Territorians are staying in the workforce beyond the pension age. The period of compensation for workers aged 67 years or older has increased from 26 weeks to 104 weeks, providing older workers with a more reasonable level of financial protection should they **get** injured at work.
- **Five year cap on benefits for less serious injuries**
Workers who suffer a less serious injury will be limited to 5 years of compensation, with a maximum of one additional year for medical and other costs. This change does **not** affect workers who have suffered a more serious injury and have been evaluated as having a permanent impairment of 15% or higher. These more seriously injured workers depending on work capacity may be entitled to compensation payments until pension age.
- **Increase in death and funeral benefits**
The death benefit for the dependants of a deceased worker has increased from 260 times to 364 times the average weekly earnings.
- **Stroke and heart attack claims**
Compensation will not be provided for stroke or heart attacks that are not caused by work. Compensation will be paid if it is established that a person's employment is the real, proximate or effective cause of the heart attack or stroke.
- **Capping the calculation for normal weekly earnings**
During the first 26 weeks when a worker is unable to work, their compensation payments are paid at their normal weekly earnings. After 26 weeks, compensation payments are paid at 75% of their normal weekly earnings. There is now a cap on the calculation of a worker's normal weekly earnings after 26 weeks to 250% of the average weekly earnings. This provision will only affect very high income earners, and in such cases will provide incentive, for both the worker and the employer to focus on return to work.
- **Clarification on when compensation payments are reduced to 75% of normal weekly earnings**
The legislation has been amended to clarify that compensation payments to an injured worker are reduced to 75% of their normal weekly earnings after receiving a total of 26 weeks of compensation payments, rather than the period of 26 weeks from the date they were injured.

The Return to Work Legislation Amendment Bill 2015, was tabled in June 2015, passed in August 2015 and came into effect on 1 October 2015. The key amendments are:

- **Payment of reasonable expenses for family counselling**
This provision relates to broader counselling and support at an early stage, including in relation to a worker's family to assist the process of rehabilitation. The amount payable will be to a maximum of 1.5 times Average Weekly Earnings.
- **Reasonable payment for medical and rehabilitation costs during deferment**
Where a decision is made to defer liability of a claim, there is a requirement on the employer to make weekly payments of compensation and, in the case of claims for mental stress, engage in rehabilitation.
Now for all deferred claims, payments for treatment and rehabilitation during the deferral period will ensure that a worker's recovery is not compromised by lack of treatment or rehabilitation during that period. This benefit excludes hospital inpatient and associated surgical costs as well as costs of interstate evacuations.

- **Mental stress claims**
 The former defence to a mental injury claim was based on reasonable administrative action and reasonable disciplinary action.
 Reasonable administrative action is now replaced with management action. Management action has been defined in the legislation and will include any communication in connection with identified actions.
- **Formal notice to be provided to the worker of any pending step down or cancellation**
 Formal notice is required to be provided to the worker of the pending step down (or cancellation), and the step down not to take effect until 14 days after the worker has been notified. This applies to all step downs 26 weeks, 260 weeks and 104 weeks (age).
- **Payment for legal advice at mediation**
 A mediator may recommend workers receive paid legal advice of and incidental to the mediation for an amount up to one times AWE. The entitlement is subject to approval by NT WorkSafe. Access to a lawyer will not be provided as a right, however the mediator can recommend to the Authority that legal advice be paid for by the employer where the mediator believes it will facilitate the mediation. Examples would be a more complex matter or where a worker is mentally impaired.
- **Negotiated settlements**
 There is now provision for the finalisation of the claim by the payment of a lump sum through negotiated settlement.
 The legislation requires a qualifying period of 104 weeks before a negotiated settlement. This will minimise the possibility of negotiated settlements preventing effective rehabilitation. Any settlement will involve mandatory independent legal advice funded by the employer (insurer).
 Financial advice funded by the employer (insurer) is to be provided on the request of the worker.
 It will not apply to claimants that are catastrophically injured and covered by the NIIS.
- **Settlement of disputed claims**
 There is provision to allow for the settlement of disputed claims for compensation (whether disputed on a question of fact or law or both) and settlement of contested applications to the Work Health Court.
 As with negotiated settlements, any settlement will involve mandatory independent legal advice funded by the employer (insurer) and financial advice at the request of the worker also to be funded by the employer (insurer). Any settlement within the first 104 weeks from injury will be subject to a 6 month cooling off period. In other words, the settlement is not binding until 6 months has elapsed.
- **Exclusion of journey claims**
 This provision excludes claims for all journeys to and from work. Journeys that are considered to be in the course of employment are not excluded. Examples are where the journey is to or from a workplace other than the worker's normal workplace at the request of the employer or where the worker is required to work outside their normal hours of work and is paid for the time taken for the journey to or from work.
- **Enforcement of compulsory insurance provisions by ability to stop work**
 If an employer does not hold the necessary workers' compensation insurance policy there is the power to order the employer to stop work until such time as the situation is rectified.
- **Involvement of support persons at mediation**
 Mediators will now be able to consent to a person, who is not a legal representative, to represent a claimant during the mediation.
 If the mediator considers that a claimant is not best equipped to fully present their own case and that the mediation will be best facilitated if assistance is provided by an advocate, then the mediator may consent to the claimant being represented by an advocate.
- **Improving return to work outcomes**
 To assist in improving return to work outcomes the legislation includes the following:

 - The employer must produce a return to work plan, developed and agreed between the employer and worker for any injury that involves incapacity of more than 28 days.

- An employer will be unable to dismiss a worker for a period of 6 months following the date of injury unless during that period the worker ceases to be totally or partially incapacitated because of the injury.
- This is not to apply if the employer proves the worker was dismissed on the grounds of serious and wilful misconduct.

2016

The NT adopted the recommended list from the report “Deemed Diseases in Australia” as commissioned by Safe Work Australia, effective 1 July 2016 – see Return to Work Regulations, Schedule 2.

2017

On 1 September 2017, the Northern Territory implemented the national template guide for the evaluation of permanent impairment. The NT WorkSafe Guidelines for the Evaluation of Permanent Impairment calls up AMA 5th Edition.

2018

In August 2018, NT WorkSafe varied part 1.15 of the Guidelines to acknowledge that a worker with a terminal illness from a progressive disease would not be able to fulfil the definition of maximum medical improvement and would be precluded from having a valid permanent impairment assessment. The variation provides that where an assessment for a progressive disease is conducted, the claimant will be considered to have reached maximum medical improvement based on the assessment of the person as they present on the day of the assessment, provided the disease is in the course of its natural progression and is unlikely to substantially improve in the next 12 months.

This variation to the [NT WorkSafe Guidelines for the Evaluation of Permanent Impairment](#) applies for all assessments conducted on or after 10 August 2018.

2020

The *Return to Work Legislation Amendment Act 2020*, was tabled in February 2020, and came into effect 1 July 2020. The Bill reversed several changes made to the legislation in 2015 and improves the scheme’s operation. Along with administrative and technical changes, further changes included:

- **Meaning of worker**
Has been expanded to clarify that a person is a worker if they are an employee for PAYG purposes even if the employer is not complying with the PAYG provisions and that an Australian Business Number is not a determinant factor in establishing whether or not a person is a worker.
Deems that all individuals who work for a labour hire organisation are workers under the Act. Expands the definition so that any immediate family member who is not living with the employer will be covered for workers compensation whether named on the policy or not. Expands the categories of domestic workers that can be covered for workers compensation.
- **Inclusion of journey claims**
Reinstates the coverage for journey claims as applicable prior to the 2015 amendments with minor amendments.
- **Labour hire definitions**
Introduces definitions of ‘Labour Hire Arrangement’ and ‘Provider of labour hire services’ which are terms needed to ensure individuals under a labour hire arrangement are deemed workers.
- **Normal weekly earnings**
Removal of the cap on normal weekly earnings for payments made after 26 weeks or incapacity.
- **Refusal to pay for medical treatment**
Wording strengthened to ensure the employer/insurer can’t avoid liability for ‘proposed treatment’ unless they have supporting opinion.

- **Recovery from worker**
New section to the Act, which sets out that if an overpayment is made under the Act, overpayments cannot be recovered from the worker to whom the overpayments were made if:
 - the benefit payable was incorrectly calculated by the employer or insurer who made the payment
 - the payment was made in respect of a period more than 6 months before the date on which recovery of the overpaid amount was sought, unless otherwise ordered by the Court.
- **Attendant care services**
Moved to make relevant to all of PART 5, Division 3 of the Act.
- **Return to work plans**
Amended to allow for proposal for a return to work plan to be developed by employers without the mandated use of vocational rehabilitation providers.
- **Other rehabilitation**
Amended to clarify that household services include overnight childcare where the normal care provider is the injured worker who is required to be hospitalised or undergoing surgery.
- **Settlements**
Introduces provision for preclusion of settlement of amounts payable to a person who has suffered a catastrophic injury. Introduces catastrophic injury criteria to align with the National Injury Insurance Scheme (NIIS).
- **Lump sum agreement for particular period**
Amendment to ensure that a lump sum payable is not required to be for 'all amounts otherwise payable'.
- **Mediation – legal representation or legal advice**
Clarifies that the amount payable for legal representation and legal advice is a combined total, not a separate amount for each component.
- **Nominal Insurer funding**
Moves the current methodology for contributions set out in the Act into Regulation to make it easier to amend the methodology to allow for more flexible funding arrangements for the future.
- **Nominal Insurer claims management**
Amended to clarify that an uninsured employer cannot self-manage a claim from an injured worker and that the Nominal Insurer has full rights to manage the claim.
- **Statement of fitness for work**
Current 'statement of fitness for work' is replaced by 'medical certificate of capacity'.

Amendments of *Return to Work Regulations 1986*

- **First-responder**
Introduction of a definition for first-responders. A first-responder is defined as 'a person with specialised training (such as a paramedic, police officer, fire-fighter, or other emergency personnel), who attends the site of an incident and provides assistance in situations:
 - involving actual or potential injury to persons or damage to property; and
 - which may also include risk to the first-responder; and
 - where time may be of the essence to save lives and property.
- **Presumptive legislation for firefighters**
Expansion of the number of diseases under the fire fighters presumptive legislation to include:
 - Asbestos related diseases
 - Skin cancer
 - Lung cancer
 - Liver cancer

- **Post-traumatic stress disorder**
Schedule 2 expanded for provision that post-traumatic stress disorder (PTSD) for first responders, such as police officers, firefighters, ambulance officers or other emergency personnel be a deemed disease.
- **Catastrophic injury**
Inserts new Schedule 2A providing a comprehensive criteria for prescribed injuries, including:
 - spinal cord injury
 - traumatic brain injury
 - amputation of a leg through or above the femur
 - amputation of more than one limb or parts of different limbs
 - full thickness burn to all or part of the body
 - inhalation burn resulting in permanent respiratory impairment
 - permanent blindness caused by trauma

Australian Capital Territory (ACT)

1951–2001

In 1951, the *Workmen's Compensation Ordinance 1951* (1951 Ordinance) was made by the Governor-General for the Territory in accordance with powers conferred under the *Seat of Government Acceptance Act 1909-1938* (Cth) and the *Seat of Government (Administration) Act 1910-1947* (Cth). The ordinance, covering workers' compensation for private sector employees, repealed the original 1946 Ordinance.

With the advent of self-government for the Territory on 11 May 1989, the 1951 Ordinance became the *Workmen's Compensation Act 1951* and from 22 January 1992 it became the *Workers Compensation Act 1951*. Amendments were made by the *Workers Compensation (Amendment) Act 1991* to the *Workers' Compensation Act 1951*, following reviews of the system in 1984, 1987 and 1990.

2002–2005

The *Workers Compensation Act 1951* was significantly amended in 2002 to create a workers' compensation scheme based upon the principles of early rehabilitation and return to safe and durable work for injured workers. The *Workers Compensation Amendment Act 2001* introduced several new elements to ensure that employers, insurers, treatment providers, and the injured worker were equally obliged to participate in personal injury plans, claims were dealt with expediently and statutory benefits were aligned with the Scheme's return to work goals.

In 2004, amendments to the *Workers Compensation Act 1951* implemented the nationally agreed arrangements for cross-border workers compensation coverage setting out the state of connection rules for employers to determine if an employee is an ACT worker requiring ACT workers' compensation policy coverage.

2006–2011

A number of amendments to the *Workers Compensation Act 1951* from 2006 through to 2011 were made that:

- amended the definition of a 'worker' to allow certain categories of carers to be deemed as 'workers' under the Act and clarify the general worker definition to limit the opportunity for premium avoiding and sham contracting
- create the Default Insurance Fund to amalgamate and supersede the previous Nominal Insurer and Supplementation Fund and provide a safety net for workers' compensation benefits to injured workers where an employer did not hold a workers' compensation policy, or an insurer collapses or is unable to meet the costs of workers' compensation claims against a policy
- implemented the National Framework for the Approval of Workplace Rehabilitation Providers developed by the Heads of Workers' Compensation Authorities
- strengthened the existing compliance framework by introducing new offences for sustained non-compliance that scale the penalties to be commensurate with an employer's operational size, and
- from 1 September 2011, the *Workers Compensation Amendment Regulation 2011* amended the financial and compliance audit requirements for insurers and self-insurers.

2014

In 2014, the *Workers Compensation (Cross-border Workers) Amendment Act 2014* was passed to align ACT workers' compensation laws with nationally agreed updated cross-border procedures. Prior to passage of the amending Act, the nationally agreed procedures were set out by subordinate legislation.

In 2014, subordinate legislative instruments made in the ACT:

- introduced guidelines for insurers on the procedures to be followed when cancelling a workers' compensation policy; and

- introduced a new reporting standard for insurer claim and policy data submissions under the ACT's private sector workers' compensation scheme. The new reporting standard, the *National Insurer Data Specifications*, was developed cooperatively by the privately underwritten workers' compensation jurisdictions and the Insurance Council of Australia.

2016

The *Workers Compensation Amendment Act 2016* was passed by the ACT Legislative Assembly in February 2016 and modernised employer obligations on return to work by introducing a requirement on all self-insurers and employers with an annual premium of \$200 000 or greater to appoint a suitably qualified or experienced return to work coordinator.

In May 2016, the ACT passed legislation which extended the ACT Lifetime Care and Support Scheme (LTCS) to cover catastrophic workplace injuries sustained by private sector workers in the ACT. The new Scheme commenced on 1 July 2016. The expanded LTCS gave effect to the ACT's commitment to establish a National Injury Insurance Scheme (NIIS) that meets the agreed national minimum NIIS benchmarks. There will be an ACT LTCS Commissioner, however claims management/administration services will be carried out by the NSW LTCS Authority. Insurers and self-insurers are levied under the LTCS legislation to fund the scheme.

The *Workers Compensation Amendment Act (No 2)* (the Act) was passed by the ACT Legislative Assembly in June 2016, with commencement on 1 July 2017. The Act introduced amendments to ensure workers who suffer from an imminently fatal asbestos-related disease receive equitable and timely access to statutory compensation.

The *Road Transport (Taxi Industry Innovation) Legislation Amendment Regulation 2016* (No 1) introduced changes to the *Workers Compensation Regulation 2002* from 1 November 2016 such that:

- a transport booking service would be responsible for paying for workers' compensation for any drivers it asks to work for it *exclusively*
- a contract of bailment with a driver would create a responsibility for the operator to purchase a workers' compensation policy for the driver, and
- owner drivers who do not engage other drivers to drive their vehicle would continue to be treated as sole traders and will not require workers' compensation insurance.

2017

In October 2017, the *Workers Compensation Amendment Act 2017* (the Act) was passed by the ACT Legislative Assembly. The Act introduced amendments to increase death entitlements, weekly compensation, modernise the employment-related diseases list and introduced a penalty provision aimed at employers who fail to pay an injured worker following receipt of a claim. All amendments other than weekly compensation commenced on 13 December 2017. The amendments to weekly compensation had a retrospective effect commencing 1 July 2017 to align with Australian Government aged pension reforms.

The death entitlement payments increased to approximately double the previous entitlement, bringing payments to a level consistent with the Commonwealth's Comcare scheme, this creates equity for the families of ACT private and public sector workers.

The Australian Government is incrementally increasing the qualifying age for the age pension from 65 to 67 years between 2017 and 2023. On 1 July 2017, the qualifying age for the pension increased to 65.5 years.

Prior to the amendments, the ACT workers' compensation laws provided that workers injured before their 63rd birthday were not entitled to weekly compensation payments once they reached age 65. Reforms to weekly benefit eligibility align the workers' compensation laws with the Commonwealth age pension age, ensuring that injured workers can transition from weekly compensation to the age pension without any gap in income.

These amendments also adopted the updated list of Deemed Diseases published by Safe Work Australia and in doing so, expanded the number of deemed diseases from 28 to 48.

The reforms introduced a penalty provision against an employer who fails to pay a worker weekly compensation after being provided with a notice of a work-related injury. This penalty was introduced to encourage compliance with the legislation and protect worker rights.

2018

In November 2018, the *Workers Compensation Act 1951* was amended by the *Statute Law Amendment Act 2018* to reinstate an entitlement to compensation that was inadvertently removed. This entitlement related to the payment of weekly compensation for up to 2 years following the initial date of incapacity to workers who are pension age or older when incapacitated.

2019

On 1 March 2019, the ACT Government became a self-insurer under the *Safety and Rehabilitation Compensation Act 1988* (Cth).

In September 2019, the *Workers Compensation Act 1951* was amended by the *Workers Compensation Amendment Act 2020* to ensure that the Default Insurance Fund can provide workers' compensation benefits to workers in situations where both a contractor and principal contractor are uninsured. Amendments were also made to ensure that family day care educators have access to workers' compensation.

2021

In January 2021, the *Workers Compensation Act 1951* was amended by the *Employment and Workplace Safety Legislation Amendment Act 2020*.

The changes modernised the insurer and self-insurer provisions to align with a best practice licensing framework where injured workers can expect a consistent standard of service, regardless of whether their employer has a workers' compensation insurance policy or is self-insured. Relevantly, the amendments:

- updated the approved insurer provisions to a licensing model which supports an ongoing insurer licence; and
- brought the exempt self-insurer provisions into line with a licensing model to improve the service delivery and performance monitoring of self-insurers.

In June 2021, the *Workers Compensation Act 1951* was amended by the *Statute Law Amendment Act 2021* which made technical updates to an outdated reference to relevant federal income tax laws for determining the amount for travel costs payable under the WC Act. The changes had no material impact on the scheme arrangements of provisions of the Act.

In November 2021, existing approved workers' compensation insurers and exempted self-insurers were temporarily extended to operate in the ACT until May 2022 while supporting regulations and protocols were implemented.

2022

In January 2022, the ACT Government implemented administrative arrangements as a self-insurer under the [Safety, Rehabilitation and Compensation Act 1988](#) (Cth) that streamlined the claims process for eligible ACT public service employees suffering from Post-Traumatic-Stress-Disorder (PTSD). Under these arrangements, coverage akin to presumptive cover was made available for first-responder employees diagnosed with PTSD, or those unable to work due to PTSD:

- working in Justice and Community Safety Directorate, ACT Government and the Emergency Services Agency such as ambulance officers or intensive care ambulance paramedics, firefighters and emergency service workers; or
- working in the Emergency Services Agency triple zero communication centre and non-emergency patient transport.

In April 2022, a number of amendments were made that supported the implementation of a licensing framework for insurers and self-insurers, including:

- the *Workers Compensation Regulation 2002* was amended by the *Workers Compensation Amendment Regulation 2022 (No 1)* and implemented supporting regulations for the ACT's modernised licensing framework for workers' compensation insurers and self-insurers following changes in January 2021; and
- new protocols were made for the purposes of licence applications, namely the *Workers Compensation (Insurer License Application) Protocol 2022* and *Workers Compensation (Self-Insurer Licence Application) Protocol 2022*.

In December 2022, both the *Workers Compensation (Licensed Insurer Cancellation of Policy) Protocol 2022* and *Workers Compensation (Licensed Insurer Premium Rate Methodology) Protocol 2022* were updated with technical adjustments to reflect the new licensing framework.

In December 2022, amendments were made to the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (SRC Act) under the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*. These changes adjusted the administration of workers' compensation claims by ACT public sector workers under the ACT Government's self-insurance licence arrangements by:

- allowing ACT volunteer firefighters access to presumptive cancer cover provisions under subsection 7(8) of the SRC Act, with retrospective effect from 4 July 2011, and
- including in the schedule of cancers subject to presumptive coverage an additional 8 cancers (including primary skin, lung and thyroid cancer), with retrospective effect from 4 July 2011.

The Commonwealth

Comcare

1912

In 1912, the Commonwealth introduced the [Commonwealth Workmens' Compensation Act 1912](#) to provide compensation for Commonwealth workers. Before then, compensation was paid to widows and orphans of deceased Commonwealth officers under the [Officers' Compensation Acts of 1908, 1909](#) and [1912](#) via determinations of Parliament.

1971

In 1930, the [Commonwealth Workers' Compensation Act 1930](#) was enacted and provided a more extensive system of compensation for Commonwealth workers. In 1971 the [Compensation \(Commonwealth Employees\) Act 1971](#) repealed the 1930 Act.

1988

The introduction of the SRC Act in 1988 was the most significant reform in the Commonwealth jurisdiction as it introduced a focus on rehabilitation, which was seen as the best way to reduce spiralling costs of compensation. It included incentives through tiered income support rates for employees, gave employers statutory powers and responsibilities for rehabilitation and was paired with more reviews and investigations of claims. It also replaced lump sum compensation methodology from assessment against a limited table of maims to a Guide prepared with comprehensive criteria assessing impairment based on the WPI concept.

1992

In 1992, the SRC Act was amended to enable Commonwealth Authorities and certain corporations to apply to the Safety, Rehabilitation and Compensation Commission for a licence to accept liability for workers' compensation and to manage workers' compensation claims. The first licensees were Telstra Corporation Ltd and Australian Postal Corporation Ltd followed by several government business enterprises undergoing privatisation such as Australian Defence Industries (later ADI Limited and now Thales Australia), Commonwealth Serum Laboratories (now CSL Limited) and National Rail Corporation (later Pacific National (ACT) Limited and Asciano Services Proprietary, now Pacific National Services Proprietary Limited).

2005

In 2005 Optus Administration Pty Ltd was the first licence granted to a corporation that had no previous connection to the Commonwealth other than that it was in competition with Telstra. By December 2012, there were 30 licensees in the Comcare scheme, including banks such as National Australia Bank and the Commonwealth Bank, transport companies such as Linfox Australia, Border Express, Australian air Express and K&S Freighters, and construction or industrial companies such as John Holland and Visionstream Pty Ltd.

2007–2013

On 11 December 2007, the Federal Government placed a moratorium on new applications from private corporations wanting to move to the Comcare workers' compensation scheme. This did not affect companies that were declared eligible to apply by the previous government. The moratorium was lifted in December 2013.

Seacare

1911–1988

The Commonwealth first became involved in workers' compensation arrangements for seafarers with the passage of the *Seamens' Compensation Act 1911*. Despite several minor amendments, the 1911

arrangements remained in place until 1992. In 1988, the Seamens' Compensation Review conducted by Professor Henry Luntz recommended several changes to the *Seamens' Compensation Act* to modernise it and to ensure consistency with arrangements being considered for Commonwealth employees. The *Seafarers' Rehabilitation and Compensation Act 1992* sets out similar provisions to those applying to Commonwealth employees under the Comcare scheme.

2014–2016

On 22 December 2014, in *Samson Maritime Pty Ltd v Aucote* [2014] FCAFC 182 (the Aucote decision), the Full Court of the Federal Court held that the application provisions of the [Seafarers Act](#) operated to apply the Seafarers Act to seafarers employed by a trading, financial or foreign corporation on a prescribed ship, including ships engaged in intrastate trade. This is a substantially broader coverage than what has been historically understood by maritime industry regulators and participants.

While the decision did not specifically address the application provisions of the [Occupational Health and Safety \(Maritime Industry\) Act 1993 \("OHS \(MI\) Act"\)](#), these provisions are similar to those of the Seafarers Act.

The [Seafarers Rehabilitation and Compensation and Other Legislation Amendment Act 2015](#) (the Act) was introduced to address the consequences of the Aucote decision. The Act commenced on 26 May 2016 and clarified the application of the Seafarers Act and OHS(MI) Act up until the date of commencement (26 May 2016). As such, the Act, as passed by the Parliament, only addresses the historical application of the Seacare scheme.

To address the coverage of the scheme going forward, the Seacare Authority has issued 2 multi-ship exemptions under section 20A of the Seafarers Act that (generally) exempt the employment of employees on any ship listed in those exemptions from the Seafarers Act if the ship is engaged in intrastate trade.

Department of Veterans Affairs (DVA)

1920

The establishment of the Repatriation Commission and the Repatriation Department (now known as the [Department of Veterans' Affairs \(DVA\)](#)) and passage of [The Australian Soldiers' Repatriation Act 1920](#) (later renamed the [Repatriation Act 1920](#)) created a national system designed to deliver compensation for the incapacity or death of members of the Australian Defence Force (ADF).

1986

The commencement of the [Veterans' Entitlement Act 1986 \(VEA\)](#) on 22 May 1986 consolidated, rationalised and simplified the entitlements available to veterans. It represented the most important and comprehensive overhaul of the repatriation system since its establishment in 1920.

2004

In 2004, the [Military Rehabilitation and Compensation Act 2004](#) (MRCA) was enacted to provide a system of compensation for current and former members of the ADF and their dependants, with service on or after 1 July 2004. Service prior to that date is covered by the SRC Act and the VEA.

2017

In October 2017, the [Safety, Rehabilitation and Compensation \(Defence-related Claims\) Act 1988](#) (DRCA) was enacted. This Act provided coverage for defence force personnel who were injured prior to July 2004 and previously covered under the SRC Act. From 12 October 2017, all claims previously considered under the SRC Act (for conditions attributable to pre-1 July 2004 service) are considered under the DRCA. All existing claims under the SRC Act are now treated as claims under the DRCA.

The Military Rehabilitation and Compensation Commission (MRCC) regulates claims under the MRCA and DRCA schemes. The types of compensation provided under the MRCA are based on

combination of elements from the SRC Act and the VEA, while the DRCA replaces the SRC Act for ADF members.

Under the MRCA, DVA provides rehabilitation, treatment and compensation for current ADF members (in conjunction with the relevant Service Chief) or, separately, for former ADF members who sustain a mental or physical injury or contract a disease as a result of military service rendered on or after 1 July 2004. DVA also provides compensation to eligible dependants if

- the member or former member's death is related to defence service on or after 1 July 2004 (or a combination of service before and after that date)
- they were entitled to maximum rate of permanent impairment compensation, or
- had been eligible for a Special Rate Disability Pension.

DVA is focused on providing rehabilitation services to help injured personnel make as full a recovery as possible and, if possible, return to their normal employment. DVA also increases the amount of compensation available in the event of severe service-related injury, disease or death.

The military rehabilitation system continues to evolve to adapt to increasing knowledge regarding the impact of Australian Defence Service on health. In particular, presumptive legislation for eligible ADF [Firefighters](#) and [F-111 fuel tank maintenance workers](#) acknowledges these occupations have an increased risk of exposure to toxic chemicals linked with certain diseases.

Note: A reference to the Commonwealth in this publication does not include Seacare or DVA unless specifically stated.

New Zealand

1900-1992

The first example of periodic earnings-related payments in New Zealand had its origins in the *Worker's Compensation for Accidents Act* in 1900. The Act required employers to take out insurance to cover injuries to employees, gave weekly compensation payments to injured workers, and compensated families of people who were fatally injured at work. However, the Act did not cover non-work injuries, and motor-vehicle accidents were not compensated until 1928, when compulsory motor vehicle insurance was introduced.

The *Workers' Compensation Act* was the first in a long line of legislation that eventually prompted the Crown to set up a Royal Commission to report on Worker's Compensation, as there was frustration amongst workers that their weekly compensation payments were not sufficient to support them while they were unable to work. As a result, Sir Owen Woodhouse's 1967 Report was published. The Woodhouse Report recommended a new Scheme based on 5 basic principles – community responsibility, comprehensive entitlement, complete rehabilitation, real compensation, and administrative efficiency. In 1972, Parliament passed the Accident Compensation Act, which was expanded in 1973. Under the Act, cover became available on a no-fault basis, for all personal injury in New Zealand, whether occurring at work, the road, home, or any other context. Entitlements included hospital and medical expenses, rehabilitation and transport costs, weekly compensation for injured workers, one-off payments for permanent and mental injuries, and funeral costs and one-off payments to families in cases of accidental death. In 1974, the Accident Compensation Commission (ACC) was established to administer and deliver the Scheme.

The Scheme has an extensive history of legislative changes to both meet the needs of its clients and respond to affordability and sustainability. In the Scheme's first decade, there was growing concern about the overall cost and some employers were unhappy about paying for employees' non-work injuries. In response, the Government passed the 1982 Act, which changed the structure of the Scheme, most notably by moving from a 'full funding' model (where the Scheme collects enough revenue to meet the lifetime costs of the claims incurred in each period) to a 'pay-as-you-go' funding model (where the Scheme receives sufficient revenue each year to fund the expected annual costs of that year's injuries). The ACC Scheme was reviewed 3 more times before the Accident Rehabilitation and Compensation Insurance Act was introduced in 1992, with substantial amendments that incorporated more insurance-based principles. The Scheme was separated into different accounts, and a new Earners' levy moved the cost of non-work injuries from employers to employees – this was deducted directly from earners' wages.

1992-2010

The 1992 Act was later replaced by the *Accident Insurance Act 1998*, which enabled private insurers to cover work-related injuries, and changed all the Scheme's accounts back to a fully funded system. This was changed again in 2000, when ACC was restored as the sole provider of accident insurance for all injuries, but with full funding retained. Between 2001-2010, the Scheme has changed to include a stronger focus on injury prevention and rehabilitation. Cover for injuries sustained during health treatment was shifted from 'medical misadventure' to the less restrictive concept of 'treatment injury', and people who suffered mental injuries from a single traumatic at work could receive cover.

A 2007 legislative amendment to the *Injury Prevention, Rehabilitation and Compensation Act 2001* established a new merged Work Account that incorporated the Self-Employed Work Account and Employers' Account and their respective reserves and liabilities. The *Injury Prevention, Rehabilitation and Compensation (Employer Levy) Regulations* and the *Injury Prevention, Rehabilitation and Compensation (Self-Employed Work Account Levies) Regulations* were replaced with a single set of Levy Regulations covering levies for employers and self-employed.

Also in the *2007 Amendment Act*, the Medical Misadventure Account was renamed as Treatment Injury to reflect the fact that a 2005 amendment had replaced medical misadventure with the less restrictive concept of 'treatment injury'.

2010-2022

In 2010, Parliament passed the *Accident Compensation Amendment Act 2010* which aimed to improve flexibility, contain costs, and encourage co-operation with government agencies. Key changes included allowing information sharing with Inland Revenue and the creation of a motorcycle safety levy.

In 2015, the *Accident Compensation (Financial Responsibility and Transparency) Amendment Act* was passed to improve the framework for determining how ACC's levied Accounts are funded to be clearer, more transparent, have a longer-term focus, and support more stable levies. Its other objective was to ensure that the residual levy is not over-collected.

In 2016, *The Accident Compensation Amendment Act 2016* was passed to require the health practitioner leading the co-ordination of the provision of treatment or rehabilitation to a claimant be given the opportunity to participate in the preparation of a claimant's individual rehabilitation plan (rather than all medical practitioners providing treatment to the claimant).

In 2019, the *Accident Compensation Amendment Act* was passed to ensure that the Accident Compensation Act 2001 (the Act) is effective and efficient and accords with best regulatory practice.

The changes in the Bill addressed some issues in ACC coverage and corrected regulatory duplication, errors, and inconsistencies, with the aim of keeping the regulatory system up to date, fair, and relevant. The Amendment Act included the following changes:

- removed the requirement for ACC clients, and their dependants, to choose between weekly compensation and New Zealand Superannuation or the Veteran's Pension
- addressed the gap in coverage for spouses, partners, and dependants of New Zealand employees posted overseas
- allowed surviving spouses to receive up to 5 years of weekly compensation, regardless of age
- disestablished the Accident Compensation Appeal Authority, as it was no longer cost-effective or efficient.

In 2022, the *Accident Compensation (Maternal Birth Injuries and Other Matters) Amendment Act* (The Amendment Act) introduced a significant expansion to the AC Scheme. Improving gender balance, fairness, and equity in the AC Scheme was the primary driver for the Bill.

The Amendment Act's most significant change was extending the AC Scheme cover to maternal birth injuries, which shared similar features to injuries already covered under the AC Scheme. As the intent was for maternal birth injuries to be treated the same as other injuries in the AC Scheme, this expansion of cover brought this new group of injuries into the AC Scheme's existing settings.

The Amendment Act made the following 5 additional policy changes to the *Accident Compensation Act 2001* (AC Act):

1. Clarification of the test for work-related gradual process, disease, or infection cover to restore the more claimant-friendly test that was in place before 2010.
2. Introduced the requirement that occupational assessors must (rather than may) consider pre-incapacity earnings when undertaking occupational assessments to support certainty and transparency.
3. Reduced the threshold for injury-related hearing loss cover from 6% hearing loss to 5% hearing loss to ensure greater support for those with low-level hearing loss.
4. Increased the size of the Accident Compensation Board by one to assist the Board in representing a wider range of specialists and stakeholders.
5. Ensured legislative certainty that dependants of claimants are not disentitled from fatal injury entitlements covered under the AC Scheme following a claimant's assisted death, in accordance with the End of Life Choice Act 2019.


The Amendment Act also made the following 7 technical changes to the AC Act:

1. Moved the definition of 'medical practitioner' to the *Accident Compensation (Definitions) Regulations 2019*. This will allow the definition to be more easily updated in future via regulations.
2. Updated the definitions of the terms 'child' and 'other dependant' to improve the clarity of the AC Act.
3. Enabled a method to be set in regulations for the rate of interest for levy overpayments on interim assessments, to better and more efficiently enable the rate to reflect changes in economic circumstances.
4. Enabled ACC to use the most recent employer filing to Inland Revenue when determining a client's weekly compensation.
5. Aligned ACC's penalty rules with Inland Revenue's rules by charging the 1% monthly interest rate from the day after a levy invoice is due, rather than 30 days after the payment is due.
6. Excluded weekly compensation top-ups made under the *Veterans' Support Act 2014* from abatement against ACC's weekly compensation payments to better give effect to the policy intent for abatement.
7. Aligned the definitions of moped and motorcycle in the AC Act with the definitions in the *Land Transport Act 1998* to ensure legal clarity.



Chapter 2:

Recent developments in workers' compensation schemes in Australia and New Zealand



Overview

This chapter focuses on recent developments that came into effect or impacted the schemes in 2023, or which will come into effect after that time.

New South Wales

Administrative and scheme delivery changes

The SIRA Inspectorate

In response to specific issues and complaints and using predictive data to identify risks associated with poor return to work outcomes, the SIRA Inspectorate has engaged several NSW employers across a spectrum of industries through 2023. Authorised inspectors have utilised a range of regulatory tools to assess and enforce employer compliance with their legislative obligations. This included the issuance of improvement notices and penalty notices for failure to comply with improvement notices, failure to provide suitable employment, failure to notify the insurer of workplace injury within 48 hours and failure to provide a compliant return to work program.

Worker or Contractor Tool

In June 2023, SIRA launched a 'Worker or Contractor Tool' that provides guidance to employers and head contractors as to whether a person working for them is either a 'worker', 'deemed worker' or a 'contractor' for the purpose of complying with their legislative obligations to have a workers compensation policy.

PIAWE post-implementation review

SIRA undertook a post-implementation review of the 2019 pre-injury average weekly earnings (PIAWE) reforms to evaluate whether they met the intended objectives of increased simplicity, fairness, and transparency.

The review was conducted in collaboration with key industry stakeholder representatives including insurers, unions, employer groups, legal representatives and the Independent Review Office and the Personal Injury Commission. The overall findings show that the PIAWE amendments and improved methodology are delivering a simpler, fairer, and more transparent approach compared to the previous 2012 PIAWE provisions. The review did however highlight a few enduring challenges that still exist for some stakeholders, and SIRA has commenced work to address these.

Policy Developments

Travel reimbursement amendments

SIRA undertook a review of the travel reimbursement rate for workers to travel for medical, hospital and rehabilitation services. The review considered rates paid in other jurisdictions, fuel prices, CPI data, the Australian Tax Office rate and the Crown Employees Award (Public Sector- Salaries 2022) rate. None of the single measures reviewed were able to provide improved benefits for workers whilst also delivering sustainable outcomes for the scheme. As an alternate, a multi-factorial approach was adopted instead, which provided workers with an increase in travel entitlements from .55cents per kilometre to .58cents per kilometre, and prioritised scheme sustainability.

Legislative amendments

Lump sum death benefit – additional compensation for children of deceased workers

Following the passage of the *Motor Accidents and Workers Compensation Legislation Amendment Act 2022*, SIRA worked with government stakeholders to develop amendments to the Workers Compensation Regulation 2016 (the Regulation) to give effect to new entitlement to funds management compensation for children of deceased workers. The Regulation was amended to include Clause 177 which provides a formula to calculate the additional compensation amount to cover fees where a child's lump sum death benefit is managed by the NSW Trustee and Guardian. This new entitlement commenced on 16 December 2022 and ensures that trust money payable to the children of deceased workers when they reach 18 is maximised.

Victoria

Administrative and scheme delivery changes

Recovery and Return to Work Program

The Recovery and Return to Work program commenced in March 2020 and uses analytics to identify cohorts of injured workers most at risk of protracted return to work. A multi-disciplinary case management approach is taken to bring the injured worker, employers, treaters and case manager together to apply a person-centred case management technique. This also includes deployment of return to work inspectors and early identification of secondary mental injury via analytics.

In the 2-year period since March 2020, the Recovery and Return to Work program has so far conducted 17,500 injured worker interventions and returned 4,700 of these most at risk workers to work. The program includes:

- additional support via mobile case manager visits for workers exceeding expected recovery and return to work dates
- multidisciplinary recovery and return to work conferencing, where the worker, employer and all medical providers are brought together, coordinated by a case manager or at times an independent member of WorkSafe's clinical panel; to create a clear agreed recovery strategy
- the use of analytics tools to identify early signs of a secondary mental injury among injured workers and then providing these workers with suitable treatment
- bringing injured workers and colleagues together in facilitated discussions to resolve issues where interpersonal conflict has prevented a return to work
- considering alternative employment opportunities with new employers for injured workers that hadn't returned to work but had the capacity to do so, including providing retraining and job-seeking support to injured workers who could not return to their pre-injury role or pre-injury employer
- providing specific additional support to injured workers whose employers had difficulty identifying opportunities for them as a result of COVID-19
- supporting injured workers who had not worked for 2 to 4 years with programs to help build confidence, further their recovery and, where possible, identify return to work opportunities, and
- return to work inspector interventions for employers struggling to achieve return to work outcomes.

Workers Compensation Independent Review Service

The Workers' Compensation Independent Review Service (WCIRS), established on 30 April 2020, is an independent and impartial review function that operates within the Independent Review Division at WorkSafe Victoria.

The WCIRS provides injured workers with the opportunity to ask for a free and impartial review of certain disputed 'reviewable decisions' under the compensation law that haven't been resolved during the conciliation process. The WCIRS reviews all decisions in line with a Sustainability of Decision-Making Framework (SDMF) which was developed for the function. The framework requires agents to demonstrate that their decisions are fair, reasonable, based on the best available evidence and are reasonably likely to be upheld by a court.

WorkSafe is monitoring decisions reviewed by the WCIRS to identify trends that will inform the development of agent training, policies and decision-making practices.

New Employment Service Outcomes

New Employment Services (NES) is support for injured workers who cannot make a return to work with their pre-injury employer and require assistance securing new work. WISE (WorkSafe Incentive Scheme for Employers) is a component of NES which further improves injured worker outcomes. New employers who offer work to an injured worker can access up to \$26,000 in incentives towards wages that support sustained employment. More workers than ever before (last 10 years) have returned to work with the support of NES.

For year ending 2023, 54.35% of workers who returned to work supported by New Employer Services (NES) did so earning 100% or more of their Pre-Injury Average Weekly Earnings (PIAWE) with 45.02% earning between 50% - 100% of their PIAWE. The remaining 0.63% were earning between 0 – 50% of their PIAWE following their RTW in NES.

Facilitation Discussion Service

Facilitated Discussion is a form of alternative dispute resolution for injured workers where workplace relationship issues or interpersonal conflict presents as a barrier. Specifically, this program offers a mediation process for workplace disputes, with discussions led by specific Occupational Rehabilitation providers. It is a voluntary process that offers a safe and supportive environment for workers to identify and discuss the barriers to returning to work. In the 2023 calendar year, 286 workers participated in a Facilitated Discussion, a 19.16% increase on the 2022 calendar year (240 workers who participated). Return to work outcomes were 104 for the 2023 calendar year, an increase of 14.28% on the 2022 calendar year (91 return to work outcomes).

Alfred Occupational Respiratory Clinic

In 2023, WorkSafe extended its partnership with the Alfred Hospital for a further 3 years (up until 30 June 2026) to deliver Australia's only public hospital occupational respiratory clinic. The Alfred Occupational Respiratory Clinic offers a multi-disciplinary approach to the diagnosis and management of debilitating lung disease silicosis. Since its launch in July 2021, the Alfred clinic has provided 621 eligible workers with a health outcome and treatment plan.

More information regarding the criteria for the AORC is available on the [WorkSafe Victoria website](#).

Policy Developments

2023-24 WorkCover premium changes

The Victorian Government announced a 42% increase to premiums paid by business, from 1.27% of their payroll to 1.8%. This came into effect on 1 July 2023.

Mental Health Strategy

WorkSafe Victoria's is enacting its first [Mental Health Strategy 2021 – 2024](#) (the strategy). The strategy is a significant milestone in our commitment to prevent workplace mental injuries and to better protect workers with a mental injury. It is underpinned by the principles of protecting workers and supporting the needs of employers. The strategy outlines objectives, focus areas and priority groups to engage with over the 3-year period it covers.

WorkSafe identified 5 strategic focus areas that set the direction for achieving the strategy's objectives. Each focus area has medium to long-term actions that WorkSafe is undertaking to address the underlying causes of poor mental health across all workplaces. The focus areas are:

- compliance and enforcement
- fostering organisational change
- awareness, education and training
- building the evidence base
- supporting Innovation

Legislative Amendments

Justice Legislation Amendment Act 2023

The *Justice Legislation Amendment Act 2023* came into effect in October 2023. It expanded the presumptive rights scheme in the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* to include 3 additional cancers affecting female firefighters – primary site cervical, ovarian and uterine cancers. The rights apply to female careers and volunteer firefighters and vehicle and equipment maintenance employees who:

- have served in active roles for a qualifying period of 10 years to align with other Australian and international jurisdictions, and
- have been diagnosed on or after 1 June 2016 in line with cancers already included.

Scheme Modernisation

On 31 October 2023, the *Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023* was introduced into Parliament. The purpose of the Bill is to modernise the WorkCover scheme to better respond to mental injury claims and reinforce its financial sustainability.

Queensland

Administrative and scheme delivery changes

Workers' Psychological Support Service

Since 2018 the Office of Industrial Relations has administered a grant for the [Workers' Psychological Support Service](#), which connects workers with a work-related psychological injury with existing community and social support services, including emergency accommodation and housing support, family and domestic violence services, grief and loss support, financial counselling, and social inclusion programs. Workers and their families can access the service prior to, during, or after they have made a claim.

Mine dust health support service

The Queensland Government has established the [Mine Dust Health Support Service](#) as a shared initiative between the Office of Industrial Relations, Resources Safety and Health Queensland and WorkCover Queensland to support mine workers with confidential access to counselling, and guidance regarding respiratory health screening, community supports and compensation entitlements.

Research grants – occupational dust lung diseases

In 2022, the Queensland Government announced more than \$3 million in grants for occupational dust lung disease research. The grants were part of a commitment to fund medical research into occupational dust lung diseases, particularly coal workers' pneumoconiosis (black lung) and silicosis.

The University of Queensland (UQ) has been funded to collaborate with the Chicago School of Public Health, University of Illinois, to research early detection, prevention, and progression of mineral dust-related lung diseases. UQ has also been funded to collaborate with the University of New South Wales to identify factors critical to the development, severity and progression of coal workers' pneumoconiosis and silicosis. i-Med Queensland also received funding for an investigation to compare the effectiveness of diagnostic screening methods.

Safely returning to work after a mine dust lung disease (MDLD) diagnosis – expert medical guidelines

Queensland has developed world first expert medical guidelines to assist with decisions on safe return to work, including what levels of dust exposure are appropriate for workers with disease and ongoing health monitoring of workers. The guidelines provide a best practice and evidenced-based framework which considers the individual circumstances of the worker's MDLD, including its severity and the best outcome that can be achieved.

Policy Developments

Third 5-yearly review of the Queensland workers' compensation scheme

Under section 584A of the *Workers' Compensation and Rehabilitation Act 2003* (the Act), the Minister for Industrial Relations must ensure a review of the operation of the workers' compensation scheme is completed at least once in every 5 year period.

The Minister must prepare a report about the outcome of the review and, as soon as practicable after the review is completed, table the report in the Legislative Assembly.

The terms of reference for the 2023 review required the reviewers to consider:

- the scheme's performance in meeting its objectives under section 5 of the Act
- the effectiveness of current rehabilitation and return to work programs and policy settings, including ways to increase Queensland's current return to work rate
- the management of psychological injuries in the scheme, including the growth of secondary psychological injuries

- any matters that may be relevant in the remake of the Workers' Compensation and Rehabilitation Regulation 2014, and
- any national regulatory proposals or findings from national reviews in relation to gig workers and other forms of insecure work that should be taken into account by the government in its consideration of the outcomes of the 2019 Consultation Regulatory Impact Statement for workers' compensation entitlements for workers in the gig economy and the taxi and limousine industry.

The [report](#) of the 2023 review has been tabled in Queensland Parliament. The report made 54 recommendations of both legislative and administrative character. As at 31 December 2023 the Queensland Government was in the process of finalising a response to the recommendations.

Legislative Amendments

Personal Injuries Proceedings and Other Legislation Amendment Act 2022

On 30 June 2022, the *Personal Injuries Proceedings and Other Legislation Amendment Act 2022* (the Act) received assent. The Act creates 2 main offences to protect the workers' compensation and personal injury schemes and injured workers from "claim farming" practices. The new laws prohibit:

- approaching or contacting another person to solicit or induce them to make a claim, and
- giving or receiving financial incentives for referring claims or potential claims.

From 31 October 2022, law practices are required to show that they have not paid a claim farmer for a claim by submitting a Law Practice Certificate to the insurer at various stages of both a statutory and common law claim.

Insurers are required to collect these certificates and notify the Workers' Compensation Regulator when non-compliance is identified. Additionally, the Act creates a new duty for insurers to report a reasonable belief a person has provided a false or misleading law practice certificate or committed a claim farming offence.

The Act also confirms the policy intent for when an entitlement to terminal workers' compensation benefits arises by inserting an explicit 5-year timeframe in the definition of 'terminal condition'.

These changes do not remove a workers' right to access terminal compensation payments in the future. Access to common law and workers' compensation entitlements, such as weekly benefits, medical, rehabilitation and return to work support and lump sum payments are still available to workers before their injury is in its final stages.

Western Australia

Legislative Amendments

New workers compensation legislation

The new Act to modernise WA's workers compensation laws passed through the Parliament on 11 October 2023. The new Act is the culmination of an extensive consultation process with key stakeholder groups and the Western Australian public. The new Act incorporates recommendations from WorkCover WA's *Review of the Workers' Compensation and Injury Management Act 1981* and will also implement lifetime care and support arrangements for catastrophically injured workers, delivering on a commitment between the Commonwealth and State and Territory governments.

The target commencement date for the new Act is **1 July 2024**. In preparation for commencement, WorkCover WA will develop and consult on new regulations, administrative instruments and other supporting infrastructure.

PTSD and cancer presumptions for firefighters

Amendments to the *Workers' Compensation and Injury Management Regulations 1982* established a rebuttable presumption of work-related injury for post-traumatic stress disorder contracted by ambulance workers, firefighters and Department of Fire and Emergency Services (DFES) communications systems officers.

Amendments to the Regulations also added 8 cancers (malignant mesothelioma, cervical, lung, ovarian, pancreatic, penile, skin and thyroid cancer) to the list of 12 specified cancers suffered by firefighters which are presumptively recognised.

South Australia

Administrative and scheme delivery changes

Premium Review Process

Employers who are dissatisfied with any aspect of their premium calculation have a right to seek a review under section 157 of the *Return to Work Act 2014* (the Act).

A new premium review process under section 157 of the Act was published in the South Australian Government Gazette on 30 June 2022.

The [simplified process](#) has removed the formal Tribunal-like steps and is designed to improve ReturnToWorkSA's ability to resolve these disputes expeditiously.

Legislative amendments

*Return to Work (Scheme Sustainability) Amendment Act 2022*The *Return to Work (Scheme Sustainability) Amendment Act 2022* was passed by the South Australian Parliament on 6 July 2022. Amendments to the Act have enabled the revised interpretation brought about by the Supreme Court's decision of *Return to Work Corporation of South Australia v Summerfield* [2021] SASCFC 17 (**Summerfield**) to remain, while adjustments to other features of the benefit structure are designed to address associated Return to Work Scheme affordability and sustainability risks.

Tasmania

Administrative and scheme delivery changes

Licence and Permit Conditions

The Board has reviewed its licence and permit conditions in relation to licensed insurers, self-insurers and the Tasmanian State Service. These amendments are applicable from 1 January 2021.

COVID-19

In response to the COVID-19 pandemic, the WorkCover Tasmania Board's auditor may now conduct insurer audits remotely to eliminate or minimise the risk of COVID-19 transmission.

Workplace Rehabilitation Providers

Tasmania introduced a new framework for accrediting workplace rehabilitation providers. It now requires individuals providing workplace rehabilitation services to:

- acquire and maintain full membership, accreditation or registration with an approved professional association or Australian Health Practitioners Regulation Agency (AHPRA) registration board, and
- have 12 months or more recent experience delivering workplace rehabilitation services.

The amended new framework also recognises chiropractors and osteopaths, meaning they can deliver certain workplace rehabilitation services.

Policy developments

The WorkCover Tasmania Board and WorkSafe Tasmania have completed, and are currently undertaking, a number of reviews and other bodies of work.

Presumption for PTSD in the Private Sector

Consideration is being given to extending presumptive provisions for PTSD to the private sector. At the time of writing, this remains a work in progress.

Step Down Provisions

A full review was undertaken of the application of section 69B, i.e. step down provisions, within the *Workers Rehabilitation and Compensation Act 1988*. Significant stakeholder consultation was undertaken, as was a data analysis of the Tasmanian jurisdiction's claims experience, and a jurisdictional review of Australian, New Zealand and international legislation. The Board's recommendations have been provided to the Minister for Building and Construction, for consideration, and tabling in both Houses of Parliament.

Older Workers

Previous amendments to the *Workers Rehabilitation and Compensation Act 1988* in relation to the removal of age restrictions for older workers was reviewed in light of issues raised by stakeholders, and unintended consequences identified by the Workers Rehabilitation and Compensation Tribunal (the Tribunal).

The review of section 87 considered concerns raised by stakeholders that the *Workers Rehabilitation and Compensation Act 1988* was perceived to be discriminatory to older workers because, in some circumstances, they are required to seek a decision from the Tribunal to enable access to workers' compensation entitlements equal to those to which younger workers would be entitled. Drafting of legislative changes in relation to this section are currently under consideration.

Independent Review of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*

The *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* was reviewed in 2022, in accordance with section 187 of the Act. Amendments to implement the recommendations of the independent review are being progressed for incorporation. The report made 15 findings and 8 recommendations, addressing both operational and legislative issues regarding the performance of the Act against its objectives, the ongoing viability and sustainability of the Asbestos Compensation Scheme, and the performance of the Scheme.

Review of the Tasmanian Guidelines for the Assessment of Permanent Impairment

The *Workers Rehabilitation and Compensation Act 1988* (the Act) provides for the payment of lump sum compensation to a worker who suffers permanent impairment because of a work-related injury. The assessment of the degree of permanent impairment is to be made in accordance with guidelines issued by the WorkCover Tasmania Board (the Board). The *Guidelines for the Assessment of Permanent Impairment version 3* (the Guidelines) have been in effect since 01 October 2011. Given the guidelines have been in effect for more than 10 years and the Safe Work Australia Guidelines are in place, and there have been some concerns expressed by stakeholders, the Guidelines are being reviewed to ensure that they are fit for purpose.

Silica Code of Practice

Tasmania has adopted the model *Code of Practice: Managing the risk of Respirable Crystalline Silica from Engineered Stone in the Workplace*, published by Safe Work Australia. The code has been effective in Tasmania from 19 January 2022.

The code of practice was developed in response to concerns of a growing number of cases of accelerated silicosis in engineered stone workers. Its adoption coincides with, and supports, employers in the engineered stone industry with the adoption of the amended WES for respirable crystalline silica.

Legislative amendments

Tasmanian Civil and Administrative Tribunal Amendment Act 2021

In November 2021, certain sections of the *Workers Rehabilitation and Compensation Act 1988*, the *Workers Rehabilitation and Compensation Regulations 2021*, and the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* were amended, repealed or rescinded due to the enactment of the *Tasmanian Civil and Administrative Tribunal Amendment Act 2021*, which formalised the commencement of the operations of the new Tasmanian Civil and Administrative Tribunal (TASCAT). The TASCAT has consolidated powers, processes and procedures to resolve applications, appeals and other proceedings through appropriate dispute resolution processes such as mediations and conciliations, or through conducting hearings that provide a final decision about the proceedings. The TASCAT amalgamates 9 different Tribunals, including the Workers Rehabilitation and Compensation Tribunal and the Asbestos Compensation Tribunal in Tasmania.

Asbestos-Related Diseases (Occupational Exposure) Compensation Regulations 2021

In October 2021, the *Asbestos-Related Diseases (Occupational Exposure) Compensation Regulations 2021* consequentially came into effect following the repeal of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Regulations 2011*. These regulations prescribe various matters for the purposes of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* including:

- compensation units
- certain practices and procedures of the Tribunal, and
- how certain moneys are to be dealt with by the Public Trustee.

Workers Rehabilitation and Compensation Amendment Bill 2023

In 2023, the Workers Rehabilitation and Compensation Amendment Bill was passed by parliament and amends the *Workers Rehabilitation and Compensation Act 1988* to extend the list of presumptive cancers for fire-fighters. Significantly, female reproductive cancers (such as cervical cancer) will now be included in the list of presumptive diseases (that is, it is automatically presumed that they have developed the cancer because of their firefighting work or volunteer service).

Australian Capital Territory

Administrative and scheme delivery changes

Compliance Data

Since February 2022, WorkSafe ACT has published monthly compliance and enforcement data on its website - [Compliance and enforcement data - WorkSafe ACT](#).

Scheme Review

The ACT's annual actuarial review of private sector workers' compensation scheme performance for 2023 was finalised in April 2023 and published on the CMTEDD webpage — [ACT Workers' Compensation Review of Scheme Performance - Chief Minister, Treasury and Economic Development Directorate](#).

The ACT also released its 2023-24 suggested reasonable premium rates across industries - [ACT Workers' Compensation Scheme Suggested Reasonable Premium Rates - Chief Minister, Treasury and Economic Development Directorate](#).

Legislated presumptive provisions for eligible ACT public service employees suffering from Post-Traumatic-Stress-Disorder (PTSD)

In December 2023, the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* amended the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) to legislate presumptive liability provisions for first responders covered by the Act who sustain PTSD.

In relation to the ACT Government's self-insurance arrangements for the ACT Public Sector, the changes legislated arrangements already administratively in place since January 2022 under the ACT Government's self-insurance administrative arrangements and extended those arrangements to cover volunteer Emergency Services workers.¹

Legislative Amendments

In June 2023, the *Workers Compensation Act 1951* (WC Act) was amended by the *Workplace Legislation Amendment Act 2022* and confirmed that injured workers in receipt of incapacity payments are able to take and accrue leave during periods of compensated incapacity.

¹ In relation to the ACT Government's self-insurance arrangements for the ACT Public Sector, administrative arrangements for faster, quicker claims processes for eligible workers suffering from PTSD were extended to volunteer Emergency Services workers ahead of legislated cover that commenced in December 2023 under the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

Northern Territory

Administrative and scheme delivery changes

Best Practice Guidelines for Mediators

The *Return to Work Act 1986* (the Act) provides a dispute resolution process whereby a claimant is aggrieved by the decision of an employer:

- to dispute liability for compensation claimed by the claimant
- to cancel or reduce compensation being paid to the claimant, or
- relating to a matter or question incidental to or arising out of the claimant's claim for compensation.

The Minister appoints mediators to promote the resolution of disputes between claimants, employers and employers' insurers and the Act infers powers on the mediator.

NT WorkSafe has a legislative role in dispute resolution to provide a mediation service and has developed the 'Best Practice Guidelines for Mediators' to provide guidance for appointed mediators pertaining to their legislative obligations.

Evaluation of permanent impairment

Pursuant to section 70 of the Act, the NT implemented the NT Guidelines for the Evaluation of Permanent Impairment (the NT Guidelines) to be used to evaluate permanent impairment arising from work-related injuries/diseases for NT workers within the context of workers' compensation. The Guidelines are based on the National Guidelines for the Evaluation of Permanent Impairment (National Guide Template) that was developed through a national process facilitated by Safe Work Australia with NT variations.

Safe Work Australia contracted Jim Stewart Consulting Pty Ltd to review issues raised with the regard to the National Guide Template. On 28 October 2023, a review report was released providing recommended wording to resolve the identified issues.

NT WorkSafe are currently reviewing the NT Guidelines to include the recommended changes provided in the report.

Policy developments

The NT has commenced the following:

- Provision of guidance and recommendations to improve support for seriously injured workers and families affected by a workplace fatality.
NT WorkSafe acknowledges that along with the wider impact on workers with serious injury, there is significant ongoing impacts on friends and family associated with workplace injuries and fatalities. We are committed to assisting injured workers, friends and family who have been affected by workplace injuries or fatalities.
- A project to improve return to work data to identify return to work outcomes for injured workers in the Northern Territory.
- A project to identify data sources available to locate employers who do not hold a current workers compensation policy but should.
- Review into the 'Workers Compensation Best Practice Guidelines for Approved Insurers and Self-Insurers in the Northern Territory' which must be followed by approved insurers/self-insurers.

Legislative amendments

There were no legislative changes to the Act and the *Return to Work Regulations 1986* in the reporting period, namely 1 January 2022 to 31 December 2023. NT WorkSafe are currently reviewing the following for inclusion/exclusion in the legislation:

Comparison report

Presumptive legislation for firefighters

The Northern Territory introduced presumptive legislation for firefighters on 1 July 2015. The legislation covered 12 diseases. Section 50A of the *Return to Work Act 1986* (NT Act) provides the eligibility of firefighter for compensation for prescribed disease. The diseases and qualifying periods are prescribed in the Return to Work Regulations 1986 (the Regulations), Regulation 5B. An additional 4 diseases were prescribed in the Regulations on 29 July 2020 taking the total to 16.

NT WorkSafe are currently considering 6 additional disease that have been identified through a large number of published studies which would potentially include:

Additional presumptive cancers	
Diseases	Qualifying period
Primary site cervical cancer	10 years
Primary site ovarian cancer	10 years
Primary site penile cancer	15 years
Primary site uterine cancer	10 years
Primary site pancreatic cancer	10 years
Primary site thyroid cancer	10 years

Deemed diseases

Deemed diseases are provided in the Return to Work Regulations 1986, [Schedule 2](#).

Safe Work Australia (SWA) engaged Dr Tim Driscoll to lead the Review of the 2015 Deemed Diseases in Australia Report (the Report) being published by Safe Work Australia 17 December 2021.

The Report identified the inclusion of 12 disease to be added to the Deemed diseases list and one to be removed. One of the diseases identified was Post-traumatic stress disorder which is already included in Schedule 2.

The Report recommended that it would be appropriate to conduct a review in approximately 2 years based on newly published evidence particularly pertaining to the issues associated with COVID-19.

NT WorkSafe are currently considering the addition of 11 additional diseases identified in the Report and the removal of Parkinson's disease as recommended, however, given the timeframe since the Report, may delay progressing this until the 2 year review is finalised.

Commonwealth

Administrative and scheme delivery changes

Comcare

Self-insured Licensees

The following self-insurance licences under the *Safety, Rehabilitation and Compensation Act 1988* commenced:

- Telstra Limited (formerly Network Design and Construction Limited) - 8 December 2022
- Amplitel Pty Ltd - 1 May 2023.

Policy Developments

Comcare

Prevention Strategy

The Comcare Prevention Strategy aims to provide a coordinated pathway to support workplaces to prevent harm and enable a culture of health and safety, compliance and reporting.

The Strategy outlines how Comcare will support workplaces to focus on prevention and early intervention to address 3 priority areas that we believe will have the biggest impact on workers and workplaces in the Comcare scheme:

- bullying and harassment including workplace sexual harassment
- work demands, and
- body Stressing.

The Strategy was developed in consultation with unions via the Australian Council of Trade Unions (ACTU) and employers via the Australian Public Service Roundtable and the Deputy Secretaries Safety and Compensation Forum.

In November 2022 Comcare published the Prevention Strategy on our website and promoted it via LinkedIn, social media, the Licensee Liaison Forum and stakeholders involved in the development of the Strategy.

The following activities have been delivered as part of the Prevention Strategy:

- established a psychosocial inspectorate team
- guidance developed on the new Psychosocial Code of Practice and the 14 hazards
- compliance and Monitoring activities in 2023 focusing on bullying and harassment
- delivered education and training on sexual harassment (micro-learns, eLearns and workshops)
- commenced a research project on workplace bullying and harassment
- developed 10 videos and best practice guidance for managers on Good Work Design, promoted at Employer forums, webinars, and targeted meetings with employers
- delivered education and training on psychosocial hazards
- developed infographics on work demands, bullying and harassment and body stressing
- held a Safe Work Month Webinar on body stressing and work design
- developed a factsheet on the link between musculoskeletal disorders and psychosocial factors.

NewAccess workplaces

Comcare led a 2-year early intervention mental health initiative – NewAccess workplaces (the Program) – making the service accessible to up to 120,000 full-time equivalent employees (FTE) across 16 participating Australian Public Service (APS) agencies. The Program was rolled-out to participating agencies from 15 June 2020. NewAccess, developed by Beyond Blue, is a Low-intensity Cognitive Behavioural Therapy (LiCBT) for individuals with mild to moderate levels of anxiety and/or

Comparison report

depression. It is an expansion trial and follows from Comcare's successful NewAccess Pilot in 2018-19, which showed that NewAccess is appropriate and effective for workplaces.

The Program was independently evaluated at 1-year and 2-years. Key findings from the final evaluation include:

- 72% of participants who met the clinical threshold for anxiety and depression were below these levels when they completed the treatment
- The Program met the needs of workers using the service and contributed towards improvements in engagement in the workplace
- The Program enhances self-reported job satisfaction and productivity
- The Program contributes to the promotion of mental health prevention and/or early intervention
- The Program has a strong return on investment for employers, with an expected return of \$1.60 in productivity benefits from every dollar invested
- The main reasons for accessing the Program include personal issues, work issues, relationship difficulties and changes in the workplace.

The trial concluded in September 2022, with Comcare Executive endorsing the delivery of the Program for a 3 year period, with a plan to make it progressively available to all APS agencies. Planning for this is currently underway.

Legislative Amendments

Comcare

Safety, Rehabilitation and Compensation Amendment (Period for Decision-making) Regulations 2023

The [Safety, Rehabilitation and Compensation Amendment \(Period for Decision-making\) Regulations 2023](#) amended the *Safety, Rehabilitation and Compensation Regulations 2019* to prescribe periods for decision making in relation to initial claims for liability and requests made to reconsider a determination under the *Safety, Rehabilitation and Compensation Act 1988*. The Regulations commence on 1 April 2024.

Fair Work Legislation Amendment (Closing Loopholes) Act 2023

The [Fair Work Legislation Amendment \(Closing Loopholes\) Bill 2023](#) passed the Senate on 7 December 2023 and became an [amending Act](#) following Royal Assent on 14 December 2023. The Act amended the SRC Act to include:

- PTSD for first responders presumption
 - New disease provisions (presumptive liability) for defined first responders who suffer or are suffering from Post Traumatic Stress Disorder (PTSD) which include:
 - first responders including Australian Federal Police (AFP) employees
 - employees employed as a firefighter, ambulance officer (including as a paramedic)
 - an emergency services communications operator
 - a member of an emergency service within the meaning of the *Emergencies Act 2004* (ACT), the Australian Border Force Commissioner and APS employees of the Australian Border Force.
 - New provisions that require a PTSD diagnosis to be made by a legally qualified medical practitioner or psychologist in accordance with the Diagnostic and Statistical Manual of Mental Disorders – fifth edition test revision (DSM-5-TR).
 - The power for the Minister to declare by legislative instrument:
 - further classes of employees to whom the presumptive cover applies (where the Minister is satisfied that the incidence of PTSD among the class of

employees is significantly greater than the incidence of PTSD among the general public), and

- a later edition of the DSM for the PTSD diagnostic criteria.
- Presumptive liability for first responders commenced on 15 December 2023, and apply to PTSD, or aggravations of PTSD, suffered after commencement.
- Guide for arranging rehabilitation assessments and requiring examinations
 - The requirement for a *Guide for Arranging Rehabilitation Assessment and Requiring Examinations* (Guide) to support the exercising of powers to arrange rehabilitation assessments and independent medical examinations.
 - Comcare must prepare the Guide in consultation with the Safety, Rehabilitation and Compensation Commission (SRCC) and the Guide must be approved by the Minister.
 - The requirement that SRC Act delegates must comply with the Guide when deciding whether to arrange for an employee to undergo a rehabilitation assessment or medical examination.
 - New provisions will inform the development of the Guide, including:
 - reliance on the treating medical practitioner as much as possible
 - specification of circumstances in which it is appropriate to require an employee to undergo a rehabilitation assessment or examination
 - limitations on the frequency of the number of rehabilitation assessments and medical examinations that an employee may be required to undergo
 - qualifications of the person that may conduct a rehabilitation assessment or an examination of an employee
 - requirements that the decision maker take into account the views of the employee about the selection of the person who will conduct the rehabilitation assessment or examination
 - provision of a notice of the employee rights and obligations in relation to a rehabilitation assessment or examination, and
 - any other relevant matters.
 - These legislative amendments commence on 14 June 2024.
- Definition of determination
 - Section 57 (power to require an employee to attend an independent medical examination) will be included in the definition of 'determination' under section 60 of the SRC Act.
 - Section 57 decisions will now be required to be notified in writing and can be subject to reconsideration and review by the Administrative Appeals Tribunal.
 - These changes will apply to examinations conducted from 14 June 2024.

Safety, Rehabilitation and Compensation Directions Amendment Instrument 2023

The [Safety, Rehabilitation and Compensation Directions Amendment Instrument 2023](#) was made by the Minister for Employment and Workplace Relations and registered on the Federal Register of Legislation on 9 June 2023.

The instrument amends the [Safety, Rehabilitation and Compensation Direction 2019](#) to introduce a new direction requiring that in determining an application for a new licence under section 104 of the SRC Act, the primary criteria to be considered by the Commission is whether it is satisfied, on reasonable grounds, that:

- the licence applicant is a member of a corporate group in which a majority of employees in the corporate group are, at the time of the application, covered by the Act, and

- the licence would not result in an overall reduction in workers' compensation entitlements for the employees of the applicant to be covered by the Act.

The new instrument commenced on 10 June 2023.

Safety, Rehabilitation and Compensation Act 1988 – Guide to the Assessment of the Degree of Permanent Impairment Edition 3.0

The legislative instrument that provided for the [Guide to the Assessment of the Degree of Permanent Impairment – Edition 2.1](#) made under the SRC Act expired on 1 April 2023.

The Minister for Employment and Workplace Relations approved the new legislative instrument that provides for the [Guide to the Assessment of the Degree of Permanent Impairment- Edition 3.0](#) under the SRC Act on 7 March 2023.

On 1 April 2023, the [Guide to the Assessment of the Degree of Permanent Impairment- Edition 3.0](#) came into effect and applies to permanent impairment and non-economic loss claims received on or after that date.

Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022

Following the passage of the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022, the SRC Act was amended to broaden the presumptive liability for firefighter provisions and streamline access to workers' compensation for firefighters covered by the Act.

The legislative amendments commenced on 7 December 2022 and include:

- reducing the qualifying period for oesophageal cancer from 25 years to 15 years in relation to primary site oesophageal cancer sustained by an employee on or after 4 July 2011.
- extending coverage of the firefighter provisions to persons taken to be employed by the Australian Capital Territory by operation of a declaration made under subsection 5(15) of the SRC Act (volunteer firefighters).
- updating the references to the emergency services legislation of the Australian Capital Territory included in the SRC Act.
- amending subsection 7(9)(a) of the SRC Act to specify that an employee is taken to have been employed as a firefighter if firefighting duties made up a 'not insubstantial portion of their duties'.
- introducing the ability for the Australian Capital Territory (ACT) to establish an 'ACT firefighting advisory committee' to assist in the determination of whether firefighting or related duties have made up a 'not insubstantial' portion of the duties for ACT volunteer firefighters covered by the SRC Act.

Seacare

Seafarers Rehabilitation and Compensation Directions 2023

The [Seafarers Rehabilitation and Compensation Directions 2023](#) was made by the Minister for Employment and Workplace Relations and registered on the Federal Register of Legislation on 30 June 2023.

The instrument repeals the [Seafarers Safety Rehabilitation and Compensation Direction 2006\(1\)](#) and introduced a new direction requiring that the Seacare Authority amend its Exemption Guide to specify that:

- the integrity and ongoing viability of the Seacare scheme is a primary factor in determining all applications for exemption from the operation of the Seafarers Act under section 20A of that Act, and
- a reduction in workers' compensation entitlements for affected seafarers is a primary factor in determining not to grant an exemption under section 20A of the Seafarers Act where the Seacare Authority is satisfied that a reduction in entitlements would be a likely outcome for the employees on a particular ship, and
- where an applicant requests an exemption from the application of the Seafarers Act under section 20A on the grounds that workers' compensation insurance under the Seafarers Act is

unavailable, a primary factor in determining the application is whether the Seacare Authority is reasonably satisfied that the applicant has taken all reasonable steps to obtain insurance or indemnification for the applicant's workers' compensation liability under the Seafarers Act.

- the applicant has state or territory insurance in all jurisdictions in which it operates, is a primary factor in determining all applications for exemption from the operation of the Seafarers Act under section 20A of that Act.

The new instrument commenced on 1 July 2023.

New Zealand

Administrative and scheme delivery changes

Huakina Te Rā

Huakina Te Rā is ACC's strategy for financial years 2023-2032. Huakina Te Rā is a Te Tiriti/Treaty of Waitangi-based strategy with a clear response for Māori and for all people in Aotearoa under a dual-framed single strategic vision.

Huakina Te Rā has 3 long term goals:

1. Mana Taurite | Equity is our goal for all people in Aotearoa New Zealand to experience accessible services and improved outcomes.
2. Ringa Atawhai | Guardianship is our goal for the Scheme to be sustainable for present and future generations.
3. Oranga Whānau | Safe and Resilient Communities is our goal to partner with and invest to help create safer and more resilient communities.

ACC will need to undergo a large organisational shift to fully embed the strategy. The shifts ACC will undertake to make Huakina Te Rā effective are:

- taking an explicit Te Tiriti o Waitangi/The Treaty of Waitangi partnership approach
- building and maintaining trusted partnerships
- partnering with whānau and communities to better understand wellbeing needs
- working with ACC's partners to share data, provide services, and design new initiatives and solutions to effectively support people
- offering the right intervention at the right time
- delivering increased value to Aotearoa.

Policy and Legislative Developments

Accident Compensation (Access Reporting and Other Matters) Amendment Act 2023

In June 2023, the *Accident Compensation (Access Reporting and Other Matters) Amendment Act (the Amendment Act)* was enacted to require ACC to report annually on levels of access to the AC Scheme by Māori and identified population groups. These include disparities in access between population groups, barriers to access, and causes of disparities.

The content ACC needs to report on (as the minimum requirements) will be phased in over a 3 year period:

- The first annual scheme access report will describe the levels of access to the Scheme in that financial year for Māori and other identified population groups, as well as disparities in access between groups. The first report will also outline the methods ACC proposes to use in preparing the second and third reports. Before preparing the first report, ACC is also required to consult on the methods it will use to prepare these reports.
- The second annual scheme access report will, in addition to describing levels of access, also describe the barriers to access for Māori and other identified population groups where there are any disparities in access between population groups.
- The third and subsequent annual scheme access report will also include a description of the causes or factors contributing to those barriers or disparities.

The first scheme access report is due to be presented to the Minister as soon as practicable after 30 June 2024.



Chapter 3:

Schemes at a glance



Schemes

This chapter provides brief information on some of the important aspects of workers' compensation legislation and how they differ between jurisdictions. Later chapters deal with some of these aspects in more detail.

Below is a summary of the tables contained in this chapter and their content:

- **3.1 Key features of schemes** — Table 3.1 provides a summary of some of the key features including the number of employees covered, the number and rate of serious claims and the standardised average premium rates.
- **3.2 Summary of coverage** — Tables 3.2a to 3.2e provide a summary of coverage including who is covered (coverage of employees and coverage of contractors and labour hire workers), whether coverage is extended to injuries that occur during journeys and breaks and what is covered (definition of injury and employment contribution) and retirement provisions. More detailed information on these topics can be found in Chapter 4.
- **3.3 Summary of benefits** — Table 3.3 provides a summary of weekly payments, medical and hospital payments, lump sum payments for permanent impairment and death entitlements. More detail is provided in Chapter 5.
- **3.4 Prescribed time periods for injury notification** — Table 3.4 shows the timeframes for injury notification, claims submissions etc. that are prescribed in most jurisdictions.
- **3.5 Prescribed time periods for claim submission** — Table 3.5 summarises the processes and timeframes involved in submitting a claim and highlights whether the worker, employer and/or insurer/authority has responsibility for the various aspects.
- **3.6 Prescribed time periods for payments** — Table 3.6 summarises when eligibility for payments begin, when payments start, when the employer passes on payments to injured workers, period specified for medical invoices to be sent to insurers, and when medical expenses are accepted and paid.
- **3.7 Dispute resolution process** — Table 3.7 outlines the procedures followed by each jurisdiction to resolve issues arising from workers' compensation claims.
- **3.8 Remuneration for the purposes of premium calculation** — Table 3.8 summarises the basis for insurers to quantify workers' compensation premiums, which are paid by employers annually. Premiums are expressed as a percentage of an employer's total payroll.
- **3.9 Employer excess** — Table 3.9 outlines the type and amount of employer excess payable in each jurisdiction, as applicable.
- **3.10 Uninsured employer provisions** — Table 3.10 outlines the provisions in place in each jurisdiction to ensure that workers of uninsured employers receive the same benefits as those covered.
- **3.11 Leave while on workers' compensation** — Table 3.11 outlines provisions in workers' compensation or other legislation relating to leave accrual while on workers' compensation and the effect of taking leave on compensation paid.
- **3.12 Superannuation and workers' compensation** — Table 3.12 provides information on whether the schemes include superannuation as wages for premium calculations and as part of income replacement payments.

Table 3.1: Key features of schemes

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT ¹	C'wealth	New Zealand ²
Employees covered for workers' compensation (2020-21)	3,666,562	3,123,394	2,410,287	1,304,079	795,152	245,690	131,246	161,223	445,730	N/A
Number of serious claims with one week or more incapacity (2020-21)	47,879	20,289	32,676	12,747	7,026	3,441	1,069	1,813	2,127	N/A
Number of serious claims per 1,000 employees (2020-21)	13.1	6.5	13.6	9.8	8.8	14	8.1	9.5	4.8	N/A
Compensated deaths per 100,000 employees (2020-21)	1.3	1.5	1.1	1.4	1.8	0.4	0.8	2.5	4.9	N/A
Scheme funding³	Publicly underwritten	Publicly underwritten	Publicly underwritten	Privately underwritten	Publicly underwritten	Privately underwritten	Privately underwritten	Privately underwritten	Publicly underwritten ⁴	Publicly underwritten
Standardised Average Premium rate (% of payroll)	1.45 (2021-22) 1.47 (2020-21)	1.31 (2021-22) 1.32 (2020-21)	1.15 (2021-22) 1.15 (2020-21)	1.45 (2021-22) 1.40 (2020-21)	1.60 (2021-22) 1.57 (2020-21)	1.92 (2021-22) 1.75 (2020-21)	1.29 (2021-22) 1.37 (2020-21)	1.62 (2021-22) 1.60 (2020-21)	0.70 (2021-22) 0.76 (2020-21)	0.53 (2021-22) 0.54 (2020-21)
Standardised Funding Ratio (%) (2020-2021)	111	105	173	119	105	128	111	N/A	129	145
Excess/Unfunded (30 June 2023)	\$1,785 million unfunded	\$4.071 billion deficit	\$1.897 billion funded	N/A	\$226 million unfunded	N/A	N/A	N/A	\$290 million excess	\$2.527 billion excess Work Account only
Access to Common Law	Yes	Yes (limited)	Yes	Yes	Yes (limited)	Yes	No	Yes	Yes (limited)	No

¹ Only includes workers' compensation scheme data from the ACT private sector.

² Workers' Compensation data is not available for New Zealand as New Zealand did not make a National Dataset for Compensation-based Statistics (NDS) data submission in recent years.

³ Previous reports referred to the scheme funding as managed, central and privately underwritten. For this report, it has been changed to publicly or privately underwritten as it better reflects how schemes are funded and provides for easier comparison.

⁴ Excluding Seacare, which is privately underwritten

Table 3.2a: Summary of coverage

	Coverage of employees/workers	Coverage of independent contractors	Coverage of labour hire workers
NSW	<p>'worker means a person who has entered into or works under a contract of service or a training contract with an employer (whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, and whether the contract is oral or in writing). However, it does not include:</p> <ol style="list-style-type: none"> 1. a member of the NSW Police Force who is a contributor to the Police Superannuation Fund under the Police Regulation (Superannuation) Act 1906, or 2. a person whose employment is casual (that is for 1 period only of not more than 5 working days) and who is employed otherwise than for the purposes of the employer's trade or business, or 3. an officer of a religious or other voluntary association who is employed upon duties for the association outside the officer's ordinary working hours, so far as the employment on those duties is concerned, if the officer's remuneration from the association does not exceed \$700 per year, or 4. except as provided by Schedule 1, a registered participant of a sporting organisation (within the meaning of the Sporting Injuries Insurance Act 1978 while: participating in an authorised activity (within the meaning of that Act) of that organisation, or 5. engaged in training or preparing himself or herself with a view to so participating, or 6. engaged on any daily or periodic journey or other journey in connection with the registered participant so participating or the registered participant being so engaged, if, under the contract pursuant to which the registered participant does any of the things referred to above in this paragraph, the registered participant is not entitled to remuneration other than for the doing of those things.' <p>s4, <i>Workers Compensation Act 1998</i></p> <p>The legislation also identifies various factual situations when a person will be deemed to be a 'worker' (see s5 and Schedule 1, 1998 Act).</p> 	<p>Not unless contractor is a deemed worker pursuant to Schedule 1, 1998 Act.</p>	<p>Yes, labour hire firm held to be employer. Schedule 1, clause 2A, 1998 Act.</p>
Vic	<p>"worker" means an individual who:</p> <ul style="list-style-type: none"> • performs work for an employer; or • agrees with an employer to perform work – at the employer's direction, instruction or request, whether under a contract of employment (whether express, implied, oral or in writing) or otherwise; or • who is deemed to be a worker under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — s3. 	<p>Not unless the contractor is a deemed worker pursuant to clause 9 of Schedule 1.</p>	<p>Yes, labour hire firm held to be employer (definition of 'worker' in s3).</p>
Qld	<p>A worker is a person who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding — s11 (<i>Workers' Compensation and Rehabilitation Act 2003</i>).</p>	<p>No, unless determined an employee using the ATO Decision Tool.</p>	<p>Yes, labour hire firm held to be employer.</p>
WA	<p>Any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing. The meaning of worker also includes:</p> <ul style="list-style-type: none"> • any person to whose service any industrial award or industrial agreement applies, and • any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services — <i>Workers' Compensation and Injury Management Act 1981</i> – s5(1). 	<p>No, unless employed under contract for service and remunerated in substance for personal manual labour or service.</p>	<p>Yes, labour hire firm held to be employer.</p>

	Coverage of employees/workers	Coverage of independent contractors	Coverage of labour hire workers
SA	<p>A 'worker' means</p> <ol style="list-style-type: none"> 1. a person by whom work is done under a contract of service (whether or not as an employee) 2. a person who is a worker by virtue of — Schedule 1 <i>Return to Work Act 2014</i> 3. a self-employed worker (subject to s175 or Reg 5) 4. and includes a former worker and the legal personal representative of a deceased worker — s4(1). 	<p>Yes, if covered by definitions in s4:</p> <ol style="list-style-type: none"> 1. 'Worker' which includes a person by whom work is done under a contract of service (whether or not as an employee). 2. 'Contract of service' which includes if person undertakes prescribed work or work of a prescribed class. 3. See also Reg 5 and s4(7). 	<p>Yes. If the individual's contract is with the Labour Hire business, they are the employer.</p>
Tas	<p>A 'worker' means</p> <ol style="list-style-type: none"> 1. any person who has entered into, or works under, a contract of service or training contract with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is express or implied, or is oral or in writing; and 2. any person or class of persons taken to be a worker for the purposes of the <i>Workers Rehabilitation and Compensation Act 1988</i> — and, when used in relation to a person who has been injured and is dead, the legal personal representatives or dependants of that person or other person to whom or for whose benefit compensation is payable — s3(1). <p>The Act does not apply to any person —</p> <ol style="list-style-type: none"> 1. whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employer's trade or business; or 2. who is an outworker; or 3. who is a domestic servant in a private family, and has not completed 48 hours' employment with the same employer at the time when he suffers injury; or 4. who is a member of the crew of a fishing boat, and is remunerated wholly or mainly by a share in the profits or gross earnings of that boat; or 5. who is employed by or on behalf of the Crown in right of the Commonwealth or by a person, or body, that is licensed, or taken to be licensed, under Part VIII of the <i>Safety, Rehabilitation and Compensation Act 1988</i> of the Commonwealth; or 6. notwithstanding s4D, who is participating in an approved program of work for unemployment payment under the Social Security Act 1991 of the Commonwealth — 7. and no such person shall be deemed to be a worker within the meaning of this Act. — s4(5). 	<p>Persons engaged under a contract for services are not covered unless the contract is for work exceeding \$100 that is not incidental to a trade or business regularly carried out by the contractor. A contractor is not covered during any period for which they have personal accident insurance — s4B.</p>	<p>Labour hire workers are generally covered with the labour hire company taken to be the employer.</p>
NT	<ol style="list-style-type: none"> (1) A worker is an individual who performs work or a service of any kind for another person (the employer) under a contract; and in relation to the contract: <ol style="list-style-type: none"> (a) is an employee for the purpose of assessment for PAYG withholding under the <i>Taxation Administration Act 1953</i> (Cth), Schedule 1, Part 2-5 (the PAYG provisions); or (b) despite that the employer does not treat a person as an employee, the person should be an employee under the PAYG provisions. (2) However, worker does not include an individual: 	<p>No, unless determined an employee using the ATO Decision Tool.</p>	<p>Yes, all individuals who work for a labour hire organisation are workers under the <i>Return to Work Act 1986</i>.</p>

Coverage of employees/workers	Coverage of independent contractors	Coverage of labour hire workers
<p>(a) who is employed by the Commonwealth; or</p> <p>(b) in relation to the work or service under consideration – who is an employer of another person engaged in the performance of the work or service; or</p> <p>(c) who is employed or engaged other than for the purposes of the employer's trade, business or enterprise and in respect of whom the employer does not make any withholding payments under the PAYG provisions.</p> <p>(3) Subject to subsection (4), a person who is a prescribed member of the immediate family of the employer, and who lives with the employer, is not a worker.</p> <p><i>Note for subsection (3) A person who is a prescribed member of the immediate family of the employer, who does not live with the employer, is not precluded from being a worker only because the person is a prescribed member of the employer's family.</i></p> <p>(4) A prescribed member of the immediate family of an employer, who lives with the employer, is a worker if the member's name, nature of employment and estimated wages are disclosed to the employer's insurer:</p> <p>(a) when the employment of that member is commenced or, if the relevant insurance or indemnity is effected after the employment is commenced, at that time; and</p> <p>(b) each subsequent time the policy is renewed.</p> <p>(5) Subject to subsection (6), a person who is a director (however described) of a body corporate is not a worker.</p> <p>(6) A director of a body corporate is a worker if:</p> <p>(a) an amount is withheld, under the PAYG provisions, from any remuneration (however described) paid to the director by the body corporate; and</p> <p>(b) the director's name and estimated remuneration, as well as the nature of the director's employment, are disclosed to the body corporate's insurer when:</p> <p>(i) the director is appointed or, if the relevant insurance or indemnity is effected after the director is appointed, at that time; and</p> <p>(ii) each subsequent time the policy is renewed.</p> <p>(7) Subject to subsections (8) and (9), an individual who is engaged in voluntary work and who receives in relation to that work, if anything, nothing more than reasonable travelling, accommodation or other out-of-pocket expenses, is not a worker.</p> <p>(8) An individual who, without remuneration or reward, voluntarily engages in any of the following is taken to be a worker employed by the Territory:</p> <p>(a) assisting in emergency services, training exercises or other activities with the consent of, or under the authority and supervision of, or in cooperation with, any of the following (as defined in section 8 of the <i>Emergency Management Act 2013</i>):</p> <p>(i) the Territory, Regional or Local Controller;</p> <p>(ii) the Territory, Regional or Local Recovery Coordinator;</p> <p>(iii) the Director;</p> <p>(b) fighting a fire, training exercises or other activities with the consent of, or under the authority and supervision of, or in cooperation with, a volunteer bushfire brigade established under the <i>Bushfires Management Act 2016</i>;</p> <p>(c) fighting fires or dealing with other emergencies, or training exercises or other activities, as a volunteer member as defined in the <i>Fire and Emergency Act 1996</i>.</p> <p>(9) Also, an individual who, without remuneration or reward, voluntarily engages in work or training of a kind by reference or in relation to which a person or class of persons is prescribed as mentioned in subsection (17), is taken to be a worker employed under a contract of employment by the person or organisation prescribed.</p> <p>(10) Subject to subsection (11), an individual who is employed or engaged by a householder is not a worker.</p> <p>(11) An individual is a worker of a household if the individual earns more than, or is paid at a rate that would exceed, the prescribed amount.</p> <p>(12) A person performing work under a community court order is taken to be a worker employed by the Territory when the person is performing work under the order.</p>		

Coverage of employees/workers	Coverage of independent contractors	Coverage of labour hire workers
<p>(13) If the person was employed as a worker during normal working hours immediately before the time the person performed work under the order, the person's normal weekly earnings in that employment are taken to be the person's normal weekly earnings when performing work under the order.</p> <p>(14) Despite anything in this Act but subject to subsection (15), a person is taken not to be a worker while the person is, under a contract:</p> <ul style="list-style-type: none"> (a) participating as a contestant in a sporting or athletic activity; or (b) engaged in training or preparation with a view to participating in such an activity; or (c) travelling in connection with: <ul style="list-style-type: none"> (i) participating in such an activity; or (ii) training or preparing for such participation. <p>(15) Subsection (14) does not apply if, under the contract, the person is entitled to remuneration of not less than the prescribed amount per year or at a rate that, if the contract continued for a year, would result in the person receiving remuneration of not less than that amount.</p> <p>(16) An individual who, under a labour hire arrangement, is engaged by a provider of labour hire services to perform work or services for someone other than the provider and, in relation to whom, under the PAYG provisions, withholding payments are required to be made, is a worker of the provider.</p> <p>Note for subsection (16) For the <i>meanings of labour hire arrangement and provider of labour hire services</i>, see sections 4A and 4B respectively.</p> <p>(17) Despite anything in this section, a person, or a member of a class of persons, prescribed by regulation:</p> <ul style="list-style-type: none"> (a) as a worker is a worker for this Act; and (b) as not being a worker is not a worker for this Act. <p>(18) To avoid doubt, the fact that an individual has an ABN is not determinative of whether or not the individual is a worker for this Act.</p> <p>(19) In this section community court order means any of the following:</p> <ul style="list-style-type: none"> (a) a community work order under the <i>Fines and Penalties (Recovery) Act 2001</i>, <i>Sentencing Act 1995</i> or <i>Youth Justice Act 2005</i>; (b) a community custody order or community based order under the <i>Sentencing Act 1995</i>. <p>Pursuant to s3B of the <i>Return to Work Act 1986</i>.</p> <p>Return to Work Regulation 3A and 4 provide regulations pertaining to the definition of 'worker' in the Act.</p>		
<p>ACT</p> <p>Individual who has entered into or works under a contract of service with an employer, whether the contract is expressed or implied, oral or written — <i>Workers Compensation Act 1951</i> s8(1)(a), workers for labour only or substantially labour only s8(1)(b), or works for another person under contract unless they are paid to achieve a stated outcome, and has to supply plant and equipment, and is (or would be) liable for the cost of rectifying any defective work s8(1)(i)(a-c). OR has a personal services business determination s8(1)(ii).</p> <p>The legislation also identifies various situations when a person is considered a 'worker'. (see s9.s10. s11. s12. s13. s14. s15. s16. s16A. s17. s17A. s18. s19)</p>	<p>No, if employed under contract for services. However, there are provisions for the coverage of regular contractors.</p>	<p>Yes, where the individual is not an executive officer of the corporation and:</p> <ol style="list-style-type: none"> 1. the individual has been engaged by the labour hirer under a contract for services to work for someone other than the labour hirer 2. there is no contract to perform work between the individual and person for who work is to be performed, and the

Coverage of employees/workers		Coverage of independent contractors	Coverage of labour hire workers
			3. individual does all or part of the work.
C'wealth Comcare	Employee — a person employed by the Commonwealth or by a Commonwealth Authority whether the person is so employed under a law of the Commonwealth or a Territory or under a contract of service or apprenticeship, or a person who is employed by a licensed corporation or ACT Government — s5 <i>Safety, Rehabilitation and Compensation Act 1988</i>	No, compensation only through employment of employees.	Possibly, according to the nature of the contract.
C'wealth Seacare	Employee – (a) a seafarer, as defined in the <i>Navigation Act 2012</i> , who is employed in any capacity on a prescribed ship, on the business of the ship; (b) a trainee; (c) a person required to attend a Seafarers Engagement Centre for the purpose of registering availability for employment or engagement on a prescribed ship — (s4 <i>Employees, Seafarers Rehabilitation and Compensation Act 1992</i>).	No, compensation only through employment of employees.	Possibly, according to the nature of the contract.
C'wealth DVA	Member or former member of the Permanent Forces, Reserves, or cadets of the Australian Defence Force who has rendered service on or after 1 July 2004 — <i>Military Rehabilitation and Compensation Act 2004</i> — s8 . Member or former member of the Permanent Forces, Reserves, or cadets of the Australian Defence Force who has rendered service before 1 July 2004 — <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> — s5 .	Only if declared a member — MRCA s8 or DRCA s5	Only if declared member — MRCA s8 or DRCA s5
New Zealand	An earner is a natural person who engages in employment for the purposes of pecuniary gain, whether or not as an employee — <i>Accident Compensation Act 2001</i> — s6 .	Yes	Yes, labour hire firm held to be employer.

Table 3.2b: Guidelines and information for determining coverage of workers

Guides and information	
NSW	Claims Management Guide
Vic	Understand if contractors are considered workers for WorkCover insurance purposes Understand if the people you employ are considered workers, contractors or volunteers
Qld	Worker determination tests
WA	Workers' Compensation: A Guide for Employers A Technical Note on Contractors and Workers' Compensation
SA	Who is a worker?
Tas	Workers Compensation Handbook: The Basics A Guide to Workers Rehabilitation and Compensation in Tasmania
NT	<p>The pay as you go (PAYG) test applied under the Australian Taxation Office (ATO) laws is used to determine who is required to be covered for workers compensation in the Northern Territory. The ATO website has guidelines on how to check if your worker is an employee or contractor by reviewing the whole working arrangement.</p> <p>The definition of a worker is: An individual who performs work or a service under contract and is in relation to the contract, an employee for the purpose of assessment for PAYG withholding under the 'Tax Administration Act 1953 (Cth), Schedule 1, Parts 2-5.'</p> <p>If you are a director of a company, you are only covered if your company has taken out a workers' compensation policy with an approved insurer and your personal details and your remuneration have been disclosed to the insurer.</p> <p>If the business is owned by an individual or partnership (not a company) family members who live together are only covered if their personal details and their remuneration are disclosed to the insurer.</p> <p>Definition of a Worker</p> <p>Employers guide to workers compensation</p>
ACT	Who is and who is not a worker? - WorkSafe ACT
C'wealth Comcare	Claims and rehabilitation
C'wealth Seacare	Coverage of Seafarers Act
C'wealth DVA	Coverage of the Military Rehabilitation and Compensation Act 2004 (MRCA) Coverage of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA)
New Zealand	Accident Compensation Act 2001 — s20–38

Table 3.2c: Coverage of journeys and breaks

	Journeys to and from work	Work-related travel	Breaks — onsite	Breaks — offsite
NSW	Yes, for certain exempt workers. For all other workers with injuries received on or after 19 June 2012, there must be a real and substantial connection between employment and the accident or incident out of which the injury arose — s10 and Schedule 6 Part 19H, Clause 18, <i>Workers Compensation Act 1987</i> .	S9A <i>1987 Act</i>	Yes — s11 1987 Act	Yes — s11 1987 Act
Vic	No — s46 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>	Yes, some restrictions — s46	Yes — s46	Yes — s46
Qld	Yes, some restrictions — s35 , <i>Workers' Compensation and Rehabilitation Act 2003</i>	Yes — s34(1)(c)	Yes — s34(1)(c)	Yes — s34(1)(c)
WA	No — s19(2) , <i>Workers' Compensation and Injury Management Act 1981</i>	Yes — s19(1)	Yes	No reference in the Act Coverage depends on factual circumstances or common law
SA	Yes, but limited s7(8) , <i>Return to Work Act 2014</i>	Yes — s7(8)	Yes, if the break is authorised — s7(5)(b)	No
Tas	No, some exceptions — s25(6) , <i>Workers Rehabilitation and Compensation Act 1988</i>	Yes — s25(6)	Yes — s25(6)	No, some exceptions — s25(6)
NT	No — s4 <i>Return to Work Act 1986</i> , some exceptions — reg 5AA <i>Return to Work Regulations</i>	Yes — s4	Yes — s4	Yes — some exceptions(MVA's) — s4
ACT	Yes — s36 , <i>Workers Compensation Act 1951</i>	Yes — s36	Not expressly referenced. Refer s31 , <i>Workers Compensation Act 1951</i> .	Not expressly referenced. Refer s31 , <i>Workers Compensation Act 1951</i> .
C'wealth Comcare	No, some exceptions — s6(1C) , <i>Safety, Rehabilitation and Compensation Act 1988</i>	Yes — s6(1)(d)	Yes — s6(1)(b)	Yes, since 7 December 2011 ('ordinary recess') s6(1)(b)
C'wealth Seacare	Yes — s9(2)(e) , <i>Seafarers Rehabilitation and Compensation Act 1992</i>	Yes — s9(2)(e)	Yes — s9(2)(b)	Yes — s9(2)(b)
C'wealth DVA	Yes — s27 ; exceptions — s35 , <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) No, some exceptions — s6(1C) , <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA)	MRCA: Yes — s27 ; exceptions — s35 DRCA: Yes — s6(1)(d)	MRCA: Yes — s27 DRCA: Yes — s6(1)(b)	Yes — s27 Yes, since 7 December 2011 ('ordinary recess')
New Zealand	Yes, some restrictions — s28(1)(c) , <i>Accident Compensation Act 2001</i>	Yes — s28(1)(a)	Yes — s28(1)(b)	Yes, some restrictions

Table 3.2d: Definition of injury and employment contribution

	Definition of injury and relationship to employment	Contribution of employment to injury
NSW	<p>Injury means personal injury arising out of or in the course of employment, includes a disease injury, which means:</p> <ol style="list-style-type: none"> 1. a disease that is contracted by a worker in the course of employment but only if the employment was the main contributing factor to contracting the disease, and 2. the aggravation, acceleration, exacerbation or deterioration in the course of employment of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease, and 3. does not include (except in the case of a worker employed in or about a mine) a dust disease, as defined by the <i>Workers' Compensation (Dust Diseases) Act 1942</i>, or the aggravation, acceleration, exacerbation or deterioration of a dust disease, as so defined. <p>s4, <i>Workers Compensation Act 1987</i>.</p>	<p>No compensation is payable under this Act in respect of an injury (other than a disease injury for non-exempt workers) unless the employment concerned was a substantial contributing factor to the injury — s9A (1), 1987 Act.</p> <p>With some exceptions around dust disease as outlined under s4, <i>Workplace Injury Management and Workers Compensation Act 1998</i>.</p>
Vic	<p>'arising out of or in the course of, any employment' — s39(1), <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>.</p>	<p>Compensation is not payable in respect of the following injuries unless the worker's employment was a significant contributing factor to the injury: a) a heart attack or stroke injury b) a disease contracted by a worker in the course of employment (whether at, or away from, the place of employment) c) a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease — s40(2) and s40(3).</p>
Qld	<p>'... a personal injury arising out of, or in the course of, employment ...' — s32(1), <i>Workers' Compensation and Rehabilitation Act 2003</i>.</p>	<p>A significant contributing factor — s32(1).</p>
WA	<p>'... a personal injury by accident arising out of or in the course of the employment...'— s5, <i>Workers' Compensation and Injury Management Act 1981</i>.</p>	<p>Injury includes: a disease contracted by a worker in the course of his employment at or away from his place of employment and to which the employment was a contributing factor and contributed to a significant degree — s5.</p>
SA	<p>'...injury if (and only if) it arises from employment' — s7, <i>Return to Work Act 2014</i>.</p>	<p>The <i>Return to Work Act 2014</i> applies to an injury if (and only if) it arises from employment — s7. For psychological injuries to be compensable, employment must be 'the significant contributing cause.' s7(2)(b)(i).</p>
Tas	<p>'An injury, not being a disease, arising out of, or in the course of employment'— s25(1)(a), <i>Workers Rehabilitation and Compensation Act 1988</i>.</p> <p>'an injury, which is a disease, to which his employment contributed to a substantial degree' — s25(1)(b).</p>	<p>To a substantial degree, that is, employment is the 'major or most significant factor' (for diseases only) — s3(2A).</p> <p>Employment being the major or most significant contributing factor is also a requirement in relation to injuries that are a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease (s3(1) — in definition of 'injury').</p>
NT	<p>An injury, in relation to a worker, is a physical or mental injury arising out of or in the course of the worker's employment and includes:</p> <ol style="list-style-type: none"> 1. a disease; and 2. the aggravation, acceleration, exacerbation, recurrence or deterioration of a pre-existing injury or disease <p>Out of or in course of employment s3A and s4 <i>Return to Work Act 1986</i></p>	<p>...gradual process over a period of time and the employment... materially contributed to the injury — s4(5)</p> <p>...a disease shall be taken to have contracted by a worker in the course of employment if it is prescribed by Regulations... as being related to employment of a particular kind... - s4(6)</p> <p>...the employment of a worker is not to be taken to have materially contributed... unless the employment was the real, proximate or effective cause of the injury, disease, aggravation, acceleration or exacerbation — s4(8)</p>

Definition of injury and relationship to employment		Contribution of employment to injury
		<p>A mental injury is not an injury if due to management action taken on reasonable grounds and in a reasonable manner — s3A(2). See s3(1) for definition of 'management action'</p> <p>For heart attack or stroke injury — if the worker's employment materially contributed to the injury or disease — s58 - the material contribution of the worker's employment to the injury or disease is to be determined in accordance with s4(8)</p>
ACT	'a physical or mental injury (including stress) ... includes aggravation, acceleration or recurrence of a pre-existing injury ... arising out of, or in the course of, the worker's employment ...' — s4 and s31 , <i>Workers Compensation Act 1951</i> .	A substantial contributing factor — s31(2)
C'wealth Comcare	<p>For injuries: 'a physical or mental injury arising out of, or in the course of, the employee's employment', or 'an aggravation of a physical or mental injury (other than a disease) suffered by an employee (whether or not that injury arose out of, or in the course of, the employee's employment), that is an aggravation that arose out of, or in the course of, that employment' — s5A</p> <p>For diseases: 'an ailment suffered by an employee; or an aggravation of such an ailment that was contributed to, to a significant degree, by an employee's employment' — s5B, <i>Safety, Rehabilitation and Compensation Act 1988</i>.</p>	To a significant degree (for diseases) — s5B with matters to be taken into account being set out in a non-exclusive list and with 'significant degree' being defined as 'substantially more than material'.
C'wealth Seacare	<p>For injuries: an injury (other than a disease) suffered by an employee, being a physical or mental injury arising out of, or in the course of, the employee's employment, or an aggravation of a physical or mental injury (other than a disease) suffered by an employee — s3, <i>Seafarers Rehabilitation and Compensation Act 1992</i>.</p> <p>For diseases: any ailment suffered by an employee, or the aggravation of any such ailment, being an ailment or an aggravation that was contributed to in a material degree by the employee's employment — s3</p>	To a material degree (for diseases) — s3 .
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA): s27, s29(1), s29(2) and s30</p> <p>Any injury or disease (or recurrence) that:</p> <ul style="list-style-type: none"> resulted from an occurrence that happened on service arose out of, or was attributable to, any service due to an accident not occurring or a disease not being contracted but for service, or but for changes in the person's environment due to service resulted from an accident that occurred whilst travelling, while a member rendering peacetime service but otherwise than in the course of duty, on a journey to a place for the purpose of performing duty; or away from a place of duty upon having ceased to perform duty, or arising from treatment provided by the Commonwealth. <p>Any aggravation of an injury or disease, or its signs and symptoms:</p> <ul style="list-style-type: none"> contributed to in a material degree by or was aggravated by service, and/or aggravated by treatment provided by the Commonwealth. <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA):</p>	<p>MRCA</p> <p>Minimum material contribution required ('arose out of, or was attributable to') — MRCA s27b and s27c.</p> <p>In a material degree (for aggravations only) — MRCA, s27d and s30.</p> <p>DRCA</p> <p>To a material degree (for diseases onset prior to 13 April 2007) — s3.</p> <p>To a significant degree (for diseases onset after 13 April 2007) — s5B with matter to be taken into account being set out in a non-exclusive list and with 'significant degree' being defined as 'substantially more than material'</p> <p>Disease onset prior to 1 December 1988 have a different contribution threshold as per the transitional provisions which preserve the benefits under the older Acts.</p> <p>Claims relating to injuries incurred prior to the 1988 Act are considered in accordance with the provisions of the earlier legislation in place at the time.</p>

Definition of injury and relationship to employment		Contribution of employment to injury
	<p>For injuries: 'a physical or mental injury arising out of, or in the course of, the employee's employment', or 'an aggravation of a physical or mental injury (other than a disease) suffered by an employee' — s5A</p> <p>For diseases: 'an ailment suffered by an employee; or an aggravation of such an ailment that was contributed to, to a significant degree, by an employee's employment' — s5B.</p>	
New Zealand	A work-related personal injury is a personal injury that a person suffers while he or she is at any place for the purposes of their employment — s28, Accident Compensation Act 2001 .	A work-related personal injury is a personal injury that a person suffers while he or she is at any place for the purposes of their employment — s28 .

Table 3.2e: Coverage of retirement provision

Retirement provisions	
NSW	Retiring age means the age the person would, subject to satisfying any other qualifying requirements, be eligible to receive an age pension under the Social Security Act 1991 (Cth) . If the injury occurs before reaching retiring age: a weekly payment of compensation is not to be made in respect of any resulting period of incapacity for work occurring after the first anniversary of the date on which that person reaches the retiring age. If the injury occurs on or after retiring age: a weekly payment of compensation shall not be made in respect of any resulting period of incapacity for work occurring more than 12 months after the first occasion of incapacity for work resulting from the injury (s52, Workers Compensation Act 1987).
Vic	Retirement age means the age at which the worker attains pension age within the meaning of the Social Security Act 1991 (Cth) . Under s171 , workers are not normally entitled to payments under the Act after attaining retirement age, except in the following circumstances: <ul style="list-style-type: none"> if injured within the period of 130 weeks before attaining retirement age or at any time after attaining that age, the worker is entitled to weekly payments for no more than the first 130 weeks of incapacity for work — s169, Workplace Injury Rehabilitation and Compensation Act 2013 or if worker's incapacity after reaching retirement age relates to an injury suffered within the preceding 10 years and if the incapacity is due to inpatient treatment, the worker is entitled to weekly payments for a limited period of up to 13 weeks — s170, Workplace Injury Rehabilitation and Compensation Act 2013
Qld	Queensland does not include retirement age provisions in its workers' compensation legislation. The Queensland workers' compensation scheme does not have an age cut-off for access or benefits. Instead benefits are only payable to injured workers (no matter what age) until the injury is stable and stationary or for a maximum of 5 years.
WA	No retirement provisions in the Workers' Compensation and Injury Management Act 1981 . Age restrictions removed on 1 October 2011.
SA	Under s44 , retiring age means the lesser of the normal retiring age for workers in that particular employment or, subject to satisfying any other qualifying requirements, be eligible to receive an age pension under the Social Security Act 1991 (Cth) . If a worker is above or within 2 years of their retiring age weekly payments are payable for a maximum of 2 years s44(3), Return to Work Act 2014 . Subject to the usual compensability thresholds, workers who are seriously injured are entitled to medical expenses for life.
Tas	If the injury occurs 2 years or more before the date on which the worker attains the pension age, the cessation date is the date in which the worker attains the pension age; or if the injury occurs less than 2 years before the date on which the worker attains the pension age, the cessation date is 2 years after the injury occurs. Where pension age means pension age within the meaning of the Social Security Act 1991 (Cth) — s87, Workers Rehabilitation and Compensation Act 1988 .
NT	Weekly compensation generally stops when the person reaches retirement age under Social Security legislation. The retirement age in the legislation has been linked to the retiring age in the Social Security Act 1991 (Cth) , which means it will increase in increments from 2017, reaching 67 years of age in 2023. If a worker is injured within 2 years of, or after, their retirement age, they are entitled to receive up to 104 weeks of weekly compensation — s65, Return to Work Act 1986 .
ACT	If the worker was, on the initial incapacity date for the injury, younger than the pension age by more than 2 years, compensation for incapacity is not payable for any period after the worker reaches pension age — s39(3)(b); s40(4)(a) — Workers Compensation Act 1951 . If the worker was, on the initial incapacity date for the injury, younger than the pension age by 2 years or less, compensation for incapacity is not payable for any period more than 2 years after the initial incapacity date — s39(3)(c); s40(4)(b) — 1951 Act. If the worker was, on the initial incapacity date for the injury, pension age or older — compensation for incapacity is not payable for any period more than 2 years after the initial incapacity date — s39(3)(d); s40(4)(c) — 1951 Act.
C'wealth Comcare	Compensation in the form of income replacement is not generally payable to an employee who has reached the pension age. However, if an employee who has reached the age that is 2 years before pension age and suffers an injury, such compensation is payable for a maximum of 104 weeks (whether consecutive or not) during which the employee is incapacitated — s23, Safety, Rehabilitation and Compensation Act 1988 .
C'wealth Seacare	Compensation in the form of income replacement is not generally payable to an employee who has reached the pension age, however if an employee who has reached the age that is one year before the pension age suffers an injury, compensation is payable for up to 12 months from the date of injury — s38, Seafarers Rehabilitation and Compensation Act 1992 .

Comparison report

Retirement provisions	
C'wealth DVA	<p>Compensation in the form of income replacement is not payable to a person who has reached pension age or older, however if a person who has reached the age that is 2 years before pension age suffers an injury, compensation is payable for a maximum of 104 weeks — <i>Military Rehabilitation and Compensation Act 2004</i>, s121.</p> <p>Compensation in the form of income replacement is not generally payable to an employee who has reached pension age, however if an employee who has reached the age that is 2 years before pension age suffers an injury, compensation is payable for a maximum of 104 weeks (whether consecutive or not) during which the employee is incapacitated — <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i>, s23.</p>
New Zealand	Complex set of rules for employees who are injured either shortly before or after qualifying for national superannuation — clause 52 of Schedule 1 , <i>Accident Compensation Act 2001</i> .

Table 3.3: Summary of entitlements

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
What pre-injury weekly earning includes¹												
Overtime	Yes, for workers injured on or after 26 October 2018 payments must include shift and overtime amounts	Yes, for first 52 weeks of weekly payments	Yes (NWE)	Yes, for the first 13 weeks. No from week 14 onward	Yes	No, with some exceptions ²	Yes, if regular and established.	Yes, if regular and required. (s25)	Yes, if regular and required.	Yes, if regular and required.	MRCA s5 – Yes. DRCA s4 & s8 – Yes.	Yes
Bonuses	No	No	Yes	Yes, for the first 13 weeks. No from week 14 onward	Yes	No (s70(2)(ac))	No	No	No (some allowances are payable)	No (some allowances are payable)	MRCA – No (some allowances payable) s168, s180 DRCA – No (some allowances payable) s8	No
Entitlements expressed as a percentage of pre-injury earnings for award wage earners with total incapacity³												
0–13 weeks	95% (subject to max cap)*	95% up to max	85% of NWE4 (or 100% under industrial agreement).	100%	100%	100% (s69B(1)(a))	100%	100% (s39)	100%	100%	MRCA s131 – 100% DRCA s19 – 100%	80%
14–26 weeks	80% (subject to max cap)*.	80% up to max	85% of NWE4 (or 100% under industrial agreement)	100%	100%	100% (s69B(1)(a))	100%	100% (s39)	100%	100%	MRCA s131 – 100% DRCA s19 – 100%	80%
27–52 weeks	80% (subject to max cap)*.	80% up to max	75% NWE or 70% QOTE4	100%	100%	90% (95% in some)	75–90%	65% or Stat Floor (s41)	27–45 wks. 100%.	27–45 wks — 100%.	MRCA s131 27–45 wks. — 100%	80%

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
						circumstances) s69B(1)(b)			46–52 wks. 100% x adjustment percentage (75% if not employed, increasing in 5% increments until employee is working 100% of normal weekly hours).	46–52 wks — 100% x adjustment percentage (75% if not employed, increasing in 5% increments until employee is working 100% of normal weekly hours).	46–52 wks. — 75% DRCA s19 27–45 wks. — 100%. 46–52 wks. — 75%. Payments are further reduced by any employer funded superannuation benefit (weekly equivalent if lump sum is involved) received, plus a 5% "notional" superannuation deduction under the DRCA where superannuation is being received.	
53–104 weeks	80% (subject to max cap)	80% up to max	75% NWE or 70% QOTE4	100%	80%	53–78 weeks 90% (or 95%), s69B(1)(b) 79–104 weeks 80% (85% in some circumstances) s69B(1)(c)	75–90%	65% or Stat Floor (s41)	75% If an employee retires or is retired - 70% less any employer funded superannuation benefit (weekly equivalent if lump sum is	75% If an employee retires or is retired - 70% less any employer funded superannuation benefit (weekly equivalent if lump sum is	MRCA s131 – 75% DRCA s19 – 75% Payments are further reduced by any employer funded superannuation benefit (weekly equivalent if	80%

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
									involved) received.	involved) received.	lump sum is involved) received, plus a 5% "notional" superannuation deduction under the DRCA where superannuation is being received.	
104+ weeks	80% (subject to max cap and subject to meeting requirements of s38 of Workers Compensation Act 1987. These provisions apply after week 130). After 260 weeks payments cease at 5 years unless permanent impairment of >20%.	80% (up to max, subject to work capacity test after 130 weeks)	If >15% degree of permanent impairment can be demonstrated, 75% NWE or 70% QOTE, otherwise single pension rate ⁴	100%	80% for seriously injured workers (WPI of 30% or more psychiatric injury and 35% physical injury) s41(1). No entitlements for non-seriously injured workers s39(3) beyond 104 weeks.	80% (or 85%) The maximum payment period varies according to the assessed percentage of whole person impairment. s69B(1)(c)	75–90% Compensation ceases after 260 weeks unless 15% or greater WPI.	65% or Stat Floor. (s41)	75% If an employee retires or is retired, 70% less any employer funded superannuation benefit (weekly equivalent if lump sum is involved) received.	75% If an employee retires or is retired, 70% less any employer funded superannuation benefit (weekly equivalent if lump sum is involved) received.	MRCA s131 – 75% DRCA s19 – 75% Payments are further reduced by any employer funded superannuation benefit (weekly equivalent if lump sum is involved) received, plus a 5% "notional" superannuation deduction under the DRCA where superannuation is being received.	80%
Other entitlements												
Permanent impairment	Date of injury on or from 5th August 2015 - maximum amount	\$644,640	\$380,580 permanent impairment plus \$431,130	\$252,724 + up to \$189,543 in special	Lump sum of up to \$539,281– economic loss s55(8) .	Maximum lump sum payment of \$417,394.55 (415 units, where units	\$369,387.20 (208 times AWE) – s71 . For injuries prior to 15	\$174,369 single loss amount (\$100,000)	\$220,861.39 (Economic) \$ 82,823.06	\$220,861.39 (Economic) \$ 82,823.06	MRCA (part 2) Up to \$405.11 per week (which	Up to \$166,487.44 lump sum payment.

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
	payable for permanent impairment is \$713 660 current from 1 July 2023 and indexed on 1 July each year. Date of injury prior to 5th August 2015 maximum amount payable for permanent impairment is \$220,000 (plus additional 5% for back impairment)		gratuitous care.	circumstances	Lump sum of up to – \$585,336 non economic loss s58(4) .	means the amount represented by the basic salary). The basic salary is currently \$1,005.77. s71	October 1991, maximum \$184,693.60(104 times AWE).	CPI indexed) – s49 \$261,554 maximum loss amount (\$150,000 CPI indexed) – s50 A worker who has suffered a loss is entitled to the percentage of the single loss amount mentioned in Schedule 1 (s51). A worker who has suffered 2 or more losses not entitled to receive more than the maximum loss amount for the losses (s53)	(non-economic loss).	(non-economic loss).	can be converted to a maximum lump sum of up to \$544,305.80) . \$104,291.61 for each dependent child if on 80 or more impairment points. \$3,076.16 in compensation for financial and legal advice is also payable if on 50 or more impairment points. DRCA (s24) Lump sum up to \$303,684.06 + \$94,404.35 in cases of severe injury.	
Limits— medical and hospital	Medical 1) over 20% permanent impairment - No compensation period limit 2) if 11-20% permanent impairment,	52 weeks from cessation of weekly payments ⁴ .	Medical — no limit. Hospital — 4 days (>4 days if reasonable).	\$75,817 + \$50,000 in special circumstances.	No financial limit, but entitlements for non-seriously injured workers cease 1 year after end of weekly payments or 1 year after	No limit, but entitlements cease either after 1 year of weekly benefits cessation or 1 year after claim was made, unless the Tribunal	No limit After 260 weeks of paid weekly compensation, medical entitlement ceases after a further 12 months if	The cost of medical treatment consisting of the repair or replacement of a worker's contact lenses, crutches, prosthesis, spectacles or	No limit	No limit	No limit	No limit

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
	5 years after weekly payments cease or from the date of claim if no weekly payments payable 3) if <11% permanent impairment, 2 years after weekly payments cease or from the date of claim if no weekly payments payable s59A. Some medical treatment exempt. s59A				claim was made s33(20) . For seriously injured workers, lifetime care and support s33(21) .	makes a relevant determination s75 .	WPI is less than 15%.	other artificial aid must not be more than \$871.85 – s70 No other limit				
Special entitlements	N/A	N/A	Worker who has sustained pneumoconiosis: up to \$142,565 based on a graduated scale calculated on the basis of (a) the worker's pneumoconiosis score; and (b) the worker's	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
			lodgement age.									
Death entitlements	\$901,600 + \$161.40 pw for each dependent child. Current from 31 March 2023 Funeral expenses: maximum \$15,000.	\$713,780 (shared) + pre-injury earnings-related pensions to a maximum of \$2,660 pw for dependant partner/s and children.	\$712,855 + \$19,070 to dependant spouse + \$38,105 for each dependant family member under 16 or student + \$140.90 pw per child to spouse while children are under 6 yrs + \$176.10 pw per dependant child/family member while children/family members under 16 yrs or a student.	\$631,810 + \$149 pw for each dependent child.	585,336+ Up to: 50% worker's NWE for spouse 25% worker's NWE for orphaned child 12.5% worker's NWE for non-orphaned child. Funeral benefit: up to \$12,353.	Maximum lump sum payment of \$417,394.55 + 100% weekly payment— 0–26 weeks, 90% weekly payment — 27–78 weeks, 80% weekly payment — 79–104 weeks + 15% of the basic salary per week for each dependent child (currently \$143.13 pw). s67A	Funeral \$18,469.36 (20% of annual equivalent of AWE). Death benefit \$646,427.60 (364 times AWE). Dependant children's benefit \$177.59 weekly payment per child (10% of AWE – maximum 10 children).	\$617,131 lump sum to be divided between dependants (WPI indexed) + \$169.72 per week for each dependant child Funeral expenses: \$14,062.53 (CPI indexed) — s77	\$617,130.59 lump sum + \$14,062.53 funeral + \$169.72 pw for each dependent child.	\$617,130.59 lump sum + \$7,647.52 funeral + \$169.72 for each dependent child	MRCA Dependent partner receives \$558.15 pw + maximum of \$173,819.34 for service-related death (s233, s234) Each dependent child receives \$104,291.61 + \$173.46 pw while they remain an "eligible young person" (s233, s251, s252, s253, s254) Up to \$3,076.16 for financial and legal advice (s239) Lump sum up to \$104,291.60 per person is payable to 'other dependants' (limited at \$330,256.75 in total) (s261).	Up to \$166,487.44 lump sum + Survivors grant of \$8,032.33 + Funeral grant of \$7,491.95 Child care payments of \$170.80 pw for one child, \$102.48 pw each for 2 children, or \$239.13 pw in total for 3 or more children.

NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
										Funeral compensation payable up to \$14,062.53. (s265) DRCA Lump sum for dependants \$617,130.59 (shared) Each dependent child receives \$169.72 pw (s17) . Funeral compensation payable up to \$14,062.53. (s18) Defence Act Lump Sum for Spouse \$68,132.07 Lump Sum for dependent child \$100,143.27 Reimbursement up to \$1,990.52 financial advice	

1. Entitlements benefits in New South Wales, Western Australia, Victoria, Tasmania, Queensland, Northern Territory, Australian Capital Territory and New Zealand do not include superannuation contributions. Compensation in the form of superannuation contribution is payable in Victoria after 52 weeks of weekly payments.

2. No, unless overtime was a requirement of the worker's contract of employment, the overtime was worked in accordance with a regular and established pattern and in accordance with a roster, the pattern was substantially uniform as to the number of overtime hours worked and the worker would have continued to work overtime in accordance with the established pattern if the worker had not been incapacitated s70(2)(ab).

Comparison report

3. Payment thresholds and specific benefit arrangements may also apply. The relevant jurisdiction should be contacted directly if further information is required.

4. NWE — normal weekly earnings (except South Australia where NWE denotes notional weekly earnings), QOTE — the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year, or, if that amount is less than QOTE for the previous financial year—the amount that is QOTE for the previous financial year.

* NSW Exemptions:

- police officers, paramedics and fire fighters
- workers injured while working in or around a coal mine
- bush fire fighter and emergency service volunteers (Rural Fire Service, Surf Life Savers, SES volunteers), and
- people with a dust disease claim under the Workers' Compensation (Dust Diseases) Act 1942.

Claims by these exempt workers continue to be managed and administered as though the June 2012 changes never occurred.

Table 3.4: Prescribed time periods for injury notification

	Worker notifies employer/insurer of injury	Employer notifies insurer/authority of injury	Insurer notifies authority of injury	Authority notifies insurer of injury
NSW	'...as soon as possible after the injury happens.' - s44(1) , <i>Workplace Injury Management and Workers Compensation Act 1998</i> .	48 hours after becoming aware that a worker has received a workplace injury — s44(2) .	To give notice '...as soon as practicable...' - s44.	To give notice '...as soon as practicable...' - s44.
Vic	30 days after becoming aware of injury - s18(1) <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> . Beyond 30 days after becoming aware of injury in certain conditions - s18(6)	Within 3 business days of receiving a mental injury claim — s 73A(1) and 3 business days of receiving a mental injury claim - s 73A	N/A	N/A
Qld	N/A	8 business days - s133(3) , <i>Workers' Compensation and Rehabilitation Act 2003</i>	N/A	N/A
WA	As soon as practicable — s178(1)(a) , <i>Workers' Compensation and Injury Management Act 1981</i> . Claim within 12 months of injury — s178(1)(b) .	5 days after claim is made — s57A(2A)	N/A	N/A
SA	Within 24 hours or as soon as practicable — s16(2) , <i>Return to Work Act 2014</i>	5 business days - s16(6)	N/A	N/A
Tas	As soon as practicable, and before the worker has voluntarily left the employment — s32(1)(a) , <i>Workers Rehabilitation and Compensation Act 1988</i> .	3 working days after becoming aware that worker has suffered a workplace injury — s143A	Insurer must forward a copy of a claim for compensation to the Board within 5 working days after receiving it s36(2)	N/A
NT	As soon as practicable — s80(1) <i>Return to Work Act</i> .	Forward the claim form to the insurer within 3 working days of receiving claim from the worker — s84 .	An insurer who is given notice of a claim under s81 or receives a claim forwarded under subsection (1) shall, within 10 working days after the notice is given or the claim received, forward a copy to the Authority — s84(2) .	N/A
ACT	As soon as possible — s93(1) , <i>Workers Compensation Act 1951</i> .	48 hrs of becoming aware — s93(2)	N/A	N/A
C'wealth Comcare	As soon as practicable — s53(1)(a) , <i>Safety, Rehabilitation and Compensation Act 1988</i> .	N/A	N/A	N/A
C'wealth Seacare	As soon as practicable — s62(1)(a) , <i>Seafarers Rehabilitation and Compensation Act 1992</i> .	N/A	N/A	N/A
C'wealth DVA	<i>Military Rehabilitation and Compensation Act 2004 (MRCA)</i> — N/A <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA)</i> — As soon as practicable — s53(1)(a)	MRCA — N/A DRCA — N/A	MRCA — N/A DRCA — N/A	MRCA — N/A DRCA — N/A

	Worker notifies employer/insurer of injury	Employer notifies insurer/authority of injury	Insurer notifies authority of injury	Authority notifies insurer of injury
New Zealand	In the case of a claim for cover, within 12 months after the date on which they suffer the personal injury; or in the case of a claim for an entitlement, within 12 months after the date on which the need for the entitlement arose — s53(3)	N/A	N/A	N/A

Table 3.5: Prescribed time periods for claim submission

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
Timeframe for claim lodgment	Within 6 months — s261(1) <i>Workplace Injury Management and Workers Compensation Act 1998</i> ; or If injury resulting in death or serious and permanent disablement within 3 years — s261(4) , 1998 Act; or longer period with approval of SIRA s261(5) , 1998 Act.	As soon as practicable after the injury becomes known in the case of a claim for weekly payments, 2 years for death claims, 6 months after relevant service for claim for medical and like service — s20(8) . <i>Workplace Injury Rehabilitation and Compensation Act 2013 (WIRC Act)</i> . For certain employers, claims must be lodged within 5 days of receiving it — s31(3)	6 months — s131(1) , <i>Workers' Compensation and Rehabilitation Act 2003</i> (if beyond 20 days, extent of the insurer's liability to pay compensation is limited to a period starting no earlier than 20 business days before the day on which the valid application is lodged) — s131(2) . Beyond 6 months — s131(5) .	12 months -- s178(1)(b) , <i>Workers' Compensation and Injury Management Act 1981</i> . Beyond 12 months — s178(1)(d) .	Within 6 months of the day on which the entitlement to make the claim arises — s30(1)(b) , <i>Return to Work Act 2014</i> . A claim can be made later if the determination has not been substantially prejudiced or if the time frame was missed due to ignorance, mistake, absence from the State or other reasonable cause— s30(3) .	Within 6 months after the date of the occurrence of the injury, or where the injury results in the death of the worker, within 6 months after the date of the death — s32(1)(b) , <i>Workers Rehabilitation and Compensation Act 1988</i> . Beyond 6 months if the failure to make the claim was occasioned by mistake, absence from the State of the worker, or other reasonable cause — s38(1) .	6 months — s182(1) <i>Return to Work Act 1986</i> . Beyond 6 months — s182(3)	3 years — s120(1)(b) , or Beyond 3 years — s120(2) , <i>Workers Compensation Act 1951</i> .	No specified time — s54 , <i>Safety, Rehabilitation and Compensation Act 1988</i> .	No time specified — s63 , <i>Seafarers Rehabilitation and Compensation Act 1992</i> .	<i>Military Rehabilitation and Compensation Act 2004 (MRCA)</i> — No specified time — s319 . <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA)</i> — As soon as practicable after employee becomes aware of the injury or as soon as practicable after the death — s53 .	Within 12 months — s53 , <i>Accident Compensation Act 2001</i> .
How a claim must be lodged	A workplace injury must be notified to the employer as soon as possible. –	s20(5) . A claim for compensation must be given to or served on	With the insurer in the approved form (whether by	Worker must lodge claim form and first certificate of capacity	For workers of an employer who is not a self-insured employer, the	Claim form plus medical certificate to be given to employer or person	On approved form — s82 , if claiming for lost time must be	s93 , s94 — Injury notice must be given to the employer.	S 54(2) — A written claim on a form substantially complying with the form	s63(2) — A written claim on a form substantially complying with the	MRCA s319(2) A claim under paragraph (a), (b) or (c) must:	Claim form or in a manner specified by the

NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
<p>s44 and s254, 1998 Act</p> <p>The employer must notify the insurer within 48 hours of becoming aware that a worker has received a workplace injury— s44, 1998 Act</p> <p>A worker, employer or their representative can make initial notification of the injury to the insurer, either electronically, in writing or by phone</p>	<p>the employer or self-insurer; or Worksafe Victoria if s 29 or 31(4) of the WIRC Act applies.</p> <p>In an approved form given or served on the employer — s20</p>	<p>paper form, online, telephone or submitted by doctor).</p>	<p>with employer.</p>	<p>claim form must be given by the worker, or their representative to:</p> <p>their employer direct (if the worker is in employment at the commencement of incapacity), or the Corporation, or the employer's claims agent in one of the following manners:</p> <p>in person, via post, via facsimile, via telephone or via email</p> <p>30(1)(a).</p>	<p>designated by employer s34</p> <p>May be given to employer personally or by post s35.</p>	<p>accompanied by Medical certificate of capacity - First</p> <p>Giving or serving personally on employer. Posting to employer — s83.</p>	<p>s116 — A worker may claim compensation under this S.</p>	<p>approved by Comcare, given to the relevant authority.</p>	<p>form approved by the Seacare Authority, given to the employer.</p>	<p>(a) be in writing; and (b) be given to the Commission; and (c) satisfy the requirements (if any):</p> <p>(i) prescribed by the regulations; or</p> <p>(ii) determined in writing by the Commission;</p> <p>as to the form and content of claims, or claims of that kind.</p> <p>s319(2A) A claim under paragraph (1)(d) must:</p> <p>(2A) A claim under paragraph (1)(d) must:</p> <p>(a) be in writing and be given to the Commission; or</p> <p>(b) be made orally to the Commission.</p> <p>. Note: s 323</p>	<p>Corporation.</p> <p>The Corporation may impose reasonable requirements such as requiring the person to lodge a written claim.</p>

NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
										<p>sets out when a claim is taken to have been given to the Commission</p> <p>DRCA s54(2) — A claim shall be made by giving the relevant authority:</p> <p>(a) a written claim in accordance with the form approved by MRCC for the purposes of this paragraph; and</p> <p>(b) except where the claim is for compensation under A 16 or 17— a certificate by a legally qualified medical practitioner in accordance with the form approved by MRCC for the purposes of</p>	

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
											this paragraph.	
Employer acknowledges receipt of claim	N/A	As soon as reasonably practicable — s21 .	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Employer passes on claim form to insurer/authority	Notification must occur within 48 hours (s44 , 1998 Act) and the claim must be forwarded within 7 days of receiving claim or other documentation in respect of a claim — s264(1) , 1998 Act.	Within 10 days after the employer receives the claim — s73(1) .	N/A	5 working days — s57A(2A) .	5 business days — s30(5) .	Employer must notify insurer of claim within 3 working days of receiving claim — s36(1AA) . Employer must immediately complete employer's report section of claim and forward it to insurer within 5 working days of receiving claim — s36(1) .	3 working days — s84(1) .	7 days — s126(1) .	N/A	N/A	N/A	N/A
Employer/worker supplies further information to insurer on request	7 days from insurer request — s264(2) , 1998 Act.	Prescribed time periods for claim submission exist within the legislation for Employers (10 calendar days from receipt) and	10 business days of receiving notice — s167(2) .	N/A	N/A	N/A	N/A	7 days — s126(2) .	28 days — s58 .	No time specified — s67 .	DRCA s58 – 28 days MRCA s330 – 28 days	No time limit on the claimant but ACC must make request for additional information within 21 days after claim is

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
		worker (as soon as practicable). In relation to the Agent/Self-Insurer decision on liability, the Act prescribes 28 calendar days from receipt for claims for weekly payments otherwise claim is deemed accepted.										lodged — s56(2) .
Insurer passes on claim form to authority	N/A	N/A. Authorised agent of authority has claims management function.	N/A	Within 21 days after payments commence — s57C(2) .	N/A	5 working days — s36(2) .	10 working days — s84(2) .	N/A	N/A	N/A	N/A	N/A
Availability of provisional liability	Yes Commence weekly payments on a provisional basis within 7 days of receiving initial notification, unless the insurer has one of the 7 prescribed reasonable excuses	Provisional payments for reasonable medical expenses are available for eligible employees with a mental injury - s263B. Provisional payments can be made where it appears	Yes For psychological injury, an insurer must take all reasonable steps to provide reasonable services to support the worker in relation to the psychiatric	No	No However, obliged to offer interim benefits to a worker if the claim has not been determined within 10 days of receipt s32 .	Yes, employer obliged to commence weekly payments — s81 . Payments are not an admission of liability — s81AA .	Liability is deemed accepted if decision not made within 10 working days of receiving claim (s85). Liability continues until 14 days after the employer notifies the claimant of	If a worker makes a claim in relation to an injury for which compensation is payable under the Act, the licensed insurer is liable to pay weekly compensation and compensatio	N/A	N/A	N/A	N/A

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
	(s267 , 1998 Act) Provisional medical expenses up to \$10,000 (s280 , 1998 Act). However reasonable excuse cannot be applied to medical expenses.	that a person may be entitled to compensation in respect of the death of a worker — s243 . Maximum amount for medical and other costs \$9,600 (indexed each year in accordance with CPI)	or psychological injury during the claim determination period s232AB .				the decision.	n for costs in relation to the injury until the insurer rejects or settles the claim (s134). An insurer may state that payment is not an admission of liability for the injury in relation to the injury for which a payment is made (s133)				
Timeframes for claim decision	Decision liability for all or part of a claim within 21 days of the claim being made — s274(1) and s279(1) , 1998 Act.	28 days for weekly payments if received by insurer within 10 days or 39 days in other circumstance — s75 . Provisional payments are payable up to the date of claim acceptance or in any other case, 13 weeks after the day the worker is determined	No statute for deemed acceptance or rejection, however claims must be determined within 20 business days — s134(2) where practical.	Insurers have up to 14 days — s57A(3) .	10 Business days — s31(4) (wherever practicable).	If the liability has not been disputed via a referral to the Tribunal within 84 days, the liability is taken to have been accepted. — s81A(1) , s81AB .	10 working days after receipt by employer — s85(1) If employer fails to notify of a decision within the time specified the employer is deemed to have accepted liability for compensation payable and this must continue	28 days — s128(1) .	As of 31 December 2023 there are no legislated timeframes for claim decisions. Determining authorities must make determinations accurately and quickly — s69(a) , 108E(b) . As of 1 April 2024, statutory timeframes for decision making for initial claims	Claims are deemed to be rejected if not determined within the following statutory time frames: 60 days for death claims (s72), 12 days for incapacity, loss of property and medical expenses (s73), 30 days for permanent impairment (s73A).	N/A	The Corporation must make a claim decision within 21 days or seek an extension. If an extension is sought the Corporation must make a decision within 4 months from the date the claim is lodged. For complicated claims the Corporation has up to 9

NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
	to be entitled to provisional payments - s 243I .					until 14 days after the employer notifies the claimant of the decision — s87		under s14 and for reconsideration of determination commence as set out in the Safety, Rehabilitation and Compensation Regulations 2019. The prescribed timeframes will be: 20 calendar days for injury or aggravation of an injury (other than a disease) claims, 60 calendar days for claims made in respect of a disease, 30 calendar days to decide a request by a claimant to reconsider a determination — ss61(1A), 62(6)			months to make a decision — s56 and s57 .

Table 3.6: Prescribed time periods for payments

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
Eligibility from	Weekly payments payable from the first date of either total or partial incapacity for work resulting from the injury — s33 , <i>Workers Compensation Act 1987</i> .	Weekly payments payable from date of incapacity for work — s160 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> .	Assessment by medical practitioner, nurse practitioner or dentist — s141(1) , <i>Workers' Compensation and Rehabilitation Act 2003</i> .	From date of incapacity — s21 (weekly benefits). From date of injury — s18 (medical expenses), <i>Workers' Compensation and Injury Management Act 1981</i> .	From date of incapacity — s39(1) , <i>Return to Work Act 2014</i> .	Date of injury (for medical etc. expenses). Date of incapacity for weekly payments (or 14 days before claim was given to the employer, whichever is the later) — s81(3)(a) , <i>Workers Rehabilitation and Compensation Act 1988</i> .	Date of Incapacity — s64 , <i>Return to Work Act 1986</i> .	Date of injury — s38(1)(b) , <i>Workers Compensation Act 1951</i> .	For injuries — date of injury For diseases the date employee first sought medical treatment, date of death or date of first incapacity or impairment — s7(4) , <i>Safety, Rehabilitation and Compensation Act 1988</i>	Date of injury — s31 , <i>Seafarers Rehabilitation and Compensation Act 1992</i> . s31(3) — Date seafarer left onshore or returned to home port. s10(4) — For diseases: the date employee first sought medical treatment, date of death or date of first incapacity or impairment	MRCA s85 , s1186 - Date of incapacity for work. DRCA s7(4) - The date of injury, the date on which the employee first sought medical treatment, date of death or date of first incapacity or impairment; whichever happens first.	Date of incapacity — Schedule 1, Part 2, cl 32, <i>Accident Compensation Act 2001</i> .
Payments begin	Within 7 days of notification if provisional liability — s267(1) , <i>Workplace Injury Management and Workers Compensation Act 1998</i> . Promptly when liability accepted by insurer — s74A(1) , 1998 Act.	Within 7 days of the claim for weekly payments being accepted - s178(3) .	Day of assessment — s141(1) . Day after assessment day — s141(2) .	Not later than 14 days — s57A(7) .	Within 14 days of claim — s64(9) .	On first pay day following receipt of claim. If the first pay day is within 14 days of receipt of claim and it is not reasonably practicable to make payment on that day, payment must begin not less than	Within 3 working days from accepting liability — s85(2) .	From notification of injury — s38(1)(a) .	No time specified	Within 30 days of date of determination of amount for injuries resulting in death or permanent impairment — s130 . All others — no time specified.	No time specified	Employer must pay first week of compensation for loss of earnings — s98 . The Corporation pays weekly compensation for loss of earning to claimant to who was an earner on and from the day after the

Comparison report

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
						14 days from receipt of claim — s81(1)						first week of incapacity — Schedule 1, Part 2, s32 .
Employer passes on payments to injured worker	As soon as practicable — s69(1)(c) , 1998 Act and s264(3) , 1998 Act.	Max 7 days after end of week in which payments are due — s179(1) .	Excess to be paid within 10 business days after receiving notice from WorkCover — s66(5) .	As above. Subsequent payments on usual pay days	As above	No time specified	From then on – before the expiration of 7 days after the end of the week in respect of which it is payable or, where the worker is normally paid at intervals greater than one week, before the expiration of 7 days after the end of the period in respect of which they are normally paid. — s88 .	Immediately — s126(3) .	No time specified	No time specified	Payments made directly to injured worker/claimant	Payments made directly to Injured worker/claimant
Medical invoices sent to insurer	No time specified	Within 6 months after the date of the service — s20(8)(c) .	2 months — s213(2) .	No time specified	No time specified	Within 7 days of employer receiving account — s76A(2) .	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified
Medical expense claim	Within 21 days of claim — s279(1) 1998 Act.	Within 28 days — s75(2) .	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified	No time specified
Medical expense paid	No time specified	No time specified	No time specified — s210 .	No time specified	No time specified	28 days — s77AA(1) and s77AB(2) .	As soon as practicable — s85(3) .	30 days of insurer receiving notice — s90(1) .	No time specified	No time specified	No time specified	No time specified

Table 3.7: Dispute resolution process

Dispute resolution provisions	
NSW	<p>Liability: If liability for a claim or a request for compensation is disputed, the worker will receive a copy of all information relevant to the decision from the insurer. All information is exchanged and considered before a dispute resolution application is lodged with the Personal Injury Commission (the Commission). A worker can ask the insurer to review the decision prior to seeking a resolution through the Commission. A worker may also seek assistance from the Independent Review Office (IRO), which provides access to information and access to legal assistance for workers regarding claims and disputes. If the dispute is about the degree of permanent impairment, a Commission-appointed Approved Medical Specialist (AMS) will review all medical evidence, assess the worker and issue a medical assessment certificate that is conclusively presumed to be correct on the degree of permanent impairment. An AMS may also be appointed to assess medical disputes.</p> <p>The Commission is an independent Statutory Tribunal, which deals with disputed workers' compensation claims (except for coal miners and Bush Fire and Emergency Rescue Service Volunteers). Any party to a workers' compensation dispute can lodge an application to the Commission, except for disputes about permanent impairment, which can only be lodged by a worker.</p> <p>Appeal provisions exist in relation to decisions of Commission arbitrators and AMS under limited grounds. Appeals against an arbitrator's decision are determined by a Presidential member of the Commission. Appeals against the assessment of AMS are determined by an Appeal Panel comprising 2 AMS and one arbitrator. Funding for legal representation for a worker is available through the Independent Legal Assistance and Review Service (ILARS), which is administered by the IRO.</p> <p>Coal miners: The District Court has exclusive jurisdiction to examine, hear and determine all coal miner matters (except matters arising under Part 5 of the <i>Workers Compensation Act 1987</i>).</p> <p>Dust Diseases: Workers who disagree with a decision made by the Dust Diseases Authority or Medical Assessment Panel can lodge an appeal in the District Court of NSW in accordance with s 81 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>.</p> <p>Bush Fire and Emergency Rescue Services Volunteers: The District Court has exclusive jurisdiction to examine, hear and determine all Bush Fire and Emergency Rescue Services Volunteers matters.</p> <p>Work capacity decisions: A work capacity decision can only be reviewed if the worker makes an application for the decision to be reviewed. The worker can choose to have the decision reviewed by a different person within the insurer or lodge a dispute with the Commission.</p>
Vic	<p>Court proceedings must not be commenced (except in the case of a fatality or lump sum claims under the old Table of Maims) unless the dispute has been referred for conciliation and the conciliation officer certifies that the worker has taken all reasonable steps to settle the dispute — s273.</p> <p>Conciliation: The worker or person making the claim may refer the dispute for conciliation to attempt to resolve the dispute —s282. If the dispute is resolved by agreement, the Accident Compensation Conciliation Service (ACCS) will issue a certificate outlining the agreement. Failing agreement, the ACCS may give directions, make recommendations or decline to give directions or recommendations or refer a medical question to the Medical Panel — ss284, 294 and 296. A direction of the ACCS is binding on the parties unless subsequently revoked by the ACCS or a Court — s299. Where a claimant has taken all reasonable steps to attempt settlement of the dispute but agreement cannot be reached, the ACCS will issue a certificate permitting the claimant to commence court proceedings — s273.</p> <p>Unless a Court orders otherwise, a dispute can be conciliated notwithstanding that court proceedings have been commenced — s294(2). The <i>Workplace Injury Rehabilitation and Compensation Amendment (Arbitration) Act 2021</i> (Arbitration Act) provides workers the choice of having their matter arbitrated by the ACCS and receive a binding decision, as an alternative to proceeding to court following unsuccessful conciliation. The Arbitration Act amends the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (WIRC Act) to enable workers with a Genuine Dispute certificate following unsuccessful conciliation to have ACCS determine their dispute by arbitration.</p> <p>Subject to the <i>County Court Act 1958</i>, the County Court has exclusive jurisdiction to inquire into, hear and determine any question or matter arising under the WIRC Act or <i>Accident Compensation Act 1958</i> — s264. The Magistrates' Court has the same jurisdiction as the County Court and additionally deals with disputes regarding access to claims documents, claims for reimbursement of expenses incurred by non-family members of a deceased worker and civil proceedings relating to discriminatory conduct against a worker — ss266 and 578.</p> <p>Medical Panels: 'medical questions' as defined in s 3 may be referred to Medical Panels. Disputed impairment benefits assessments under s 203 and any medical question arising in a conciliation dispute relating to a worker's entitlement to weekly payments for reduced work capacity after 130 weeks under s 165 must be referred to Medical Panels. Medical Panels form binding opinions on medical questions referred — s313.</p>
Qld	<p>Internal Review: The insurer must undertake an internal review of proposed decision to reject the application for compensation or to terminate compensation. The review is to be undertaken by a person in a more senior position than the person who proposes to make the decision — s538. Reviewable decisions are outlined in s540.</p> <p>Review by Regulator: The Workers' Compensation Regulator is to hear from both parties and review all relevant information and documentation. Once the Regulator has reviewed the decision, it can confirm or vary the decision, set aside the decision and substitute another decision, or set aside the decision and return the matter to the decision maker with directions the Regulator considers appropriate — s545.</p>

Dispute resolution provisions	
	<p>Appeal to Industrial Magistrate (premium matters) or Industrial Relations Commission (claim matters): Formal hearing of both sides, where the appeal body can confirm, vary, set aside and substitute another decision, or set aside the decision and return the matter to the decision maker with directions considered appropriate — s558.</p> <p>Appeal to Industrial Court: Court rehears evidence and proceedings and additional evidence if ordered by the Court. The Court's decision is final — s561 and s562.</p> <p>Medical Panel: Referral to Medical Assessment Tribunal (MAT) by an insurer to decide a worker's capacity for work or permanent impairment — s500. No appeal against a decision by MAT unless the worker submits fresh medical evidence to the insurer within 12 months of the MAT decision and the insurer refers it to a review panel — s512. Does not affect right to judicial review.</p>
WA	<p>Conciliation: An application for conciliation can only be made after a workers' compensation claim has been made on an employer. Before making an application, the applicant must have made reasonable attempts to resolve the dispute by negotiation with the other party. After an application has been accepted, the Conciliation Service may contact parties to clarify and discuss the matters. Many disputes are resolved quickly and informally at this stage. If needed, a conciliation meeting is usually scheduled within 21 days from acceptance of the application, at the WorkCover WA offices. When the conciliation process is concluded, the result is recorded in a Certificate of Outcome, which is provided to the parties in dispute by the Conciliation Service. It outlines:</p> <ul style="list-style-type: none"> • the matters in dispute at the outset of the process • those matters that were resolved and the basis on which they were resolved • those matters remaining in dispute, and • details of any payment directions issued. <p>If a party does not comply with the monetary terms of the agreement, the Certificate of Outcome may be enforced through court proceedings.</p> <p>Arbitration: Before an arbitration application can be made, the dispute must have been conciliated by the Conciliation Service or a certificate issued by the Director of Conciliation advising the matter is not suitable for conciliation. An Arbitrator makes their determination based on evidence. Witnesses may be sworn in and cross-examined to give verbal evidence. Parties may need to attend a directions hearing to clarify matters and address preliminary matters. This is followed by a recorded arbitration hearing where the Arbitrator considers the evidence and hears from each party before making a formal determination. The determination is legally binding, but questions of law may be appealed to the District Court of Western Australia, providing certain thresholds are met.</p> <p>Medical Assessment Panels: Where the dispute is of a medical nature, the Conciliation officer or Arbitrator may refer the matter to a medical assessment panel, made up of medical practitioners. For example, questions may be referred to a panel if there is a conflict of opinion between the worker's and employer's medical practitioners, about the nature or extent of an injury or a worker's capacity for work. The panel may require the worker to attend a medical examination. The panel's determination is final and binding on all parties and on any court or tribunal.</p> <p>Legal representation and other assistance: Parties may have legal representation, but this is not compulsory. If a worker is not represented, a Conciliation officer or an Arbitrator can refuse permission for an employer or insurer to be represented by a legal practitioner or registered agent. Registered agents regulated by WorkCover WA can represent parties. In certain circumstances the Conciliation officer or Arbitrator may appoint a guardian, allow an interpreter to assist or allow a family member or friend to support the worker during the dispute resolution process. Under the <i>Workers' Compensation and Injury Management Act 1981</i>, maximum costs are set for legal, registered agent and related services. The costs scale is structured to promote the early settlement of disputes by agreement.</p> <p>Further information:</p> <p>'What happens if there is a dispute?'</p> <p>A guide to the Workers' Compensation Conciliation Service</p> <p>Conciliation Rules and Forms</p> <p>A guide to the Workers' Compensation Arbitration Service</p> <p>Arbitration Rules and Forms.</p>
SA	<p>Reconsideration: Disputed claim determinations on a claim must be reviewed and reconsidered by a person who did not make the disputed decision. The reconsideration of the disputed decision must be completed within 10 business days after receiving notice of the dispute — s102</p> <p>The South Australian Employment Tribunal has jurisdiction to deal with a reviewable decision — s98</p> <ul style="list-style-type: none"> • A person with a direct interest in a reviewable decision may commence proceedings for a review of the reviewable decision by the Tribunal — s99(1) • An application may be made to the Tribunal within one month after the applicant receives notice of the reviewable decision unless the Tribunal allows an extension of time — s100(1) • Initial reconsideration by compensating authority — s102 • If no resolution at reconsideration, the dispute will be dealt with under Part 3 of the <i>South Australian Employment Tribunal Act 2014</i>, s103

Dispute resolution provisions	
	<ul style="list-style-type: none"> • Conciliation Conference s104 Return to Work Act and — s43 <i>South Australian Employment Tribunal Act 2014</i> • Hearing for determination — s44 <i>South Australian Employment Tribunal Act 2014</i> • Pre hearing conference — s45 <i>South Australian Employment Tribunal Act 2014</i> • Settlement conference or mediation ss46 and 47 <i>South Australian Employment Tribunal Act 2014</i> • Medical question to Independent Medical Adviser — s121 <i>Return to Work Act 2014</i> • Full Bench appeal only on question of law — s67 • Appeal to the Full Court of Supreme Court (with permission) — s68.
Tas	<p>Conciliation: 2 steps:</p> <ul style="list-style-type: none"> • Preliminary stage is to identify issues being disputed and to try and resolve the dispute amicably — s42D • The next stage is a conciliation conference which provides an opportunity for open and 'without prejudice' discussions based on all available information to facilitate a resolution — s42E to s42N <p>Arbitration: Formal hearing normally held in private, where both parties give evidence. Orders made by the Tribunal are final and binding — s44 to s49</p> <p>Appeal to Supreme Court: Can be made under s136 of the <i>Tasmanian Civil and Administrative Tribunal Act 2020</i></p> <p>Medical Panel: The Tribunal may refer a medical question to a medical panel when there is conflicting medical opinion, and one of the parties wishes to continue with proceedings. The panel's determination is binding on the Tribunal — s49.</p>
NT	<p>A dispute arises where a claimant is aggrieved by the employer's decision:</p> <ul style="list-style-type: none"> • to dispute liability for compensation claimed • to cancel or reduce compensation being paid • relating to any matter or question incidental to or arising out of the claim for compensation — s103B <p>Internal dispute resolution process: Approved insurers and self-insurers must have an internal process for resolving a dispute between the injured worker and the approved insurer or self-insurer, or its representatives. The process involves the insurer or self-insurer arranging for an internal review by a senior review officer. This officer will not have made the original decision. From the time of receiving a request for review, insurers or self-insurers should complete the IDRP in a maximum of 5 working days — s103BA.</p> <p>Mediation: NT WorkSafe has a legislative role in dispute resolution by providing a mediation service. This service is provided by experienced independent mediators who are not employees of NT WorkSafe. Undertaking mediation is mandatory before any matter can be taken to the Work Health Court. If the dispute is in relation to claim rejection, reduction or cancellation of benefits, a worker has 90 days from receipt of the insurer's Notice of Decision and Rights of Appeal to apply to NT WorkSafe for mediation. The mediation process must be completed within 28 days of the claimant applying to the Authority to have a dispute referred to mediation. The mediator may make recommendation to parties in relation to resolution of dispute — ss103D-103J.</p> <p>Legal representation: It is the mediators' decision of whether parties are entitled to legal representation in the mediation — s103F. The mediator may recommend that the Authority direct the employer to pay the reasonable costs of legal advice received by the claimant prior to mediation and the reasonable costs of legal representation at a mediation conference. The maximum amount of the reasonable costs payable by the employer is not to exceed the amount of average weekly earnings at the time of the recommendation — s103FA.</p> <p>Work Health Court: Hear and determine claims for compensation and all matters and questions incidental to or arising out of such claims — ss104-114A.</p> <p>Supreme Court: Points of law only can be referred to the Supreme Court — ss115-116.</p> <p>Medical Panels: Only for grievances of the level of permanent impairment assessed in the first instance — s72. The degree of permanent impairment reassessed by a panel is not subject to review — s72(4).</p> <p>Further Information:</p> <p>Dispute Resolution</p> <p>Mediation process for workers compensation</p> <p>Preparation for workers compensation mediation</p> <p>Application for mediation form</p>

Dispute resolution provisions	
	Dispute Resolution - Video
ACT	<p>Conciliation: Parties must make a genuine effort to reach an agreement. Conciliation must occur before arbitration unless there is an issue with the insurer rejecting a claim for compensation. The conciliation officer may decide claim for compensation is not suitable for conciliation or the issue is unresolved and may make a recommendation. If parties agree, the record of agreement must be in writing — Part 6, Regulations</p> <p>Arbitration: If conciliation is unsuccessful or compensation claim has been rejected by the insurer, the matter must be decided by the Committee unless the Committee refers the matter to the Magistrates Court — Part 7, Regulations</p> <p>Magistrates Court: Appeals or referrals by the Committee — Part 7, Regulations</p> <p>Medical Referees: Medical referees may be requested throughout the resolution process to prepare a report to help parties reach an agreement — Part 7, Regulations</p>
C'wealth Comcare	<p>Following an internal reconsideration process — s62, by an independent review officer (or by a delegate not involved in the initial decision, or by the initial decision delegate in relation to reconsideration of own motion), if either party (employee or employer) to a reconsidered decision is not satisfied with that decision an application to the Administrative Appeals Tribunal (AAT) may be made. The AAT processes include compulsory conciliation. The AAT has the discretion to make or decline to make a decision in the terms agreed to by the parties. The AAT must be satisfied that a decision in those terms or consistent with those terms would be within the Tribunal's powers. If conciliation is unsuccessful, the AAT can make determinative decisions — s64.</p> <p>Appeals: A party may apply from the AAT to the Federal Court on questions of law.</p>
C'wealth Seacare	<p>Following a reconsideration process — s 78, which must involve the assistance of an industry panel or Comcare officer, if the employee is not satisfied with that decision an application to the Administrative Appeals Tribunal (AAT) may be made. The AAT processes include compulsory conciliation. The AAT has the discretion to make or decline to make a decision in the terms agreed to by the parties. The AAT must be satisfied that a decision in those terms or consistent with those terms would be within the Tribunal's powers. If conciliation is unsuccessful, the AAT can make determinative decisions — s88.</p> <p>Appeals: A party may apply from the AAT to the Federal Court on questions of law.</p>
C'wealth DVA	<p>For <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) primary decisions made before 1 January 2017, a dual appeal pathway existed including an internal reconsideration process — s350, or review by the Veterans' Review Board — s353. If either party (claimant, Chief of the Defence Force or MRCC) is not satisfied with that decision an application to the AAT may be made. For primary decisions made on or after 1 January 2017, a single appeal pathway exists consisting of a review by the VRB is conducted then if either the veteran or the MRCC is not satisfied with the outcome, an application to the AAT may be made.</p> <p>For <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) primary decisions: Following an internal reconsideration process — s62, by an independent review officer (or by a delegate not involved in the initial decision), if either party (employee or employer) to a reconsidered decision is not satisfied with that decision an application to the Administrative Appeals Tribunal (AAT) may be made (a dispute). The AAT processes include compulsory conciliation. The AAT has the discretion to make or decline to make a decision in the terms agreed to by the parties. The AAT must be satisfied that a decision in those terms or consistent with those terms would be within the powers of the Tribunal. If conciliation is unsuccessful, the AAT can also make determinative decisions — s64.</p> <p>Appeals: A party may apply from the AAT to the Federal Court on questions of law.</p>
New Zealand	<p>An employer may apply to the Corporation for a review of its decision that a claimant's injury is a work-related personal injury suffered during employment with that employer.</p> <p>A claimant may apply to the Corporation for a review of:</p> <ul style="list-style-type: none"> • any of its decisions on the claim • any delay in processing the claim for entitlement that the claimant believes is an unreasonable delay, or • any of its decisions under the Code on a complaint. <p>Levy payers can also ask for a review of any levy paid or payable. Reviews are conducted by an independent reviewer. A review decision can be appealed to the District Court. Appeals on questions of law can be taken to the High Court and the Court of Appeal.</p>

Table 3.8: Definition of remuneration for the purpose of premium calculation

Definition of remuneration	
NSW	The 1987 Act (s.174(9)) defines 'wages' broadly. Generally, a payment to a worker is 'remuneration' if it is made to, or for the benefit of, the worker. An employer's premium is calculated on the basis of 'remuneration' paid to 'workers'
Vic	Gross wages, salaries (including overtime and loadings), bonuses, commission, fringe benefits and superannuation. How remuneration works provides an overview of how remuneration is calculated, what's included and what's exempt for the purposes of calculating an employer's premium. Remuneration is also defined in Part 2 of Schedule 1 of the Workplace Injury Rehabilitation and Compensation Act 2013 .
Qld	Total gross wages, salaries, superannuation contributions and other payments as outlined in the Wages Definition Manual .
WA	All gross wages, salaries, commissions, bonuses, overtime, allowances and the like, directors fees, superannuation contributions (except those made by force of law) and all other benefits paid (whether at piece work rates or otherwise and whether paid in cash or in kind) to, or in relation to, a worker before the deduction of income tax. 'Wages' do not include termination payments, retirement pay, retrenchment pay in lieu of notice, pensions, 'golden handshakes', or weekly payments of workers' compensation. Workers' Compensation: A Guide for Employers .
SA	Remuneration is defined as payments made to or for the benefit of a worker include and includes more than 60 allowances or benefits, such as superannuation contributions, fees or bonuses, footwear, uniform, clothing and/or dry cleaning allowances and living away from home allowances. The ReturnToWorkSA Remuneration Guide outlines what is included as remuneration.
Tas	Wages are used for defining premiums. Wages include the monetary value of all payments made to a worker, whether in cash or in kind, in return for the worker's labour. Wages are defined in the Guideline on the Definition of Wages , and s96A of the <i>Workers Rehabilitation and Compensation Act 1988</i> .
NT	Condition 9, Schedule 3 , Return to Work Regulations: Premiums shall be regulated by the amount of wages, salaries and all other forms of remuneration paid or allowed to workers. Further, guidance material suggests 'wages', 'salaries' and 'remuneration' includes wages, salary, overtime, shift and other allowances, over-award payments, bonuses, commissions, payments for public and annual holidays (including loadings), payments for sick leave, payments for long service leave (including a lump sum payment instead of long service leave). This includes but is not limited to the market value of meals, accommodation and electricity provided by the employer for the worker, the total value of any salary sacrificed amounts (including fringe benefits applicable to these salary sacrifices) and superannuation contributions payable to a worker as wages or salary if the worker elected (e.g. salary sacrificed superannuation).
ACT	Wages including salary, overtime, shift and other allowances, over award payments, bonuses, commissions and any other payments/sums that the employer has been accustomed to pay to the worker — as defined in the ACT Wages and Earnings Guide (s8A of the Workers Compensation Regulation 2002) .
C'wealth Comcare	Gross wages/salaries including overtime that is regular and required (including condition of service payments normally covered by sick leave, holidays, long service leave) and generally any taxable allowances (other than allowances payable in respect of special expenses). Excludes employer superannuation contributions, one off payments and bonuses — generally, non-taxable allowances.
C'wealth Seacare	N/A
C'wealth DVA	N/A
New Zealand	'Earnings' as an employee means all gross source deduction payments (i.e. taxable wages). It excludes social security benefit, student allowance, redundancy payment, retiring allowance or superannuation scheme pension. Earnings as a self-employed person are defined as their annual assessable income, after expenses are deducted, that results from personal exertions. This definition includes Private Domestic Workers. Earnings as a shareholder-employee are any earnings as an employee, and/or any further salary representing payment for services provided as an employee or director of the company.

Table 3.9: Employer excess

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
Excess	Yes — s160 (<i>Workers Compensation Act 1987</i>).	Yes — s72	Yes — s65	N/A	Yes — s34 (transportation) and s64 (income support).	N/A	Yes — s56	N/A	N/A	Not prescribed in legislation but may be negotiated between employer and insurer.	N/A	Yes — s98
Period of incapacity	One week's weekly compensation up to a maximum amount prescribed in the Market Practice and Premium Guidelines.	First 10 days	The lesser of: 100% of Qld full-time adult's ordinary time earnings (QOTE), or the injured worker's weekly compensation rate.	N/A	First 2 weeks of the period of incapacity per worker per calendar year.	N/A	Any part day lost on day of injury	If the employer does not provide an injury notice to the insurer within 48 hours, the employer is liable for weekly compensation payments from the date of injury until the employer gives the insurer the injury notice - s93(2) and s95(2) .	Any part day lost on day of injury.	N/A	N/A	First week
Cost of benefits	N/A	First \$824 of medical costs	QOTE (max)	N/A	Differs depending upon cost of 2 weeks income support for worker.	N/A	N/A	As above	N/A	N/A	N/A	N/A
Buyout option	Excess is waived if the claim is reported to an insurer within 5 calendar days of the employer becoming aware of the injury.	Yes - employers can waive claims excess by paying an additional 10% on their premium	N/A	N/A	See s 64(14)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table 3.10: Uninsured employer provisions

Uninsured Employers	
NSW	A claim may be made against the Nominal Insurer by any person in respect of an injury if the employer is uninsured or unable to be identified by the worker — s140 , <i>Workers Compensation Act 1987</i> . The employer is required to repay the amount spent on the claim — s145 , 1987 Act, plus penalties incurred for not maintaining a workers' compensation insurance policy — s155 , 1987 Act.
Vic	Where an employer is required to register for WorkCover Insurance and pay premium but has not done so, WorkSafe Victoria is liable to pay compensation and damages to injured workers in accordance with the Act and to indemnify the employer in respect of their liabilities under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — ss70 and 71 . WorkSafe Victoria may recover an amount, not exceeding the amount of compensation and damages which has been paid, as well as additional penalties from an employer which is required to register for WorkCover Insurance and pay premium but has not done so — ss34 and 488 .
Qld	WorkCover may recover from the employer the amount of the payment made to an injured worker together with a penalty equal to 50% of the payment, as well as the amount of unpaid premium together with a penalty equal to 100% of the unpaid premium — s57 .
WA	Where an employer is not insured against their liability to pay compensation or damages to an injured worker, WorkCover WA will pay an amount to satisfy the award or any award for costs made from the General Account (uninsured fund) — s174 . Where an employer is uninsured, that employer will be directly liable for the following costs: <ul style="list-style-type: none"> • statutory benefits • legal costs involved in court action • liability for damages • fines of up to \$5,000 per worker • an amount equal to any avoided premiums going back 5 years, and • separate and further offences for every week remaining uninsured after the date of conviction — s170 and 174AA.
SA	An injured worker can make a claim regardless of the status of the employer. The employer is required to register and pay a premium. If an employer fails to make a payment of compensation that it is liable to make under the <i>Return to Work Act 2014</i> (e.g., first 2 weeks income maintenance), ReturnToWorkSA shall make that payment and will take all reasonable steps to recover the debt — s64(20) .
Tas	The Nominal Insurer is an independent statutory body established to ensure that injured workers are not disadvantaged in circumstances where: <ul style="list-style-type: none"> • the employer is not insured • the employer has left the State and its whereabouts are unknown • the employer or licensed insurer has become insolvent, or • for any other reasons, there are reasonable grounds for believing that the employer or licensed insurer is, or is likely to be, unable to discharge in full any liability under the <i>Workers Rehabilitation and Compensation Act 1988</i> — ss121 and 126. <p>The Tasmanian Civil and Administration Tribunal can order the Nominal Insurer to meet the employer's liability for the claim — s127. The Nominal Insurer will then attempt to recover the amount paid in relation to the claim from the employer or insurers involved — s130. An uninsured employer may be prosecuted and, if convicted, may be ordered to pay avoided premiums in addition to any fine the court may impose — s97(10).</p>
NT	The Nominal Insurer Fund is established by the Minister and administered by the Nominal Insurer — s162 . Where an employer is uninsured, the employer must forward the claim to the Nominal Insurer — s84 . The Nominal insurer will manage and pay the claim — s85(10) . The Nominal Insurer is entitled to recover compensation amounts paid, from the employer — s172(2) . The employer shall also pay an amount equal to the highest premium payment for the period there was no cover, to the Nominal Insurer — s172(3) .
ACT	The Default Insurance Fund (DI Fund) provides a safety net to meet the costs of workers' compensation claims where an employer did not have an insurance policy or an approved insurer is wound up or cannot provide the indemnity required to be provided under a policy — s166A

Uninsured Employers	
	<ul style="list-style-type: none"> If an employer fails to maintain a compulsory insurance policy, the regulator may recover up to double the avoided premium for a period of up to 5 years, as a debt owing by the employer to the DI fund (s149). However, the employer is not liable under s(1) for a failure to maintain a compulsory insurance policy in relation to a worker if: the employer provides evidence that a State was the Territory or State of connection for the employment under the law of a State corresponding to part 4.2A (Employment connection with ACT or State) s149(2a), or the employer had insurance, or was registered, as required under a law of the State in relation to liability for workers' compensation under the law of the State — s149(2b)
C'wealth Comcare	Not necessary within the 'premium' (Commonwealth and ACT Public Sector) component of the scheme as all employees are 'Government' employees. The Commonwealth could be considered to be the nominal insurer through the Department of Finance and Administration for injuries incurred before 1 July 1988. Liabilities of the Commonwealth (but not self-insured licensees) incurred before this date are not funded through the Comcare premium scheme. In the self-insured (licensee) component of the scheme, prudential arrangements including the requirement for a guarantee held by the SRC Commission ensure licensee liabilities are covered in the event of bankruptcy.
C'wealth Seacare	A policy of insurance or indemnity is compulsory for all employers — s93 . A statutory fund stands in the place of an employer's if there is a default event in relation to the employer — s4(3) and ss96-102 .
C'wealth DVA	N/A
New Zealand	An employer must pay, in accordance with the <i>Accident Compensation Act 2001</i> and regulations made under the Act, levies to fund the Work Account. The Scheme covers all workers regardless of whether their employer has breached the Act by failing to pay levies.

Table 3.11: Leave while on workers' compensation

Leave accrual while on workers' compensation	
NSW	Paying weekly workers' compensation benefits if a worker is on paid leave is permitted - 'Compensation is payable under this Division to a worker in respect of any period of incapacity for work even though the worker has received or is entitled to receive in respect of the period any payment, allowance or benefit for holidays, annual holidays or long service leave under any Act (Commonwealth or State), award or industrial agreement under any such Act or contract of employment' — s 49 , <i>Workers Compensation Act 1987</i> .
Vic	Leave provisions are not covered under workers' compensation legislation. WorkSafe Victoria does not advise employers whether a worker is entitled to the payment or accrual of leave and refers employers and workers to the appropriate employment agreement and/or the <i>Fair Work Act 2009</i> (Cth). Where weekly payments are paid or payable, regard shall not be had to any sum paid or payable in lieu of accrued annual leave or long service leave — s 174(d) , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> .
Qld	A worker is entitled to take or accrue annual leave, sick leave and long service leave under an Industrial Act or industrial instrument while they are entitled to and receiving workers' compensation payments — s 119A , <i>Workers' Compensation and Rehabilitation Act 2003</i> .
WA	Compensation is payable to a worker in respect of any period of incapacity notwithstanding that the worker has received or is entitled to receive in respect of any such period any payment, allowance, or benefit for annual leave, or long service leave — s 80(1) , <i>Workers' Compensation and Injury Management Act 1981</i> . Any sick leave payments made in lieu of workers' compensation payments must be repaid to the employer and the sick leave entitlement reinstated for the relevant period — s 80(2) . The Act does not specify whether leave can be accrued whilst receiving weekly compensation.
SA	A worker receiving weekly payments for their compensable injury may continue to accrue annual leave entitlements depending on the terms of the relevant award, industrial agreement etc. If a worker is entitled to accrue annual leave but has received weekly payments for total incapacity for a period of 52 weeks or more (continuous or separate periods) the worker's entitlement to annual leave is considered to be satisfied in respect of a year of employment that coincides with, or ends during that period. If the worker is not entitled to continue to accrue annual leave, the worker may be entitled, by way of compensation, to the monetary value of the annual leave that would have accrued if the worker had not been absent from employment — s 50 .
Tas	When compensation is payable and the worker would be entitled to be absent from their employment on annual recreational leave or long service leave: <ul style="list-style-type: none"> the worker must be given a similar period of leave on pay in lieu of that annual recreational leave or long service leave within 3 months from the date of their return to work or at the termination of their right to compensation if they do not then return to work, or if the worker so desires, they may by arrangement with the employer, take the leave during the period of incapacity for which compensation is payable. The worker is then not entitled to receive weekly payments during that period of annual recreational leave or long service leave. <p>An employer must not attempt to cause or require a worker to take annual recreational leave or long service leave during a period of incapacity for which compensation is payable — s 84. A worker is entitled to be credited with annual recreational leave or long service leave taken whilst their entitlement to workers' compensation is pending — s 84B. Workers are entitled to accrue various leave entitlements whilst in receipt of weekly payments under the <i>Workers Rehabilitation and Compensation Act 1988</i>.</p>
NT	The <i>Return to Work Act 1986</i> is silent on the taking or accruing of leave and therefore s 130 of the <i>Fair Work Act 2009</i> (Cth) applies. Under this section an employee is not entitled to take or accrue any leave of absence (whether paid or unpaid) under this Part during a period (a compensation period) when the employee is absent from work because of a personal illness, or a personal injury, for which the employee is receiving compensation payable under a law (a compensation law) of the Commonwealth, a State or a Territory that is about workers' compensation. S 130 of the <i>Fair Work Act 2009</i> (Cth) does not prevent an employee from taking unpaid parental leave during a compensation period.
ACT	<i>Workers Compensation Act 1951</i> (s 46) does not affect and permits an entitlement to annual or long service leave accrual that arises apart from the Act. An employee's entitlement to accrue long service leave/annual leave would be covered under their award or agreement or in some cases under the <i>Fair Work Act 2009</i> (Cth), specifically under the National Employment Standards. These are administered by the Fair Work Ombudsman and therefore enquiries of this nature would be usually directed to them. In the case of a construction worker or cleaner, they may be directed to the ACT Long Service Leave Authority. If an employee was covered by the <i>Long Service Leave Act 1976</i> , the Act stipulates that while off work on workers' compensation people do not accrue long service leave, however the employee's continuity would not be broken.
C'wealth Comcare	An injured employee cannot take leave (other than maternity leave) during a period of post-determination compensation leave — s 116 : Recreation leave and sick leave accrue for the first 45 weeks of post-determination leave.

Leave accrual while on workers' compensation	
	<p>Long service leave accrues throughout the post-determination compensation leave period (as if the employee was at work).</p> <p>Post-determination compensation leave starts the day after a request for compensation is successful under s 19 or s 22 of the <i>Safety, Rehabilitation and Compensation Act 1988</i>.</p>
C'wealth Seacare	<p>An injured employee cannot take leave other than maternity leave while they are on compensation leave — s 137</p> <p>Long service leave entitlements continue to accrue in accordance with the applicable industrial instrument or National Employment Standard — s 137.</p>
C'wealth DVA	MRCA: No relevant provisions. DRCA: sick, recreation and long service leave continue to accrue - s116.
New Zealand	Leave provisions are not covered under accident compensation legislation. Annual leave continues to accrue if an employee is receiving accident compensation — <i>Holidays Act 2003</i> (administered by Ministry of Business, Innovation and Employment).
Effect of taking leave while on compensation	
NSW	s 49 of the 1987 Act does not expressly permit the taking of leave. Rather, it permits the payment of weekly workers' compensation benefits if a worker is on paid leave.
Vic	If the current weekly earnings of a worker are reduced because the worker is on paid annual leave or long service leave, WorkSafe Victoria or self-insurer must not, by reason only of that reduction, alter the amount of compensation in the form of weekly payments — s 185(4) .
Qld	If a worker requests to take annual or long service leave and the employer approves this request, WorkCover continues to pay weekly benefits for the duration of the leave. Employer remains responsible for leave balance adjustments.
WA	Leave payments do not affect a worker's compensation entitlements in any way. Any leave entitlements taken by the worker will be credited back if the worker's claim is accepted — s 80 (1-3) .
SA	If the worker applies for, and takes, annual leave their weekly payments may be suspended while the worker is on leave — s 50(7) .
Tas	<p>s 84 was inserted by 16 of 1995 and subsequently amended by 8 of 2007 to include long service leave: The worker can arrange with their employer to take annual leave or long service leave during a period that he/she would be entitled to workers' compensation but would not be entitled to receive weekly payments during that leave. An employer must not attempt to cause or require a worker to take annual leave or long service leave during a period of incapacity for which compensation is payable.</p> <p>s 84B was inserted by 81 of 2004 and amended by 8 of 2007 to include long service leave: Where a worker takes annual leave or long service leave whilst their entitlement to workers' compensation is pending or in dispute and the employer is subsequently found to be liable to pay weekly payments for that period, the worker's annual leave or long service leave is to be recredited.</p>
NT	The <i>Return to Work Act 1986</i> is silent on the taking or accruing of leave and therefore s 130 of the <i>Fair Work Act 2009</i> (Cth) applies. Under this section an employee is not entitled to take or accrue any leave of absence (whether paid or unpaid) under this Part during a period (a compensation period) when the employee is absent from work because of a personal illness, or a personal injury, for which the employee is receiving compensation payable under a law (a compensation law) of the Commonwealth, a State or a Territory that is about workers' compensation. S 130 of the <i>Fair Work Act 2009</i> does not prevent an employee from taking unpaid parental leave during a compensation period.
C'wealth Comcare	s 116 SRC Act 1988 : In spite of the provisions of any other Act, or an award, an employee is not entitled to be granted any kind of leave of absence with pay (other than maternity leave with pay) during, or in respect of, any period when the employee is or was on post-determination compensation leave.
C'wealth DVA	<p>MRCA – no relevant provisions.</p> <p>DRCA – other than maternity leave, no leave of absence with pay, s 116</p> <p>In spite of the provisions of any other Act, or an award, an employee is not entitled to be granted any kind of leave of absence with pay (other than maternity leave with pay) during, or in respect of, any period when the employee is or was on post-determination compensation leave but:</p> <ul style="list-style-type: none"> sick leave and recreation leave entitlements continue to accrue in relation to the employee during each of the first 45 weeks during which they are on post-determination compensation leave, and

Leave accrual while on workers' compensation

	<ul style="list-style-type: none"> • long service leave entitlements continue to accrue in relation to the employee during the whole of the period of the post-determination compensation leave as if the employee were not absent from work.
C'wealth Seacare	<p>s 137 Seafarers Rehabilitation and Compensation Act 1992: Despite any other Act, or any award, an employee is not entitled to be granted any kind of leave with pay (other than maternity leave with pay) during, or in respect of, any period when the employee is or was on compensation leave, but long service leave entitlements continue to accrue in relation to the employee in accordance with the applicable industrial instrument or National Employment Standards.</p>
New Zealand	<p>A client [employee] has a period of annual leave in the 52 weeks before the commencement of the client's incapacity. What is the effect of that annual leave on the calculation of the client's weekly benefit? Answer: 'Earnings as an employee' means all payments received by the client in the 52 weeks before the commencement of the incapacity that are subject to tax deductions.</p> <p>A client in receipt of weekly compensation has made a partial return to work and is receiving partial weekly compensation. What is the effect on the client's weekly compensation if the client takes a period of annual leave from their employment and receives holiday pay? Answer: In this scenario ACC would be required to abate the full amount of the holiday pay that the client received, reducing the rate of weekly compensation that the client received. ACC is also required to abate the full amount of any payment that the client receives for any statutory holiday.</p> <p>A client in receipt of full unabated weekly compensation receives holiday pay on termination of employment. Answer: In such a situation, the holiday pay would be abated. The period over which it is abated depends on whether the holiday pay is for a specific period. If it is for a specific period (i.e. 4 weeks and 3 days), it is abated over that period.</p>

Table 3.12: Superannuation and workers' compensation

	Included in wages for premium calculations	Included with income replacement payments
NSW	Yes (under definition of wages in s 174(9) of the 1987 Act	No. Schedule 3 to the 1987 Act
Vic	Yes	No, however, workers are entitled to compensation in the form of superannuation contributions if weekly payments have been paid or payable for an aggregate period of 52 weeks, not ceased to be paid or payable, and the worker has not attained retirement age — s 168 .
Qld	Yes	No
WA	Yes (Worker Contributions) No (Contributions required by force of law)	No
SA	Yes	No, however, any amount otherwise payable to the worker that has been the subject of a voluntary salary sacrifice arrangement by the worker for superannuation purposes is included in the average weekly earnings calculation — s5(13)(a).
Tas	Yes — salary sacrifice only — s 96A(f)	No — s 69(5)
NT	Yes — salary sacrifice only	No — Employer contributions Yes — employee contributions
ACT	No — Employer contributions required by force of law Yes — if the employer's contributions are debited to the worker's salary package	No — employer contributions required by force of law are not considered to be part of a worker's earnings
C'wealth Comcare	Yes — employee contribution amount No — employer contribution	No — employer contribution amount Yes — employee contribution amount while still employed
C'wealth Seacare	N/A	No — employer contribution amount Yes — employee contribution amount while still employed
C'wealth DVA	N/A	MRCA & DRCA — No
New Zealand	No	No



Chapter 4:

Coverage and eligibility for benefits



Coverage and eligibility

This chapter provides information about worker's compensation coverage and eligibility for benefits in each jurisdiction. Workers' compensation coverage differs between each jurisdiction. Determining whether a person is covered by workers' compensation depends on the definitions of:

- workers/employees
- deemed workers/employees
- injury, and
- workplace.

Coverage of workers/employees

To be eligible for compensation a person injured in the workplace must fall within the definition of worker/employee in their jurisdiction. Determining what types of workers are covered is very important, as penalties can apply if an employer does not insure its workers. Several jurisdictions apply tests to determine if a worker requires coverage.

Employers should contact their workers' compensation authority if they are unclear whether a worker is covered.

Definitions of deemed workers

A deemed worker for workers' compensation purposes is a person who performs work for another in circumstances that fall outside of the general statutory definition of worker in a jurisdiction, but who is deemed by legislation to be a worker to receive a workers' compensation benefit.

Over time there has been a decline in employment under traditional arrangements. As new working arrangements have emerged, jurisdictions have modified the definition of 'worker' to ensure that workers under these arrangements are properly covered by workers' compensation. Table 4.2 provides a list of deemed workers in each jurisdiction.

Compensation coverage for volunteers

Table 4.3 provides a summary of workers' compensation arrangements in each jurisdiction for volunteers such as firefighters, emergency service volunteers and persons performing community services or unpaid duties.

Treatment of sportspersons

All jurisdictions that cover sporting activities in their workers' compensation legislation refer to the professional side of the sport only. Comcare, Seacare and DVA have no direct reference to sport-related injuries. As New Zealand's scheme has much broader coverage, there is no distinction made between sport-related and any other injury — all receive the same cover.

In New South Wales, coverage for workers' compensation depends on whether the person is within the definition of a 'worker', noting that persons who might otherwise be workers are excluded where they are covered by the *Sporting Injuries Insurance Act 1978*. A comparison of jurisdictions can be found in Table 4.4.

Workers' compensation arrangements for government employers

Table 4.5 summarises the legislation, self-insurance, claims managers and premiums covering workers' compensation for government employers in each of the jurisdictions.

Workers' compensation arrangements for judges and members of parliament

Table 4.6 provides a summary of workers' compensation arrangements for judges and members of parliament in each jurisdiction.

Table 4.1a: Definition of worker

Definition of 'worker'	
NSW	A person who has entered into or works under a contract of service or a training contract with an employer (whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, and whether the contract is oral or in writing). Certain exclusions apply — s4 and s4(1) , <i>Workplace Injury Management and Workers Compensation Act 1998</i> . In addition, s5 provides that the definitions outlined in Schedule 1 deems workers lent or on hire, some contracts and similar classes of persons to be workers.
Vic	<p>s3, <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — Worker means an individual who:</p> <ul style="list-style-type: none"> performs work for an employer, or agrees with an employer to perform work — at the employer's direction, instruction or request, whether under a contract of employment (whether express, implied, oral or in writing) or otherwise, or who is deemed to be a worker under this Act
Qld	A worker is an individual who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the Taxation Administration Act 1953 (Cth), schedule 1, part 2-5. (s11 , <i>Workers' Compensation and Rehabilitation Act 2003</i>).
WA	<p>s5(1), <i>Workers' Compensation and Injury Management Act 1981</i> — Any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing. The meaning of worker also includes:</p> <ul style="list-style-type: none"> any person to whose service any industrial award or industrial agreement applies, and any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services <p>WorkCover WA guidance: Workers' Compensation and Injury Management: A Guide for Employers. A Technical Note on Contractors and Workers' Compensation.</p>
SA	<p>s4, <i>Return to Work Act 2014</i> — A worker is:</p> <ul style="list-style-type: none"> a person by whom work is done under a contract of service (whether or not as an employee) a person who is a worker by virtue of Schedule 1 a self-employed worker and includes a former worker and the legal personal representative of a deceased worker <p>Also see definition of 'contract of service', s175 'Extension of the application of Act to self-employed persons', Regulation 5 'Contract of service and other terms' and Regulation 69 'Volunteers'. NB: regulations may exclude specified classes of workers.</p>
Tas	<p>s3(1) <i>Workers Rehabilitation and Compensation Act 1988</i> — Worker means:</p> <ul style="list-style-type: none"> any person who has entered into, or works under, a contract of service or training contract with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is express or implied, or is oral or in writing, and Any person or class of persons taken to be a worker for the purposes of the Act and when used in relation to a person who has been injured and is dead, includes the legal personal representatives or dependants of that person or other person to whom or for whose benefit compensation is payable <p>Worker may include contractors (4B), participants in prescribed training programs (4D), luxury hire car drivers (4DA), taxi drivers (4DB), jockeys (4DC), and other persons prescribed to be workers (4E).</p> <p>s4(5) The Act does not apply to any person:</p>

Definition of 'worker'	
	<ul style="list-style-type: none"> • whose employment is of a casual nature, and who is employed otherwise than for the purposes of the employer's trade or business, or • who is an outworker, or • who is a domestic servant in a private family, and has not completed 48 hours' employment with the same employer at the time when they suffers injury, or • who is a member of the crew of a fishing boat, and is remunerated wholly or mainly by a share in the profits or gross earnings of that boat, or • who is employed by or on behalf of the Crown in right of the Commonwealth or by a person, or body, that is licensed, or taken to be licensed, under Part VIII of the Safety, Rehabilitation and Compensation Act 1988 (Cth), or • notwithstanding s s4D, who is participating in an approved program of work for unemployment payment under the Social Security Act 1991 (Cth) — and no such person shall be deemed to be a worker within the meaning of this Act
NT	A worker is an individual who performs work or a service of any kind for another person under a contract and in relation to the contract, is an employee for the purposes of assessment for PAYG withholding under the Taxation Administration Act 1953 (Cth) (s3B Return to Work Act 1986).
ACT	<p>The <i>Workers Compensation Act 1951</i> devotes an entire chapter (Chapter 3) to defining and identifying a worker in general and certain categories of workers. The Minister may additionally make a declaration to deem persons in certain occupations to be workers:</p> <ul style="list-style-type: none"> • an individual who has entered into or works under a contract of service with an employer, whether the contract is expressed or implied, oral or written — s8(1)(a), or • workers for labour only or substantially labour only s8(1)(b), or • works for another person under contract UNLESS they are paid to achieve a stated outcome, and has to supply plant and equipment, and is (or would be) liable for the cost of rectifying any defective work s8(1)(i)(a – c), or • has a personal services business determination s8(1)(ii).
C'wealth Comcare	s4 , s5 <i>Safety, Rehabilitation and Compensation Act 1988</i> — Employee: a person employed by the Commonwealth or by a Commonwealth Authority whether the person is so employed under a law of the Commonwealth or of a territory or under a contract of service or apprenticeship. Can also be covered if subject of a ministerial declaration. Also a person who is employed by a licensed corporation if a person performs work for that corporation under a law or a contract and the person would, if the corporation were not licensed, be entitled to workers' compensation in connection of that work
C'wealth Seacare	Employee: a seafarer, as defined in the <i>Navigation Act 2012</i> , who is employed in any capacity on a prescribed ship, on the business of the ship; a trainee; or a person required to attend a Seafarers Engagement Centre for the purpose of registering availability for employment or engagement on a prescribed ship — s4 .
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) — Member or former member of the Permanent Forces, Reserves, or cadets of the Australian Defence Force who rendered service on or after 1 July 2004 s5.</p> <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) — Member or former member of the Permanent Forces, Reserves, or cadets of the Australian Defence Force who rendered service prior to 1 July 2004 s5.</p>
New Zealand	An earner is a natural person who engages in employment for the purposes of pecuniary gain, whether or not as an employee — s(6) (also includes employees on unpaid parental leave, self-employed persons and employees who have purchased weekly compensation and employees who ceased work in the 28 days prior to incapacity, and who had an agreement to start work within 3 months of the date of incapacity or within 12 months for seasonal workers).

Table 4.1b: Coverage of contractors and labour hire workers

Are individual contractors covered under legislation?		Are labour hire workers covered under legislation?
NSW	Not unless contractor is a deemed worker pursuant to Schedule 1, Workplace Injury Management and Workers Compensation Act 1998	Yes, labour hire firm held to be employer — Clause 2A. Schedule 1 , 1998 Act
Vic	Not unless the contractor is a deemed worker pursuant to clause 9 of Schedule 1	Yes, labour hire firm held to be employer (definition of 'worker' in s3)
Qld	No. The following guidance for determining whether a person is a worker is provided: Worker guidelines and Worker determination	Yes, labour hire firm held to be employer
WA	No, unless employed under contract for service and remunerated in substance for personal manual labour or service	Yes, labour hire firm held to be employer
SA	Yes, if undertaking prescribed work or work of a prescribed class — s4(1) — contract of service and Regulation 5 — contract of service and other terms	Yes, labour hire firm held to be employer s4(4) . See Employment Services (Labour Hire) Guidelines
Tas	Worker may include contractors: <ul style="list-style-type: none"> • where contract is for work exceeding \$100 in value which is not related to a trade or business regularly carried on by the contractor in the contractor's own name or under a business or firm name — s4E • taxi and luxury hire car drivers — s4DA & s4DB • salesperson paid by commission — s4C • jockeys — s4DC. <p>Some forms of contract may misrepresent the contract's true nature. The final arbiter is the Tasmanian Civil and Administrative Tribunal.</p>	Yes, labour hire firm held to be employer
NT	No, unless contractor works under a contract and, in relation to the contract, is an employee for the purpose of assessment for PAYG withholding under the <i>Taxation Administration Act 1953</i> — s 3E	Yes, if the individual's contract or agreement is with the Labour Hire firm, the firm is the employer — 3E(16) Return to Work Act 1986.
ACT	No, if employed under contract for services. However, there are provisions for the coverage of regular contractors (s11).	Yes, where the individual is not an executive officer of the corporation and: <ul style="list-style-type: none"> • the individual has been engaged by the labour hirer under a contract for services to work for someone other than the labour hirer • there is no contract to perform work between the individual and person for who work is to be performed, or • the individual does all or part of the work. — (s12)
C'wealth Comcare	No, compensation only through employment of employees	Possibly, depending on the nature of the contract
C'wealth Seacare	No, compensation only through employment of employees	Possibly, according to definition of nature of contract
C'wealth DVA	<i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) - Not unless they are members of the Defence force or the subject of a Ministerial determination under which they are to be treated as members of the Defence Force for the purposes of the Act - s7A or s8	MRCA — Not unless they are members of the Defence force or the subject of a Ministerial determination under which they are to be treated as members of the Defence Force for the purposes of the Act - s7A or s8

Are individual contractors covered under legislation?		Are labour hire workers covered under legislation?
	<i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) — Not unless they are members of the Defence force or the subject of a Ministerial determination under which they are to be treated as members of the Defence Force for the purposes of the Act — s5 .	DRCA — Not unless they are members of the Defence force or the subject of a Ministerial determination under which they are to be treated as members of the Defence Force for the purposes of the Act — s5 .
New Zealand	Yes	Yes, labour hire firm held to be employer

Table 4.2: Deemed workers

Definition of deemed worker	
NSW	<p>Schedule 1 of the Workplace Injury Management and Workers Compensation Act 1998 lists the twenty-one specific circumstances in which persons are deemed to be workers:</p> <ol style="list-style-type: none"> 1. workers lent or on hire <ol style="list-style-type: none"> 1A. outworkers 2. other contractors <ol style="list-style-type: none"> 2A. contractors under labour hire services arrangements 3. rural work 4. timbergetters 5. salespersons, canvassers, collectors and others 6. tributers 7. mine employees 8. mines rescue personnel 9. jockeys and harness racing drivers 10. drivers of hire-vehicles or hire-vessels — contract of bailment 11. caddies and others employed through club 12. shearers' cooks and others 13. fire fighters in fire districts 14. workers at place of pick-up 15. boxers, wrestlers, referees and entertainers 16. voluntary ambulance workers 17. ministers of religion 18. ministers of religion covered by policies, and 19. participants in training programs.
Vic	<p>Circumstances under the Workplace Injury Rehabilitation and Compensation Act 2013 where a person may be deemed to be a worker:</p> <ul style="list-style-type: none"> • students under work experience and practical placement arrangements, apprentices, persons participating in declared training programs — Clauses 1 to 3 Schedule 1 • secretaries of cooperatives — Clause 4 Schedule 1 • door to door sellers — Clause 5 Schedule 1 • timber contractors — Clause 6 Schedule 1 • drivers of passenger vehicles — Clause 7 Schedule 1 • owner drivers carrying goods for reward — Clause 8 Schedule 1 • contractors — Clause 9 Schedule 1 • share farmers — Clause 12 Schedule 1 • declared workers of religious bodies and organizations — Clause 13 Schedule 1 • crown employees, Ministers, government members, judicial officers, bail justices, public corporation members, retired police reserve members — Clause 14 Schedule 1 • municipal councillors — Clause 15 Schedule 1 • persons engaged at places of pick-up for the purposes of being selected for work (e.g. fruit pickers) — Clause 16 Schedule 1 • jockeys and track riders, riders and drivers in mixed sports gatherings — Clauses 17 and 18 Schedule 1 • outworkers — Clause 19 Schedule 1.

Definition of deemed worker	
Qld	<p>Circumstances under the Workers' Compensation and Rehabilitation Act 2003 where a person may be deemed to be a worker:</p> <ul style="list-style-type: none"> • sharefarmers — Schedule 2 (1.1) • salespersons — Schedule 2 (1.2) • contractors and workers of contractors — Schedule 2 (1.3). • workers lent or on hire (including labour hire firms and holding companies) — Schedule 2 (1.4 - 1.6).
WA	<p>Circumstances under the <i>Workers' Compensation and Injury Management Act 1981</i> where a person may be deemed to be a worker:</p> <ul style="list-style-type: none"> • workers lent or let on hire — s5(1) • contract in substance for personal manual labour or service — s5(1) • workers under an industrial award or agreement — s5(1) • deceased worker — s5(1) • police officer — s5(1) (Who suffers an injury and dies as a result of that injury) • clergy — s8, 9 and 10 • tributers — s7 • jockey — s11A • crown workers — s14(2) • certain persons deemed workers — s175AA, and • working directors — s10A. <p>WorkCover WA guidance: Workers Compensation: A Guide for Employers.</p>
SA	<p>The definition of 'contract of service' in s4(1) of the <i>Return to Work Act 2014</i> includes: 'a contract, arrangement or understanding under which one person (the worker) works for another in prescribed work or work of a prescribed class'. Current classes of work prescribed under Regulation 5 of the <i>Return to Work Regulations 2015</i>, include:</p> <ul style="list-style-type: none"> • building work (other than wall or floor tilers) • cleaning work • council workers driving a motor vehicle used for the purpose of transporting goods or materials driving a taxi cab or similar motor vehicle • driving or riding for fee or reward a vehicle, other than a commercial vehicle, for the purpose of transporting by road goods or materials (including money) where the driver or rider does not simultaneously own or operate more than 1 vehicle for work purposes • work as an entertainer • thoroughbred riding work where the work is performed by a licensed jockey • work as an outworker, and • work as a licensed jockey. <p>Under s175(2) of the <i>Return to Work Act 2014</i>, the Corporation may also extend the application of the Act to self-employed persons.</p>
Tas	<p>Circumstances under the <i>Workers Rehabilitation and Compensation Act 1988</i> where a person may be deemed to be a worker:</p> <ul style="list-style-type: none"> • contractors where the work exceeds \$100 and is not incidental to a trade or business regularly carried on by the contractor, where the contractor does not have personal accident insurance — s4B • services of workers lent or on hire — s4A • police volunteers (i.e., volunteers performing police operations) — s6A • volunteers performing fire-fighting operations and fire prevention operations — s5 • volunteers providing ambulance services — s6

Definition of deemed worker	
	<ul style="list-style-type: none"> • port and harbour persons engaged at places of pickup — s25(4) • salespersons, canvassers and collectors — s4C • luxury hire car drivers and taxi drivers — s4DA and s4DB • jockeys — s4DC • specified clergymen — s3(4) • participants in training programs — s4D • persons in relationship prescribed to be relationship between employer and worker — s4E, and • prescribed classes of volunteers — s6B (none are currently prescribed for the purpose of s6B).
NT	<p>Circumstances under the <i>Return to Work Act 1986</i> and Regulations where a person may be deemed or prescribed to be a worker:</p> <ul style="list-style-type: none"> • workers of householders — s3B(11) • directors — s3B(6) • jockeys — reg 3A(1)(b) • taxi drivers — reg 3A(1)(c) - None currently deemed • person performing work under a community court order — s3B(12) • jurors — reg 3A(1)(aa) • family members — s3B(3)(4) • emergency service volunteers — s3B(8) • volunteer fire fighters — s3B(8)(b)(c) • St Johns ambulance volunteers — reg 3A(1)(a).
ACT	<p>Circumstances under the <i>Workers Compensation Act 1951</i> where a person may be deemed to be a worker:</p> <ul style="list-style-type: none"> • casuals (in certain instances) — s10 • regular contractors — s11(1) • labour hire — s12 • subcontracting — s13 • trainees — s14 • outworkers — s15 • timber contractors — s16 • family day care carers — s16A • religious workers — s17 • volunteers — s17A • commercial voluntary workers — s18, and • public interest voluntary workers — s19.
C'wealth Comcare	<p>Under s5(2) of the <i>Safety, Rehabilitation and Compensation Act 1988</i>, the following persons are deemed to be employees of the Commonwealth, provided they perform certain duties:</p> <ol style="list-style-type: none"> 1. the Commissioner of the Australian Federal Police (AFP), Deputy Commissioner of the AFP or an AFP employee 2. a person (other than a person to whom subsection (3) applies) who is the holder of or is acting in: <ol style="list-style-type: none"> a) an office established by a law of the Commonwealth, or b) an office that is established by a law of a Territory (other than an ACT enactment or a law of the NT) and is declared by the Minister to be an office to which the SRC Act applies — s5(2). <p>Under s5(6), certain categories of persons are deemed to be employees of the Commonwealth and the Minister may declare persons who engage in activities or perform acts at the request of the Commonwealth or a licensee as employees. This includes those undertaking work for the Commonwealth on a voluntary basis. Such volunteers, following a declaration by the Minister, are deemed Commonwealth employees for the purposes of workers' compensation. All such declarations can be found on the Federal Register of Legislation.</p>

Definition of deemed worker	
	Under s5(15) , at the request of the Chief Minister of the ACT, the Minister may make a written declaration that persons may be taken to be employees of the ACT government when engaging in certain activities — s5(15) .
C'wealth Seacare	N/A
C'wealth DVA	<p>Under the MRCA (s5, s7A or s8) and DRCA (s5), 'deemed worker' is not a legislative term. However both Acts contain mechanisms by which a person can be taken to be a member of the Defence Force for the purposes of the legislation. In both cases, the Minister may by legislative instrument declare an individual or group who undertook certain activities to be taken to be a Member of the Defence Force (or any other kind of employee) while they were undertaking those duties.</p> <p>Additionally, under s5 of DRCA, a person who is a member of the Defence Force is taken to be employed by the Commonwealth and the person's employment is taken to be constituted by the person's performance of duties as such a member of the Defence Force.</p>
New Zealand	An earner is a natural person who engages in employment for the purposes of pecuniary gain, whether or not as an employee — s6 , <i>Accident Compensation Act 2001</i> .

Table 4.3: Workers' compensation coverage for volunteers

Workers' compensation coverage for volunteers	
NSW	<p>A person who voluntarily and without obligation engages in any ambulance work with the consent of or under the authority and supervision of or in cooperation with the Health Administration Corporation constituted by the <i>Health Administration Act 1982</i>, Schedule 1, <i>Workplace Injury Management and Workers Compensation Act 1998</i></p> <p>A person who voluntarily and without obligation engages in fighting a bush fire in any fire district constituted under the <i>Fire Brigades Act 1989</i> or is undergoing training for the purposes of fighting bush fires in those circumstances — Schedule 1, <i>1998 Act</i>.</p> <p>A person who meets the definition of volunteer contained under the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i> i.e. Rural Fire Service, State Emergency Service, Surf Life Saving, Volunteer Rescue Association and Marine Rescue Service.</p>
Vic	<p>Under certain Acts, volunteers assisting Government Agencies are entitled to compensation in accordance with the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> if injured while carrying out specified duties. Volunteers covered include:</p> <ul style="list-style-type: none"> • volunteer auxiliary workers, officers and volunteer members of the Country Fire Authority (<i>Country Fire Authority Act 1956</i>) • volunteer emergency workers (<i>Emergency Management Act 1986</i>) • volunteers assisting police officers (<i>Police Assistance Compensation Act 1968</i>) • volunteer school workers or volunteer student workers (<i>Education Training and Reform Act 2006</i>) • jurors (<i>Juries Act 2000</i>) • volunteers in prisons and offenders working or participating in a program under a Correctional Order (<i>Sentencing Act 1991</i> or <i>Corrections Act 1986</i>), and • registered and casual emergency workers (<i>Victorian State Emergency Service Act 2005</i>, <i>Emergency Management Act 1986</i>). <p>Volunteer firefighters are also able to access presumptive compensation for specified cancers contracted as a firefighter under the <i>Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019</i></p>
Qld	<p>Workers' compensation coverage may extend to the following volunteers if WorkCover has entered into a contract of insurance with the responsible authority/person/charitable institution/not-for-profit organisation:</p> <ul style="list-style-type: none"> • particular persons under <i>Disaster Management Act 2003</i> • volunteer fire fighter or volunteer fire warden honorary ambulance officers • rural fire brigade member • person in voluntary or honorary position with religious, charitable or benevolent organisation • person in voluntary or honorary position with non-profit organisation, and • persons performing community service or unpaid duties.
WA	<p>No provision under the <i>Workers' Compensation and Injury Management Act 1981</i>. Some volunteers are covered for personal injury under private insurance.</p>
SA	<p>Schedule 1 of the <i>Return to Work 2014</i> establishes the Crown as the presumptive employer of volunteers as prescribed by the regulations and members of the SA Country Fire Service. Regulation 69 prescribes South Australian State Emergency Services, marine rescue members and volunteer fire-fighters as a class of person covered by the Act.</p>
Tas	<p>Volunteers performing police operations s6A, performing fire-fighting operations and fire prevention operations s5, providing ambulance services s6, or performing work of a prescribed class which is of benefit to the State s6B (none currently prescribed for the purpose of this section), <i>Workers Rehabilitation and Compensation Act 1988</i>.</p> <p>Volunteer emergency management workers participating in emergency management or rescue and retrieval operations as defined under the <i>Emergency Management Act 2006</i> S56(2).</p>
NT	<p>Emergency service volunteers - s3(7)</p>

Workers' compensation coverage for volunteers	
	<p>Volunteer fire fighters - s3(8) and s3(8A)</p> <p>St John Ambulance volunteers - reg 3A(1)(a)</p>
ACT	<p>s17A — an individual who is engaged to perform work for someone else, and receives no payment for the work.</p> <p>s18 – commercial voluntary workers (e.g. volunteer marshals at an event run by a corporation incorporated under the Corporations Act 2001 (Cth)).</p> <p>s19 – public interest voluntary workers.</p>
C'wealth Comcare	<p>CSIRO — volunteer fellows</p> <p>Volunteers who assist in the running of the Australian National Gallery, Australian War Memorial, Australian National Botanic Gardens, Australian National Maritime Museum, Australian Nature Conservation Agency, National Science and Technology Centre (Questacon) National Museum of Australia and Old Parliament House.</p> <p>Volunteers in connection with Australian Film, Television and Radio School</p> <p>Volunteers in connection with lighthouse keeping on Maatsuyker Island</p> <p>Volunteers in relation to search and rescue services and training exercises provided by Australian Maritime Safety Authority</p> <p>Volunteers who participate in recruit training exercise for the Australian Protective Service</p> <p>Volunteers promoting the House of Representatives and the Parliament to the community</p> <p>Volunteers providing firefighting, search and rescue and first aid services, attending environmental incidents and taking part in training exercises for the Snowy Mountains Hydro-electric Authority</p> <p>Volunteers assisting the Department of the Environment and Heritage (excluding the Bureau of Meteorology) and the Director of National Parks</p> <p>Volunteers assisting the National Capital Authority in fostering an awareness of Canberra as the National Capital</p> <p>Volunteers assisting in the administration of the CHOGM 2001, 2002</p> <p>Volunteers assisting the Sydney Harbour Federation Trust</p> <p>Volunteers assisting in APEC 2007</p> <p>ACT COVID-19 emergency volunteers identified by the ACT Chief Health Officer</p> <p>Others as declared from time to time by the <i>Safety Rehabilitation and Compensation Act 1988</i></p>
C'wealth Seacare	N/A
C'wealth DVA	<p>Certain volunteers can be covered by the MRCA (s8) or DRCA (s5) if they are the subject of a Ministerial declaration under the DRCA or MRCA which states that they are to be taken to be members of the Defence Force. This generally only occurs where the volunteers operated under the control and direction of the Australian Defence Force as if they were members of the Australian Defence Force.</p>

Table 4.4: Treatment of sportspersons and sporting injuries

Treatment of sportsperson and sporting injuries	
NSW	<p>Except as provided by Schedule 1 of the <i>1998 Act</i>, a sporting participant meets the definition of a 'worker' in s4 unless they are a registered participant of a sporting organisation (within the meaning of the <i>Sporting Injuries Insurance Act 1978</i>) while:</p> <ol style="list-style-type: none"> 1. participating in an authorised activity (within the meaning of that Act) of that organisation, or engaged in training or preparing himself or herself with a view to so participating, or 2. engaged on any daily or periodic journey or other journey in connection with the registered participant so participating or the registered participant being so 3. engaged, if, under the contract pursuant to which the registered participant does any of the things referred to above the registered participant is not entitled to remuneration other than for the doing of those things. <p>If, under the contract pursuant to which the registered participant does any of the things above, the registered participant is not entitled to remuneration other than for the doing of those things. The <i>Sporting Injuries Insurance Act 1978</i> provides coverage for serious injury and death while participating in an authorised activity to persons who are registered members of a sporting organisation recognised by The Sporting Injuries Compensation Authority (a division of icare NSW).</p>
Vic	<p>Clause 17, Schedule 1, <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — Except as provided in subclause (3), if a person is engaged by an employer to participate as a contestant in a sporting or athletic activity, neither the employer or self-insurer nor the Authority is liable to pay compensation for an injury received by the person if the injury is received while the person is:</p> <ol style="list-style-type: none"> 1. participating as a contestant in a sporting or athletic activity; 2. engaged in training or preparation with a view to so participating; 3. or travelling between a place of residence and the place at which the person is so participating or so engaged. <p>Exception for jockeys and harness riders (see Table 4.2).</p>
Qld	<p><i>Workers Compensation and Rehabilitation Act 2003</i> — Schedule 2 Part 2 — Persons who are not workers</p> <p>A person who performs work under a contract of service as a professional sportsperson is not a worker while the person is:</p> <ul style="list-style-type: none"> • participating in a sporting or athletic activity as a contestant, or • training or preparing for participation in a sporting or athletic activity as a contestant, or • performing promotional activities offered to the person because of the person's standing as a sportsperson, or • engaging on any daily or other periodic journey in connection with the participation, training, preparation or performance.
WA	<p><i>Workers Compensation and Injury Management Act 1981</i> s11 — Exclusion of certain persons who are contestants in sporting or athletic activities</p> <p>Notwithstanding anything in s5 and subject to s11A, a person is deemed not to be a worker while they are:</p> <ul style="list-style-type: none"> • participating as a contestant in any sporting or athletic activity • engaged in training or preparing himself with a view to his so participating • engaged in promotional activities in accordance with the contract pursuant to which he so participates, or • engaged on any regular journey, daily, or other periodic journey, or other journey in connection with his so participating or being so engaged, if, under that contract, he is not entitled to any remuneration other than remuneration for the doing of those things. <p>Except for licensed jockeys under the <i>Racing and Wagering Western Australia Act 2003</i> while engaged in racing or riding work or carrying out their usual duties as of a Jockey — s11A.</p>
SA	<p>S 69 <i>Return to Work Act 2014</i>:</p> <ol style="list-style-type: none"> 1. Despite any other provision of this Act, but subject to ss(2), if: <ol style="list-style-type: none"> a. a worker is employed by an employer solely: <ol style="list-style-type: none"> i. to participate as a contestant in a sporting or athletic activity (and to engage in training or preparation with a view to such participation), or ii. to act as a referee or umpire in relation to a sporting or athletic contest (and to engage in training or preparation with a view to so acting); and b. remuneration is not payable under the contract of employment except in respect of such employment, an injury arising out of or in the course of that employment is not compensable under this Act.

Treatment of sportsperson and sporting injuries	
	<p>2. This section does not apply to:</p> <ol style="list-style-type: none"> a. a person authorised or permitted by a racing controlling authority within the meaning of the Authorised Betting Operations Act 2000 to ride or drive in a race within the meaning of that Act, or b. a boxer, wrestler or referee employed or engaged for a fee to take part in a boxing or wrestling match, or c. a person who derives an entire livelihood, or an annual income in excess of the prescribed amount, from employment of a kind referred to in ss(1)(a). <p>3. In this section, the prescribed amount means:</p> <ol style="list-style-type: none"> a. in relation to 2014 — \$65,600 (indexed), or b. in relation to a subsequent year — a sum (calculated to the nearest multiple of \$100) that bears to \$25,000 the same proportion as the Consumer Price Index for the September quarter of the immediately preceding year bears to the CPI for the September quarter, 1985. <p>A professional sportsperson's prescribed income as at 1/1/2023 \$81,352 (see the 'Schedule of Sums' available at ReturnToWorkSA website).</p>
Tas	<p>A person is deemed not to be a worker within the meaning of the <i>Workers Rehabilitation and Compensation Act 1988</i> while he is, pursuant to a contract:</p> <ol style="list-style-type: none"> 1. participating as a contestant in any sporting or athletic activity 2. engaged in training or preparing himself with a view to his so participating, or 3. travelling in connection with his so participating or being so engaged — <p>if, under that contract, he is not entitled to any remuneration other than remuneration for the doing of those things. — s7</p> <p>Jockeys — s7 does not apply to jockeys and apprentices whilst engaged in riding in Tasmania at a race meeting or official trial or whilst riding in a training session for a licensed trainer — s4DC.</p>
NT	<p>A person shall be deemed not to be a worker while they are:</p> <p>participating as a contestant in a sporting or athletic activity.</p> <ol style="list-style-type: none"> 1. engaged in training or preparation with a view to participating in such an activity, or 2. travelling in connection with them so participating or being so engaged, unless, under the contract, they are entitled to remuneration of not less than the prescribed amount per year (annual equivalent of 65% of Average weekly earnings = \$53,055.85) or at a rate that, if the contract continued for a year, would result in their receiving remuneration of not less than that amount — s3B(14)(15).
ACT	<p><i>Workers' Compensation Act 1951</i></p> <p>s84 — A person is not entitled to receive compensation for an injury sustained as a result of the person's engagement in professional sporting activity.</p> <p>s177 An employer is not liable to pay any part of a premium for a compulsory insurance policy calculated by reference to the remuneration payable to an employee for engaging in professional sporting activity.</p>
C'wealth Comcare	<p>Nothing specific in legislation. The <i>Safety Rehabilitation and Compensation Act 1988</i> provides that in the case of an injury, compensation is payable where the injury 'arises out of or in the course of the employee's employment.'</p>
C'wealth Seacare	<p>Nothing specific in legislation. The <i>Seafarers Rehabilitation and Compensation Act 1992</i> provides that in the case of an injury, compensation is payable where the injury 'arises out of or in the course of the employee's employment'.</p>
C'wealth DVA	<p>Nothing specific in <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA). In order for any injury to be compensable, it must have resulted from an occurrence that happened while the person was rendering Defence service, or have arisen out of or been attributable to their service. This means that sporting injuries may be compensable under the MRCA where they meet these requirements (MRCA s27).</p> <p>Similarly, the <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) provides that in the case of an injury, compensation is payable where the injury 'arises out of or in the course of the employee's employment' (DRCA s5).</p>
New Zealand	<p>The <i>Accident Compensation Act 2001</i> provides broad cover for personal injury and makes no distinction in coverage between sport-related injury and any other injury. However, injuries that are not work-related are not funded through levies collected from employers.</p>

Table 4.5: Workers' compensation arrangements for government employers

Legislation	Self-insurance	Claims managers	Premiums
<p>NSW</p> <p><i>Workers Compensation Act 1987</i> <i>Workplace Injury Management and Workers Compensation Act 1998</i></p> <p>The amendments introduced in the <i>Workers Compensation Legislation Amendment Act 2012</i> do not apply to certain categories of workers including police officers, paramedics and firefighters. These workers are referred to as exempt workers. Claims by exempt workers are mainly managed as though the June 2012 amendments never occurred.</p>	<p>Several different types of cover are available to NSW public sector employers:</p> <ul style="list-style-type: none"> NSW Self-Insurance Corporation (SICorp) manages and administers the Treasury Managed Fund (TMF). This is a NSW Government self-insurance scheme providing coverage for general state government sector agencies. Some state-owned corporations have elected to join. Several government agencies and state-owned corporations are licensed self-insurers. Specialised Insurers are licensed in similar fashion to self-insurers but organised on an industry basis. Some local councils are insured through StateCover Mutual, a specialised insurer in NSW. 	<p>All claims under the TMF are handled by claim agents, which are contracted to SICorp.</p> <p>The claims of self-insured agencies are managed by the licensed self-insurer organisations.</p> <p>Some claims of local councils in NSW are managed by the licensed specialised insurer StateCover Mutual.</p>	<p>TMF (SICorp): Deposit contributions are based on a weighting between an Agency's own claims experience and an appropriate external premium measure.</p> <p>StateCover Mutual determines annual contributions in accordance with its published premium rating methodology.</p>
<p>Vic</p> <p><i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p>	<p>Body corporates and the Municipal Association of Victoria can apply to become self-insurers — s376.</p> <p>Government agencies are neither and cannot become self-insurers.</p>	<p>Each government agency chooses an agent appointed by WorkSafe Victoria to manage their claims. All employers may change agents once per year if they believe another agent will provide better service.</p>	<p>Administration of WorkCover Insurance and the calculation of premium uses the same methodology as for private sector employers.</p>
<p>Qld</p> <p><i>Workers' Compensation and Rehabilitation Act 2003</i></p>	<p>State government departments cannot apply for self-insurance. Local governments can apply for self-insurance. Most local governments have self-insurance arrangements.</p>	<p>For State government departments, all claims are handled by WorkCover Queensland.</p>	<p>All employers must pay a premium for a workers' compensation policy.</p>
<p>WA</p> <p><i>Workers' Compensation and Injury Management Act 1981</i></p>	<p>Agencies are underwritten by the Insurance Commission of WA through the 'Insurance Commission of Western Australia' (ICWA). No government agencies are directly self-insured.</p>	<p>All government agency claims are handled by ICWA.</p>	<p>All government agencies must have workers' compensation coverage with ICWA. Premiums are paid direct to ICWA.</p>
<p>SA</p> <p><i>Return to Work Act 2014</i></p>	<p>The Crown and any agency or instrumentality of the Crown is taken to be registered as self-insured employers under s130 and must meet the costs associated with claims. The Local Government Association is not considered an agency or instrument of the Crown and is registered as a private self-insured employer.</p>	<p>Crown agencies (and private self-insured employers) assume responsibility for the management of workers' compensation claims.</p>	<p>Crown agencies must pay a fee each year as a contribution towards the costs associated with scheme administration.</p>
<p>Tas</p> <p><i>Workers' Rehabilitation and Compensation Act 1988</i></p>	<p>The Crown and any agency or instrumentality of the Crown is deemed to be an exempt employer under s 97(9) and s 114(5) and is not obliged to maintain a policy of insurance or hold a permit to self-insure. The Tasmanian Risk Management Fund is a whole-of-government self-insurance arrangement for funding and managing the insurable liabilities of participants. The Fund is administered by the Department of Treasury and Finance.</p>	<p>Claims administration is undertaken by a Fund Administration Agent, Jardine Lloyd Thompson Pty Ltd, who is engaged under contract.</p>	<p>The Fund operates on a cost recovery basis with contributions set to ensure adequate financial provision for the cost of risk now and into the future. The level of Agencies' contributions is determined by an independent actuary to reflect their risk exposure, claims experience and nominated excess amount.</p>

	Legislation	Self-insurance	Claims managers	Premiums
NT	<i>Return to Work Act 1986</i>	The insurance provisions of the legislation do not apply to the NT Government. Local Government and some statutory agencies are insured with approved insurers.	Most NT Public Servants are covered by the Government's self-insurance arrangement. Claims management is contracted to Gallagher Bassett. Some agencies are insured commercially and the insurer manages these claims.	Government has introduced an internal "premium" model to create a fund for claim payments. This will develop into an experience-based model.
ACT	<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>	All ACT Government workers are covered under the Comcare scheme.	All government claims are handled by Employers Mutual Limited.	ACT Government workers' are self-insured under the SRC Act from 1 March 2019.
C'wealth Comcare	<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>	Commonwealth Authorities (defined in the Act) may be granted a licence to self-insure. This may include self- management of claims. Commonwealth Government departments are not Commonwealth authorities and cannot apply. NB: current licensed Commonwealth authorities are Australian Postal Corporation and Reserve Bank of Australia. The Australian National University commenced as a self-insurer on 1 July 2018. ACT Government commenced as a self-insurer on 1 March 2019.	Commonwealth Government claims are managed by Comcare. Claims by licensed Commonwealth authorities are managed in-house by those authorities.	Commonwealth entities, other than licensed Commonwealth authorities, pay experience based premiums to Comcare annually.
C'wealth Seacare	Seafarers' Rehabilitation and Compensation Act 1992	N/A	Act does not apply to a person who is an employee within the meaning of the Safety Rehabilitation and Compensation Act 1988.	Act does not apply to a person who is an employee within the meaning of the Safety Rehabilitation and Compensation Act 1988.
C'wealth DVA	N/A	N/A	N/A	N/A
New Zealand	Accident Compensation Act 2001	N/A	All government claims except those covered by Accredited Employers are managed by ACC. Claims by Accredited Employers are managed by those employers, either in-house or by a contracted third-party administrator.	Government employers pay levies to ACC like all other employers unless they are Accredited Employers where a discount is applicable. Refer to Chapter 7 of this document for Self-insurer arrangements.

Table 4.6: Workers' compensation arrangements for judges and members of parliament

	Coverage for judges	Coverage for members of parliament
NSW	Covered as state government employees	Members and electorate officers are covered by the NSW Treasury Managed Fund which includes personal accident insurance and workers' compensation insurance in connection with their electorate or parliamentary duties. Members need to satisfy the Treasury Managed Fund and, if subject to dispute, the Treasurer that they were on duty at the time of the accident.
Vic	Covered as state government employees	Clause 14(1), Schedule 1 of the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> provides that politicians are covered. Clause 14(1)(d) also provides judicial officers are covered.
Qld	Covered as state government employees	All Members have personal accident indemnity cover on a 24 hour basis. Members are indemnified in the event of injury, as defined, resulting in death.
WA	Covered as state government employees	Not covered for workers' compensation, although insurance is taken out by the Joint House Committee, consistent with personal injury insurance.
SA	Covered as state government employees	Not covered for workers' compensation, although an administrative arrangement provides the equivalent of workers' compensation.
Tas	Covered as state government employees	Workers' compensation is not provided to Members of Parliament. Members of Parliament are eligible for personal accident cover in the event of an injury whilst in service to the Government. Cover is provided by the Tasmanian Risk Management Fund (TRMF). The TRMF provides no-fault personal accident cover for Ministers and Members of Parliament who suffer or aggravate an injury which arises out of, and in the course of, their official parliamentary duties or contract a disease for which their official parliamentary duties was the major contributor.
NT	Covered as government employees – s3	Member of the Legislative Assembly, a Supreme Court Judge, a Local Court Judge... are covered as government employees – s3
ACT	Covered as government employees	Not covered under the legislation
C'wealth Comcare	Separate arrangements s5(8) of the <i>Safety Rehabilitation and Compensation Act 1988</i> excludes judges defined as such in the Judges' Pensions Act 1968 from coverage	Separate arrangements s5(8) of the <i>Safety, Rehabilitation and Compensation Act 1988</i> excludes members of Parliament and Ministers of state from coverage under that Act
C'wealth Seacare	N/A	N/A
C'wealth DVA	N/A	N/A
New Zealand	Covered as any other employee under the Accident Compensation Act 2001	Covered as any other employee under the Accident Compensation Act 2001

Coverage of work and injury

An entitlement to workers' compensation is reliant on the relationship of a worker's injury to work.

Journeys and breaks

Injuries that occur on work premises while a person is working are easily identifiable as occurring at work. However, it is not always simple to determine whether or not a person was working when injured. Table 4.7 provides information on the variations between the jurisdictions regarding whether or not they provide workers' compensation coverage for people who are injured on:

- journeys to and from work
- work-related travel
- breaks spent at the work premises, and
- breaks spent outside the work premises.

Definition of injury

Workers' compensation schemes generally deem that a worker is entitled to workers' compensation if they have an injury that arises out of, or in the course of, employment. It is therefore essential for workers to establish that they have an injury as defined in the relevant legislation.

Although the everyday ordinary meaning of injury is any harm caused to a person's body as a result of any form of trauma, each jurisdiction places limits on the term injury and defines it differently. To determine whether an incident falls within the definition of injury, several factors need to be considered. Refer to Table 4.8 for more information.

Relationship to employment and contribution of employment

Where any incident has occurred in the workplace, it needs to be determined that there is a relationship between the injury and employment before the worker can claim workers' compensation. In addition, a worker's employment has to contribute to the injury to a certain extent before a worker is entitled to compensation. Table 4.8 provides information on how each jurisdiction defines injury, its relationship to employment and the contribution of employment to the injury.

Aggravation and acceleration

Sometimes employment is not the original cause of an injury; however, employment can aggravate or accelerate an existing injury. As at September 2015, aggravation and acceleration of existing injuries was covered in all jurisdictions. Refer to Table 4.8 for more information.

Industrial deafness

Industrial deafness is generally treated separately from other types of injury or disease. All jurisdictions have an impairment threshold in place for industrial deafness, which means that an injured worker is not entitled to lump sum compensation until they reach the threshold level. Table 4.9 illustrates the industrial deafness provisions in each jurisdiction.

Table 4.7: Definition of work — journeys and breaks

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
Journeys to and from work	<p>Yes, for: police officers, paramedics, firefighters, bush firefighters, volunteers, under the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i> workers employed in or about a coal mine, people with a dust disease claim under the <i>Workers' Compensation (Dust Diseases) Act 1942</i>.</p> <p>For all other workers with injuries received on or after 19 June 2012 there must be a real and substantial connection between employment and the accident or incident out of which the injury arose — s10 and Schedule 6 Part 19H, Clause 18, 1987 Act.</p>	<p>No — s46(2)(b), <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>.</p>	<p>Yes, some restrictions — s35, <i>Workers' Compensation and Rehabilitation Act 2003</i>.</p>	<p>No — s19(2), <i>Workers' Compensation and Injury Management Act 1981</i>.</p>	<p>Limited to where there is a real and substantial connection between the employment and the accident out of which the injury arises — s7(8)(b), <i>Return to Work Act 2014</i>.</p>	<p>No, some exceptions — s25(6), <i>Workers Rehabilitation and Compensation Act 1988</i>.</p>	<p>No, some exceptions — s4, <i>Return to Work Act 1986</i>.</p>	<p>Yes — s36, <i>Workers Compensation Act 1951</i>.</p>	<p>No, some exceptions — s6(1c), <i>Safety, Rehabilitation and Compensation Act 1988</i>.</p>	<p>Yes — s9(2)(e), <i>Seafarers Rehabilitation and Compensation Act 1992</i>.</p>	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) Yes — s27; exceptions — s35 <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) Yes — Note that changes to the then SRCA effective 13 April 2007 have amended S 6, however as MRCA now covers journeys for ADF members on/after 1 July 2004 any journey claims will come under the old provisions.</p>	<p>Yes, some restrictions — s28(1)(c), <i>Accident Compensation Act 2001</i>.</p>

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	C'wealth Seacare	C'wealth DVA	New Zealand
Work-related travel	Yes — s9A of the 1987 Act	Yes, some restrictions — s46(1)(b)	Yes — s34	Yes — s19(1)	Yes — s7(8)(a)	Yes — s25(6)	Yes — s4	Yes — s36	Yes — s6(1)(d)	Yes — s9(2)(e)	Yes — MRCA s27 , exceptions s35 ; DRCA s6	Yes — s28(1)(a)
Breaks — onsite	Yes — s11 , 1987 Act	Yes — s46	Yes — s34(1)(c)	Yes	Yes, if the break is authorised — s7(5)(b)	Yes — s25(6)	Yes — s4	No reference	Yes — s6(1)(b)	Yes — s9(2)(b)	Yes — MRCA s27 , exceptions s35 ; DRCA s6	Yes — s28(1)(b)
Breaks — offsite	Yes — s11 , 1987 Act	Yes — s46	Yes — s34(1)(c)	No reference in the Act. Coverage depends on factual circumstances or common law.	No	No, some exceptions — s25(6)	Yes — s4 Some exceptions – injuries from MVA.	No reference	Yes — ordinary recesses s6(1)(b)	Yes — s9(2)(b)	Yes — MRCA s27 , exceptions s35 ; DRCA s6	Yes, some restrictions

Table 4.8: Definition of injury and relationship to employment — detailed

Definition of injury and relationship to employment		Contribution of employment
NSW	<p>s 4, <i>Workers Compensation Act 1987</i> – Injury:</p> <ol style="list-style-type: none"> 1. means personal injury arising out of or in the course of employment, 2. includes a disease injury, which means: <ol style="list-style-type: none"> a. a disease that is contracted by a worker in the course of employment but only if the employment was the main contributing factor to contracting the disease, and b. the aggravation, acceleration, exacerbation or deterioration in the course of employment of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease, and 3. does not include (except in the case of a worker employed in or about a mine) a dust disease, as defined by the <i>Workers' Compensation (Dust Diseases) Act 1942</i>, or the aggravation, acceleration, exacerbation or deterioration of a dust disease, as so defined. 	<p>No compensation is payable under this Act in respect of an injury (other than a disease injury except for exempt workers) unless the employment concerned was a substantial contributing factor to the injury — s 9A(1), 1987 Act.</p> <p>NB: In the case of a disease injury, a disease contracted by a worker in the course of employment, where the employment was a contributing factor to the disease — s4, <i>Workplace Injury Management and Workers Compensation Act 1998</i>.</p>
Vic	<p>Injury: an injury arising out of or in the course of any employment — s39(1), <i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p> <p>Disease: has contracted a disease specified in relation to that place, process or occupation—' s51(2)(b)</p>	<p>Compensation is not payable in respect of the following injuries unless the worker's employment was a significant contributing factor to the injury:</p> <ol style="list-style-type: none"> 1. a heart attack or stroke injury 2. a disease contracted by a worker in the course of employment (whether at, or away from, the place of employment), or 3. a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease — s40(2) and s40(3). <p>If the worker has been employed at any place or in any process or occupation declared under s51(1) and has contracted a disease specified in relation to that place or process or occupation, then the disease is deemed to be due to the nature of the employment at such place or in such process or occupation unless the employer or the Authority or a self-insurer, as the case may be, proves to the contrary.</p>
Qld	<p>a personal injury arising out of, or in the course of, employment — s32(1), <i>Workers' Compensation and Rehabilitation Act 2003</i></p>	<p>A significant contributing factor — s32(1)</p>
WA	<p>a personal injury by accident arising out of or in the course of the employment — s5(1), <i>Workers' Compensation and Injury Management Act 1981</i></p>	<p>For disease only: a disease contracted by a worker in the course of his employment at or away from his place of employment and to which the employment was a contributing factor and contributed to a significant degree — s5(1)</p>
SA	<p>injury if (and only if) it arises from employment — s7, <i>Return to Work Act 2014</i></p> <p>Physical injury: the injury arises out of or in the course of employment and the employment was a significant contributing cause of the injury; and</p> <p>Psychiatric injury: the psychiatric injury arises out of or in the course of employment and the employment was the significant contributing cause of the injury and the injury did not arise wholly or predominantly from any action of decision designated under subsection 7(4).</p>	<p>'a significant contributing cause of the injury' — s7(2)(a) for non-psychiatric injuries</p> <p>'the significant contributing cause of the injury' — s7(2)(b) for psychiatric injuries</p>
Tas	<p>Injury includes a disease, and the recurrence, aggravation, acceleration, exacerbation or deterioration of any pre -existing injury or disease where the employment was the major or most significant contributing factor to that recurrence, aggravation, acceleration, exacerbation or deterioration.</p>	<p>To a substantial degree, that is, employment is the 'major or most significant factor' (for diseases only) — s3(2A)</p>

	Definition of injury and relationship to employment	Contribution of employment
	<p>Except in some circumstances 'injury' does not include an asbestos-related disease within the meaning of the <i>Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011</i> — s3(1), <i>Workers Rehabilitation and Compensation Act 1988</i>.</p> <p>The liability of employers to compensate workers for injuries, relates to:</p> <ul style="list-style-type: none"> • An injury, not being a disease, arising out of, or in the course of employment — s25(1)(a) • an injury, which is a disease, to which his employment contributed to a substantial degree — s25(1)(b). 	<p>Employment being the major or most significant contributing factor is also a requirement in relation to injuries that are a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease (s3(1) — in definition of 'injury').</p>
NT	<p>An injury, in relation to a worker, is a physical or mental injury arising out of or in the course of the worker's employment and includes a disease and the aggravation, acceleration, exacerbation, recurrence or deterioration of a pre-existing injury or disease.</p> <p>Despite any other provision of this Act, a mental injury is not considered to be an injury for this Act if it is caused wholly or primarily by one or more of the following:</p> <ul style="list-style-type: none"> • management action taken on reasonable grounds and in a reasonable manner by or on behalf of the worker's employer; • a decision of the worker's employer, on reasonable grounds, to take, or not to take, any management action; • any expectation by the worker that any management action would, or would not, be taken or any decision made to take, or not to take, any management action. <p>s3A, <i>Return to Work Act 1986</i></p> <p>Out of or in the course of the worker's employment — s4 <i>Return to Work Act 1986</i></p>	<p>Material contribution, (for diseases — s4(6) and gradual process — s4(5)) that is employment was the real proximate or effective cause (s4(8)).</p> <p>A mental injury is not an injury if due to management action taken on reasonable grounds and in a reasonable manner — s3A(2). See s3(1) for definition of 'management action'</p> <p>For heart attack or stroke injury — material contribution — s58 that is employment was the real proximate or effective cause — s4(8)</p>
ACT	<p>a physical or mental injury (including stress) includes aggravation, acceleration or recurrence of a pre-existing injury arising out of, or in the course of, the worker's employment — s4 and s31, <i>Workers Compensation Act 1951</i></p>	<p>A substantial contributing factor (for diseases)— s31(2)</p>
C'wealth Comcare	<p>For injuries: a physical or mental injury arising out of, or in the course of, the employee's employment or an aggravation of a physical or mental injury (other than a disease) suffered by an employee — s5A, <i>Safety, Rehabilitation and Compensation Act 1988</i></p> <p>For diseases: an ailment or aggravation of an ailment that was contributed to, to a significant degree by an employee's employment — s5B</p>	<p>To a significant degree (for diseases) — s5B, with matters to be taken into account being set out in a non-exclusive list and with 'significant degree' being defined as 'substantially more than material'</p>
C'wealth Seacare	<p>For injuries: an injury (other than a disease) suffered by an employee, being a physical or mental injury arising out of, or in the course of, the employee's employment', or 'an aggravation of a physical or mental injury (other than a disease) suffered by an employee' s3, <i>Seafarers Rehabilitation and Compensation Act 1992</i></p> <p>For diseases: 'any ailment suffered by an employee, or the aggravation of any such ailment, being an ailment or an aggravation that was contributed to in a material degree by the employee's employment' — s3</p>	<p>To a material degree (for diseases) — s3</p>
C'wealth DVA	<p>MRCA — s5, s27, s29(1), s29(2) and s30</p>	<p>Minimum material contribution required ('arose out of, or was attributable to') — MRCA, s27(b) and 27(c)</p> <p>In a material degree (for aggravations only) — MRCA, s27(d) and s30</p>

Comparison report

	Definition of injury and relationship to employment	Contribution of employment
	<p>An injury sustained or a disease contracted which arose out of, or was attributable to, any defence service rendered by the person while a member; or resulted from an occurrence that happened while the person was a member rendering defence service.</p> <p>Includes the aggravation of an injury, or its signs and symptoms, which was contributed to in a material degree by, or was aggravated by, any defence service rendered by the person while a member after he or she sustained the injury or contracted the disease, and/or aggravated by treatment provided by the Commonwealth.</p> <p>DRCA</p> <p>For injuries: a physical or mental injury arising out of, or in the course of, the employee's employment, or an aggravation of a physical or mental injury (other than a disease) suffered by an employee — s5A</p> <p>For diseases: 'an ailment or aggravation of an ailment that was contributed to, to a significant degree by an employee's employment' — s5B</p>	<p>To a significant degree (for diseases) — s5B, with matters to be taken into account being set out in a non-exclusive list and with 'significant degree' being defined as 'substantially more than material'</p>
New Zealand	<p>A work-related personal injury is a personal injury that a person suffers while he or she is at any place for the purposes of their employment — s28, Accident Compensation Act 2001</p>	<p>Not required, except for work-related gradual process, disease, or infection suffered by the person — s20(2)(e)</p>

Table 4.9: Industrial deafness thresholds

Industrial deafness thresholds	
NSW	For claims made on or after 19 June 2012, the threshold for lump sum compensation for permanent impairment is greater than 10% permanent impairment — s66(1) , <i>Workers Compensation Act 1987</i> Different arrangements apply to exempt workers
Vic	No specific level of hearing loss required to claim compensation (e.g. medical expenses) 10% hearing loss and further hearing loss required for lump sum impairment benefit — ss 61, 62, 211 and 213 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>
Qld	Not for the first 5% — s125 , <i>Workers' Compensation and Rehabilitation Act 2003</i>
WA	At least 10% hearing loss for first election — s24A , <i>Workers' Compensation and Injury Management Act 1981</i> Further 5% for subsequent elections — s24A , 1981 Act
SA	No specific thresholds required for hearing loss to be compensable, however, a lump sum for non-economic loss is only payable if there is a 5% or greater whole person impairment — s58(2) , <i>Return to Work Act 2014</i>
Tas	5% binaural hearing impairment — s72A(3) , <i>Workers Rehabilitation and Compensation Act 1988</i>
NT	Impairments must be 5% WPI or more — s70 , <i>Return to Work Act 1986</i>
ACT	6% hearing loss (boilermakers deafness or similar deafness) — s64(1) , <i>Workers Compensation Act 1951</i>
C'wealth Comcare	Binaural hearing loss of less than 5% is not payable as a permanent impairment lump sum — s24(7A) , <i>Safety, Rehabilitation and Compensation Act 1988</i>
C'wealth Seacare	No specific level of hearing loss required to claim compensation for medical expenses 10% hearing loss required for lump sum permanent impairment and non-economic loss benefit — s39(7) , <i>Seafarers Rehabilitation and Compensation Act 1992</i>
C'wealth DVA	<i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) - the Statements of Principles used for determining claims for sensorineural hearing loss requires a permanent shift to a hearing threshold level of 25 decibels (dB) or more, at 500, 1 000, 1 500, 2 000, 3 000, 4 000 or 6 000 hertz (Hz) and under s69(a) — At least 5 impairment points hearing loss. <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) has no requirement for a minimum decibel shift to have occurred for liability to be accepted and under s24(7A) — Binaural hearing loss of less than 5% is not payable as a permanent impairment lump sum
New Zealand	5% binaural hearing loss — s26(1A) , <i>Accident Compensation Act 2001</i>

Coverage of disease

Presumptive laws

Presumptive laws assist injured workers in prescribed occupations by reducing the burden of proving that the illness or injury was caused by their employment.

In acknowledgement that some occupations have an increased risk of contracting certain diseases or incurring certain injuries during or in the course of employment, jurisdictions have enacted presumptive legislation to shift the onus of proof from the injured worker to the employer. In particular, almost all Australian workers' compensation schemes recognise that firefighters have an increased risk of developing certain cancers as a result of being exposed to hazardous substances in their job. Table 4.10 details the workers' compensation jurisdictions that have enacted presumptive legislation for firefighters. It notes the categories of firefighters covered and the years of service required to qualify for the presumption that specified cancers were contracted in the course of employment.

More recently, some Australian workers' compensation jurisdictions have used presumptive provisions to assist first responder organisations with the increased risks of developing post-traumatic stress disorder (PTSD) and COVID-19 through employment. Table 4.11 specifies the jurisdictions which have enacted presumptive legislation to cover specific occupations for PTSD and COVID-19.

Diseases

Diseases are classed differently to physical injuries. Diseases include any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual onset. All jurisdictions, except Queensland, have in their legislation tables of diseases that are deemed to be caused by work. Table 4.12 provides a jurisdictional comparison of these lists.

Deemed Diseases

Compared to work-related injuries, it is more difficult to prove that a disease was contracted in, or caused by, particular employment. In recognition of this, all jurisdictions except Queensland* and DVA have enacted special provisions in their workers' compensation legislation which deem specified occupational diseases as being caused by specified work related activities.

The effect of these provisions is to reverse the onus of proof. A worker with the disease who has been exposed to the relevant exposure in the course of their work is assumed to have developed that disease because of the exposure unless there is strong evidence to the contrary. Diseases that are not included on the jurisdictional prescribed lists can still be the subject of a workers' compensation claim through the normal approach, where the reverse onus of proof would not apply. Table 4.13 provides a jurisdictional comparison of these lists.

* with the exception of firefighters, first responders and other scheduled workers with prescribed diseases

Table 4.10: Presumptive Legislation for firefighters

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
<p>NSW</p> <p>Workers Compensation Act 1987, s 19A and schedule 4</p>	<p>Any of the specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary leukaemia • Primary site testicular cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkin lymphoma • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer 	<p>Qualifying period for specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary leukaemia (5 years) • Primary site breast cancer (10 years) • Primary site bladder cancer (10 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkin's lymphoma (15 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) 	<p>Fire and Rescue NSW NSW Rural Fire Service Office of Environment and Heritage (NSW National Parks and Wildlife Service) Forestry Corporation of NSW Sydney Trains.</p>
<p>Vic</p> <p>Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019 Forests Act 1958</p>	<p>Any of the following 15 specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkins lymphoma • Primary leukemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer 	<p>Qualifying period for specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkins lymphoma (15 years) 	<p>The compensation applies to career and volunteer firefighters who:</p> <ul style="list-style-type: none"> • have been diagnosed since 1 June 2016 with one of 12 specified types of cancer • have served in active firefighting roles for a specified number of years, depending on the cancer type • are diagnosed during their service or within 10 years after they've finished their service <p>If you are a volunteer firefighter, you will also need to demonstrate that you have attended fires to the extent necessary to meet the requirements of the presumptive legislation</p>

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
	<ul style="list-style-type: none"> • Primary site colorectal cancer • Primary site oesophageal cancer • Primary site uterine cancer • Primary site ovarian cancer • Primary site cervical cancer 	<ul style="list-style-type: none"> • Primary leukemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) 	<p>Under <i>Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019</i> – Division 3A presumptive rights compensation is extended to vehicle and equipment maintenance employees engaged by the Country Fire Authority (CFA) and Fire Rescue Victoria (FRV).</p>
<p>Qld</p>	<p>Workers' Compensation and Rehabilitation Act 2003 ss36B-36E</p>	<p>Any of the 12 specified primary cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkin lymphoma • Primary leukaemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer 	<p>Qualifying period for specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkin lymphoma (15 years) • Primary leukaemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) <p>Fire officer, member of a rural fire brigade, volunteer firefighter and warden</p>

	Presumptive legislation	Disease/Injury	Qualifying period	Occupation
			<ul style="list-style-type: none"> • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) 	
WA	<p>Workers' Compensation and Injury Management Act 1981 – Division 4A and schedule 4A (Cancers 1-12)</p> <p>Workers' Compensation and Injury Management Regulations 1982 – 66A (Cancers 13-20)</p>	<p>Any of the following specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkins lymphoma • Primary leukemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer • Malignant mesothelioma • Primary site cervical cancer • Primary site lung cancer • Primary site ovarian cancer • Primary site pancreatic cancer • Primary site penile cancer • Primary site skin cancer • Primary site thyroid cancer 	<p>Qualifying period for specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkins lymphoma (15 years) • Primary leukemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) 	Employed firefighters
SA	<p>Return to Work Act 2014, Schedule 3</p>	<p>Any of the specified primary cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkin lymphoma • Primary leukaemia • Primary site breast cancer 	<p>Qualifying period for specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) 	Employed firefighters with an injury which occurs on or after 1 July 2013

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
		<ul style="list-style-type: none"> • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer 	<ul style="list-style-type: none"> • Primary site kidney cancer (15 years) • Primary non-Hodgkin lymphoma (15 years) • Primary leukaemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years)
Tas	Workers Rehabilitation and Compensation Act 1988, s27 and s28 and Schedule 5	<p>Any of the following specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkins lymphoma • Primary leukemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer • Primary site cervical cancer • Primary site ovarian cancer • Primary site penile cancer • Primary site thyroid cancer • Primary site pancreatic cancer 	<p>Qualifying period for specified cancers</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkins lymphoma (15 years) • Primary leukemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) <p>Employed and volunteer firefighters</p>

	Presumptive legislation	Disease/Injury	Qualifying period	Occupation
		<ul style="list-style-type: none"> • Primary site skin cancer • Primary site lung cancer • Primary site uterine cancer • Malignant mesothelioma 	<ul style="list-style-type: none"> • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) • Primary site cervical cancer (10 years) • Primary site ovarian cancer (10 years) • Primary site penile cancer (15 years) • Primary site thyroid cancer (10 years) • Primary site pancreatic cancer (10 years) • Primary site skin cancer (15 years) • Primary site lung cancer (15 years) • Primary site uterine cancer (10 years) • Malignant mesothelioma (15 years) 	
NT	<i>Return to Work Act 1986 s50A</i> <i>Return to Work Regulations 1986, clause 5B and 5C</i>	Any of the following specified cancers: <ul style="list-style-type: none"> • Brain cancer • Bladder cancer • Kidney cancer • Non-Hodgkin lymphoma • Leukaemia • Breast cancer • Testicular cancer • Multiple Myeloma • Asbestos related disease • Primary site liver cancer • Primary site lung cancer 	Qualifying period for specified cancers: <ul style="list-style-type: none"> • Brain cancer (5 years) • Bladder cancer (15 years) • Kidney cancer (15 years) • Non-Hodgkin lymphoma (15 years) • Leukaemia (5 years) • Breast cancer (10 years) 	Firefighters Volunteer firefighters Northern Territory Police Fire and Emergency Services Dependents of deceased firefighters for cancer diagnosed after 4 July 2011

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
		<ul style="list-style-type: none"> • Primary site skin cancer • Prostate cancer • Ureter cancer • Colorectal cancer • Oesophageal cancer 	<ul style="list-style-type: none"> • Testicular Cancer (10 years) • Multiple Myeloma (15 years) • Asbestos related disease (15 years) • Primary site liver cancer (15 years) • Primary site lung cancer (15 years) • Primary site skin cancer (15 years) • Prostate cancer (15 years) • Ureter cancer (15 years) • Colorectal cancer (15 years) • Oesophageal cancer (25 years)
C'wealth Comcare	Safety Rehabilitation and Compensation Act 1988, s7(8)	<p>Any of the following 12 specified cancers:</p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkins lymphoma • Primary leukemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer <p>The Safety, Rehabilitation and Compensation Amendment (Prescribed Cancers) Regulations 2022 expanded the list of prescribed cancers under s7(8) of the <i>Safety, Rehabilitation and Compensation Act 1988</i> with effect from 17 December 2022. The 8 additional prescribed cancers include:</p> <ul style="list-style-type: none"> • Malignant mesothelioma • Primary site lung cancer • Primary site skin cancer 	<p>Qualifying period for specified cancers</p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkins lymphoma (15 years) • Primary leukemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) <p>Employed firefighters</p>

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
		<ul style="list-style-type: none"> • Primary site cervical cancer • Primary site ovarian cancer • Primary site penile cancer • Primary site pancreatic cancer • Primary site thyroid cancer 	<ul style="list-style-type: none"> • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (15 years) <p>The qualifying periods for the 8 additional prescribed cancers:</p> <ul style="list-style-type: none"> • Malignant mesothelioma (15 years) • Primary site lung cancer (15 years) • Primary site skin cancer (15 years) • Primary site cervical cancer (10 years) • Primary site ovarian cancer (10 years) • Primary site penile cancer (15 years) • Primary site pancreatic cancer (10 years) • Primary site thyroid cancer (10 years)
C'wealth DVA	<p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) s7(1), s7(2) and s7(8)</i></p>	<p><u>s7(1) and S7(2) Conditions</u></p> <ul style="list-style-type: none"> • Dysplastic naevus • Eczema/ dermatitis • Multiple sclerosis • Parkinson's disease • Peripheral neuropathy • Spinal muscular atrophy • Erectile dysfunction • Cauda equina syndrome • Neurogenic bladder • Non-alcoholic toxic encephalopathy • Acquired colour vision deficiency • Depression • Sleep disorders with neurological basis 	<p><u>s7(1) and s7(2) Conditions</u></p> <ul style="list-style-type: none"> • No qualifying period – subject to place of employment <p><u>s7(8) Conditions</u></p> <ul style="list-style-type: none"> • Primary site brain cancer (5 years) • Primary site bladder cancer (15 years) • Primary site kidney cancer (15 years) • Primary non-Hodgkins lymphoma (15 years) <p><u>s7(1) Conditions</u></p> <p>Firefighters who took part in firefighting training at RAAF Base Point Cook Fire Training School between 1 January 1957 and 31 December 1986.</p> <p><u>s7(2) Conditions</u></p> <p>Firefighters whose usual place of duty was a Unit at RAAF Base Amberley and who were actively involved in the burning of by-products from the F-111 deseal/reseal process during the period 1976 – 1994</p> <p><u>s7(8) Conditions</u></p> <p>Employed as a firefighter</p>

Presumptive legislation	Disease/Injury	Qualifying period	Occupation
		<ul style="list-style-type: none"> • Bi-polar affective disorder • Vertigo • Memory loss • Anxiety • Panic disorders • Impaired cognition • Agoraphobia with panic disorder • Malignant neoplasms • Myeloproliferative disorders • Liver disease (excluding diabetes) • Pancreatic disease • Irritable bowel disorder • Ulcerative colitis / Crohn's disease • Diverticulitis • Bowel polyps • Mixed connective tissue disease • Systemic lupus erythematosus • Sarcoidosis <p><u>s7(8) Conditions</u></p> <ul style="list-style-type: none"> • Primary site brain cancer • Primary site bladder cancer • Primary site kidney cancer • Primary non-Hodgkins lymphoma • Primary leukemia • Primary site breast cancer • Primary site testicular cancer • Multiple myeloma • Primary site prostate cancer • Primary site ureter cancer • Primary site colorectal cancer • Primary site oesophageal cancer • Primary site lung cancer • Primary site skin cancer • Primary site cervical cancer • Primary site ovarian cancer • Primary site penile cancer • Primary site pancreatic cancer • Primary site thyroid cancer • Malignant mesothelioma 	<ul style="list-style-type: none"> • Primary leukemia (5 years) • Primary site breast cancer (10 years) • Primary site testicular cancer (10 years) • Multiple myeloma (15 years) • Primary site prostate cancer (15 years) • Primary site ureter cancer (15 years) • Primary site colorectal cancer (15 years) • Primary site oesophageal cancer (25 years) • Primary site lung cancer (15 years) • Primary site skin cancer (15 years) • Primary site cervical cancer (10 years) • Primary site ovarian cancer (10 years) • Primary site penile cancer (15 years) • Primary site pancreatic cancer (10 years) • Primary site thyroid cancer (10 years) • Malignant mesothelioma (15 years)

Table 4.11: Presumptive Legislation (other)

	Presumptive legislation	Disease	Diagnosed	Occupation
NSW	Workers Compensation Act 1987 , s 19B <i>Workers Compensation Regulation 2016</i> , Part 2, clauses 5B, 5C and 5D	COVID-19	Diagnosed by a medical practitioner following a prescribed test	Prescribed employment: <ul style="list-style-type: none"> • retail industry (other than businesses providing only on-line retail) • health care sector, including ambulance officers and public health employees • disability and aged care facilities • educational institutions, including pre-schools, schools and tertiary institutions (other than establishments providing only on-line teaching services) • police and emergency services (including fire brigades and rural fire services) • refuges, halfway houses and homeless shelters • passenger transport services • libraries • courts and tribunals • correctional centres and detention centres • restaurants, clubs and hotels • construction industry • places of public entertainment or instruction (including cinemas, museums, galleries, cultural institutions and casinos) • the cleaning industry • cafes • supermarkets • funeral homes • childcare facilities
Qld	Workers' Compensation and Rehabilitation Act 2003 , Chapter 1, Part 4, Division 6, subdivision 3BA	PTSD	Diagnosis of PTSD must be by a psychiatrist	Eligible employees working in state government departments responsible for policing, ambulance, fire and emergency services, child safety and corrective services and the following first responders: <ul style="list-style-type: none"> • police officers and police recruits • ambulance officers • child safety officers (authorised officers) • corrective service officers • youth justice staff members • firefighters, fire services officers, members of the State Emergency Service and members of rural fire brigade • doctors and nurses working in emergency and trauma care; acute care; critical care; and high-dependency care • coal miners and other miners who perform a miners rescue
WA	Workers' Compensation and Injury Management Act 1981 Division 4B, section 49F <i>Workers' Compensation and Injury Management Regulations 1982</i>	COVID-19	Medical practitioner on the basis of a test result described in sub-regulation (6) of the <i>Workers' Compensation and Injury</i>	Employment as a health professional Employment, of any kind, in a hospital, medical practice, clinic or facility where persons attend for health related screening, testing or treatment;

	Presumptive legislation	Disease	Diagnosed	Occupation
	Part 10		<i>Management Regulations 1982</i>	Employment as an ambulance officer
	Workers' Compensation and Injury Management Regulations 1982 Regulation 68	PTSD	Psychiatrist in accordance with the Diagnostic and Statistical Manual of Mental Disorders, 5th edition, published by the American Psychiatric Association in 2013 (DSM-5).	<ul style="list-style-type: none"> • Paramedics • Ambulance Officers • Ambulance Communication Officers • Firefighters • DFES communications systems officers • See Regulation 68(3) for further details.
Tas	Workers Rehabilitation and Compensation Act 1988, s28A	PTSD	N/A	All public sector workers
NT	s 4(6)(a) Return to Work Act 1986 Return to Work Regulation: Reg 3, Schedule 2,	PTSD	N/A	All work as a first responder, including as a volunteer, but not including a person trained as a first responder who has not attended in person at an emergency situation or incident
C'wealth Comcare	<i>Safety, Rehabilitation and Compensation Act 1988, s 7(11) to s 7(14)</i>	PTSD	PTSD diagnosis must be made by a legally qualified medical practitioner or psychologist in accordance with the DSM-5-TR	<p>Employees employed as a first responder in accordance with s 7(13) which includes:</p> <ul style="list-style-type: none"> • Commissioner of the Australian Federal Police, a Deputy Commissioner of the Australian Federal Police or an AFP employee (all within the meaning of the Australian Federal Police Act 1979) • A firefighter • An ambulance officer (including paramedics) • Emergency services communications operator • Member of an emergency service (within the meaning of the Emergencies Act 2004 (ACT)) • The Australian Border Force Commissioner • An Australian Public Service employee in the Australian Border Force • Any class of employees declared by the Minister by a legislative instrument under s 7(13A)

Table 4.12: Occupational diseases caused by agents arising from work activities

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
Chemical agents									
Alcohols, glycols or ketones	N/A	N/A	Diseases caused by alcohols, glycols or ketones	N/A	Poisoning by alcohols, glycols or ketones	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Schedule 1 - Diseases related to employment	May include non-infectious hepatitis, irritant contact dermatitis, allergic contact dermatitis.	N/A
Antimony	N/A	N/A	N/A	Antimony poisoning or its sequelae (antimony or its preparations or compounds).	Acute poisoning or toxicity.	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	N/A
Arsenic	Arsenic poisoning by arsenic or its compounds, and its sequelae (Schedule 1 Workers' Compensation Regulation 2016)	Arsenic poisoning or its sequelae (arsenic or its preparations or compounds)	Arsenic poisoning (arsenic or its preparations or compounds)	Arsenic poisoning or its sequelae (arsenic or its preparations or compounds)	Acute poisoning or toxicity by arsenic	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood), Lung malignancy Peripheral neuropathy	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Lung Malignancy Peripheral neuropathy	May include peripheral neuropathy, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by arsenic or its toxic compounds
Asphyxiants: carbon monoxide, hydrogen sulphide, hydrogen cyanide	N/A	Carbon monoxide poisoning	Poisoning by cyanogen compounds. Poisoning by carbon monoxide. Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic	Carbon monoxide poisoning or its sequelae	Acute poisoning or toxicity by chemical asphyxiants (including, but not limited to, carbon monoxide, hydrogen cyanide, hydrogen sulphide and methylene chloride),	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	N/A

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
			derivatives or hydrogen sulphide						
Benzene	Poisoning by benzene or its homologues, their nitro and amido-derivatives, and its sequelae (Schedule 1 Workers' Compensation Regulation 2016)	Poisoning by benzol, its homologues, or its nitro and amido-derivatives, and the sequelae of these poisonings	Poisoning by benzol. Poisoning by a homologue of benzol	Benzene poisoning (i.e. poisoning by benzene or its homologues or their nitro and amido-derivatives) and its sequelae	Acute poisoning or toxicity by benzene	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Malignancy - Leukaemia (excluding chronic lymphatic leukaemia)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Leukaemia (excluding chronic lymphatic leukaemia)	May include primary leukaemia, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by benzene or its toxic homologues
Beryllium	N/A	N/A	N/A	N/A	Acute poisoning or toxicity by beryllium	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Respiratory diseases - Other Pneumoconiosis Malignancy - Lung	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Other Pneumoconiosis Malignancy - Lung	May include pneumoconiosis, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by beryllium or its toxic compounds
Cadmium	N/A	N/A	N/A	N/A	Acute poisoning or toxicity by cadmium	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Malignancy - Lung	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Malignancy - Lung	May include non-infectious hepatitis.	Chronic renal failure diagnosed as caused by metals such as cadmium or copper, including via welding fumes
Carbon disulphide	N/A	Carbon bisulphide poisoning	Poisoning by carbon bisulphide	N/A	Acute poisoning or toxicity by carbon disulphide	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Diseases of the Nervous System -	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Peripheral neuropathy	May include primary leukaemia, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by carbon bisulfide or its toxic compounds

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
						Peripheral neuropathy			
Chromium	N/A	Chrome ulceration or its sequelae (chromic acid, bichromate of ammonium, potassium or sodium or their preparations)	Chrome ulceration (chromic acid or bichromate of ammonium, potassium or sodium or their preparations)	Chrome ulceration or its sequelae (chromic acid, bichromate of ammonium, potassium or sodium or their preparations)	Acute poisoning or toxicity by chromium	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Malignancy - Lung (chromium VI)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Lung Malignancy – Chromium VI	May include non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by chrome or its toxic compounds
Copper	N/A	Copper poisoning or its sequelae (copper or its preparations or compounds)	N/A	Copper poisoning or its sequelae (copper or its preparations or compounds)	Acute poisoning or toxicity	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	Chronic renal failure diagnosed as caused by metals such as cadmium or copper, including via welding fumes
Ethylene oxide	N/A	N/A	N/A	N/A	N/A	N/A	N/A	May include occupational asthma.	Diseases of a type generally accepted by the medical profession as caused by ethylene oxide
Fluorine	N/A	N/A	Poisoning by fluorine	N/A	Acute poisoning or toxicity by fluorine	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis, occupational asthma.	N/A
Halogen derivatives of aliphatic or aromatic hydrocarbons	Poisoning by the halogen derivates of hydrocarbons of the aliphatic series (Schedule 1 Workers' Compensation Regulation 2016)	Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series	Poisoning by a halogen derivatives of a hydrocarbon of the aliphatic series	Halogen poisoning (ie: poisoning by the halogen derivatives of hydrocarbons of the aliphatic series) and its sequelae	Acute poisoning or toxicity by toxic halogen derivatives, aliphatic or aromatic hydrocarbons	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by the toxic halogen derivatives of hydrocarbons of the aliphatic series

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
Lead	Poisoning by lead, its alloys or compounds, and its sequelae. (Schedule 1 Workers' Compensation Regulation 2016)	Lead poisoning or its sequelae (lead or its preparations or compounds).	Lead poisoning (lead, or its preparations or compounds).	Lead poisoning or its sequelae (lead or its preparations or compounds).	Acute poisoning or toxicity by lead.	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Diseases of the Nervous System - Peripheral neuropathy	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Peripheral neuropathy	May include peripheral neuropathy, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by lead or its toxic compounds
Manganese	N/A	N/A	N/A	N/A	Acute poisoning or toxicity by manganese	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Diseases of the Nervous System - Parkinson's disease	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Parkinson's Disease	May include Parkinson's Disease, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by manganese or its toxic compounds
Mercury	Poisoning by mercury or its amalgams or compounds, and its sequelae (Schedule 1 Workers' Compensation Regulation 2016)	Mercury poisoning or its sequelae (mercury or its preparations or compounds)	Mercury poisoning (mercury, or its preparations or compounds)	Mercury poisoning or its sequelae (mercury or its preparations or compounds)	Acute poisoning or toxicity by mercury.	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Diseases of the Nervous System - Peripheral neuropathy	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood) Peripheral neuropathy	May include peripheral neuropathy, non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by mercury or its toxic compounds
Nitro and amino-derivatives of benzene	Poisoning by benzene or its homologues, their nitro and amido-derivatives, and its sequelae (Schedule 1 Workers')	Poisoning by benzol, its homologues, or its nitro and amido derivatives, and the sequelae of these poisonings	Poisoning by trinitrotoluene or by benzol or its nitro and amido derivatives (dinitrobenzol, aniline and others)	Benzene poisoning (i.e. poisoning by benzene or its homologues or their nitro and amido-derivatives) and its sequelae	Acute poisoning or toxicity by toxic nitro-derivatives and amino-derivatives of benzene	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by nitro and amido- toxic derivatives of benzene or its homologues

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
	<i>Compensation Regulation 2016)</i>								
Nitroglycerine or other nitric acid esters	N/A	N/A	N/A	N/A	Acute poisoning or toxicity by nitroglycerine or other nitric acid esters	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	N/A
Organic solvents	N/A	N/A	N/A	N/A	N/A	Diseases of the Nervous System - Peripheral neuropathy Hepatic Diseases - Non-infectious hepatitis	Peripheral neuropathy Non-infectious hepatitis	May include irritant contact dermatitis.	Chronic solvent-induced encephalopathy diagnosed as caused by organic solvents, particularly styrene, toluene, xylene, trichloroethylene, methylene chloride or white spirit Peripheral neuropathy diagnosed as caused by organic solvents such as n-hexane, carbon disulphide, or trichloroethylene, pesticides such as organophosphates; acrylamide
Oxides of nitrogen	N/A	N/A	Poisoning by nitrous fumes	Nitrous fumes poisoning and its sequelae	Poisoning by nitrous fumes	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non-infectious hepatitis.	N/A
Phosphorus	Phosphorus poisoning by phosphorous or its compounds, and its sequelae	Phosphorous poisoning or its sequelae (phosphorous or its compounds)	Phosphorus poisoning (phosphorus, or its preparations or compounds)	Phosphorus poisoning or its sequelae (phosphorus or its compounds)	Acute poisoning or toxicity by phosphorus	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver,	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver,	May include non-infectious hepatitis.	Diseases of a type generally accepted by the medical profession as caused by

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
	(Schedule 1 Workers' Compensation Regulation 2016)	preparations or compounds)		preparations or compounds)		kidney, nervous system and blood)	kidney, nervous system and blood)		phosphorus or its toxic compounds
Tungsten	N/A	N/A	N/A	N/A	N/A	Respiratory Diseases - Other pneumoconiosis	Other pneumoconiosis	May include pneumoconiosis, occupational asthma.	Diseases of a type generally accepted by the medical profession as caused by tungsten
Zinc	N/A	Zinc poisoning or its sequelae (zinc or its preparations or compounds)	N/A	Zinc poisoning or its sequelae (zinc or its preparations or compounds)	Acute poisoning or toxicity by zinc	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	May include non- infectious hepatitis, occupational asthma.	N/A
Other chemical agent at work not mentioned in the preceding terms	N/A	N/A	Arsenic, phosphorus, lead, mercury or other mineral poisoning (arsenic, phosphorus, lead, mercury, or other mineral, or their preparations or compounds)	Primary epitheliomatous cancer of the skin from work involving handling of tar, pitch, bitumen, mineral oil, paraffin or the compounds products or residues of those substances	Acute poisoning or toxicity by hexane, osmium, ozone, pesticides (including, but not limited to, organophosphate and organochlorine compounds, herbicides, and related compounds), pharmaceutical agents, phosgene, selenium, styrene, thallium, tin, toluene, vanadium, irritants (including, but not limited to, benzoquinone and other corneal irritants).	2-naphthylamine, acrylamide, crylonitrile, aluminium, barium, benzidine benzoquinone and other corneal irritants, bis(chloromethyl), ether, butadiene, cobalt, cyclophosphamide, formaldehyde, herbicides and related compounds, hexane, hydroquinone, iron oxide, methylene chloride), mineral acids, nickel, organic solvents (such as n-hexane and trichloroethylene), ortho-toluidine, osmium, ozone, para-amyphenol,	Acute Poisoning/toxicity - Employment involving exposure to acrylonitrile, hexane, mineral acids, osmium, ozone, pesticides consisting of organophosphate and organochlorine compounds, herbicides and related compounds, pharmaceutical agents, phosgene, selenium, styrene, thallium, tin, toluene, vanadium, chemical asphyxiants (for example methylene chloride), benzoquinone and other corneal irritants, and other less common, specific substances	N/A	N/A

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
						para-tertiary-butylcatechol, para-tertiary-butylphenol, pesticides consisting of organophosphate and organochlorine compounds, pharmaceutical agents, phosgene, polychlorinated biphenyls, polycyclic aromatic hydrocarbons, radon-222 and its decay products, selenium, styrene, thallium, tin, toluene, trichloroethylene, vanadium, vinyl chloride monomer and other less common, specific substances known to result in poisoning/toxicity that have not been named here.	known to result in poisoning/toxicity that have not been named here Peripheral neuropathy employment involving exposure to metals, organic solvents, pesticides or acrylamide		
Hearing impairment caused by noise	N/A	N/A	Noise induced hearing loss	Noise induced hearing loss	Industrial deafness caused by workplace deafness S72A	Disease of the Nervous System - Noise induced hearing loss - exposure to persistent or intermittent noise above 85dB(A)	Hearing impairment caused by noise above 85dB(A) Schedule 1 - Diseases related to employment	N/A	N/A
Ionizing radiations	Pathological manifestations of a kind that are due to or contributed to by: a) radium and other radioactive	Pathological manifestations due to radium and other radioactive substances, or X-rays	Pathological manifestations due to: a) radium and other radioactive substances	Pathological manifestations due to: a) radium and other radioactive substances, or	Salivary gland cancer; Oesophagus cancer; Stomach cancer; Colon, or rectum, cancer; Nasal cavity, or	Malignancy of: Salivary gland Oesophagus Stomach Colon and rectum Nasal cavity and paranasal sinuses Lung	Salivary gland Nasopharynx Oesophagus Stomach Colon and rectum	Employment for at least 5 years (whether consecutive or not) involving work with:	Diseases of a type generally accepted by the medical profession as caused by ionising radiations

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
	substances, b) X-rays. (Schedule 1 Workers' Compensation Regulation 2016)		b) X-rays, or c) Lasers	b) X-rays	paranasal sinuses, cancer; Lung cancer; Bone cancer; Skin cancer – non-melanoma; Breast cancer (female); Kidney cancer; Bladder cancer; Thyroid cancer; Leukaemia (other than chronic lymphatic leukaemia); Non-Hodgkin's lymphoma.	Bone Skin (non-melanoma) Breast (female) Kidney Bladder Brain Thyroid Leukaemia (excluding chronic lymphatic leukaemia) Non-Hodgkin's Lymphoma	Liver Nasal cavity and para nasal sinuses Larynx Lung Bone Skin (melanoma) Skin (non-melanoma) Mesothelioma Breast (female) Ovary Kidney Bladder Brain Thyroid Leukaemia (excluding chronic lymphatic leukaemia) Non-Hodgkin's Lymphoma	a) equipment that produces ionising radiation; or b) substances that emit ionising radiation. Primary malignant diseases of the salivary gland, oesophagus, stomach, colon or rectum, nasal cavity or para-nasal sinuses, bones, breast, kidney, urothelial tissue lining the urinary tract, brain, thyroid, leukaemia (excluding chronic lymphatic leukaemia), non-Hodgkins lymphoma.	
Vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)	N/A	N/A	Effects of vibration (including Raynaud's phenomenon and dead hand)	N/A	Raynaud's disease in workers' in occupations involving vibrations from powered tools or equipment	Musculoskeletal Diseases - Raynaud's disease	Raynaud's disease	Employment for at least 12 weeks (whether consecutive or not) involving work with: a) powered equipment that produces vibration; or b) powered tools that produce vibration.	Hand-arm vibration syndrome diagnosed as caused by hand and/or arm vibration
Work in compressed or	N/A	N/A	Compressed air illness	N/A	Compressed air illness including avascular necrosis in workers'	N/A	N/A	N/A	N/A

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
decompressed air					exposed to increased or reduced atmospheric pressure (including, but not limited to, working underground or underwater and working at high altitude).				
Diseases caused by other physical agents at work not mentioned in the preceding terms	N/A	N/A	Effects of insolation (prolonged exposure to sunlight) Effects of electrical currents	N/A	Bursitis of the knee or elbow in workers employed in occupations involving prolonged external friction, pressure or repetitive motion at, or about, the elbow or knee	Musculoskeletal Disease - Bursitis (at elbow or knee) - all work involving prolonged external friction pressure or repetitive motion at or about the elbow or the knee	Bursitis at the elbow or knee employment involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee	N/A	N/A
Biological agents and infectious or parasitic diseases									
Anthrax	Anthrax infection. (Schedule 1 Workers' Compensation Regulation 2016)	Anthrax	Anthrax	Anthrax	In workers' in occupations involving work with animals or animal carcasses (including, but not limited to, animal handlers, pelt handlers, abattoir workers and meat inspectors).	Infectious Disease - Anthrax	employment involving work with animals or animal carcasses (for example employment as an animal handler, pelt handler, abattoir worker, or meat inspector)	Employment involving work with animals, animal carcasses, or animal parts.	Anthrax infection
Brucellosis	Brucellosis. (Schedule 1 Workers' Compensation Regulation 2016)	Brucellosis (Undulant fever)	N/A	Brucellosis	In workers' in occupations involving work with animals or animal carcasses (including, but not limited to, veterinarians, farmers or farm workers, abattoir	Infectious Disease - Brucellosis	employment involving work with animals or animal carcasses (for example employment as a veterinarian, farmer or farm worker, abattoir worker or laboratory worker)	Employment involving work with animals, animal carcasses, animal parts, or animal waste	Brucellosis diagnosed as caused by working with animals or their carcasses

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
					workers and laboratory workers). NB: s25(2)(b) provides that compensation is not payable in respect of the disease known as undulant fever or brucellosis unless a medical practitioner has certified in writing that he is satisfied as to the result of the pathological examination of the blood that the worker is suffering from that disease.				
Hepatitis viruses	N/A	N/A	Hepatitis B	N/A	Hepatitis A – For occupations involving contact with human waste (including, but not limited to, child care workers, carers of intellectually disabled persons, workers in rural or remote Indigenous communities, sewage workers and plumbers). Hepatitis B & C – For occupations involving contact with human bodily secretions (including, but not limited to, health care workers, embalmers,	Infectious Disease: Hepatitis A Hepatitis B and C	Hepatitis A employment involving contact with human waste Hepatitis B and C employment involving contact with human bodily secretions Non-infectious hepatitis - employment involving exposure to agents known to cause hepatitis Chronic active hepatitis - employment involving contact with human bodily secretions – for a person with known Hepatitis B Virus	Employment involving work with human waste or bodily fluids.	N/A

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
					persons who handle body substances, clinical laboratory staff, workers in long-term correctional facilities, members of the police service, members of the armed forces and emergency services workers).		(HBV) or Hepatitis C Virus (HCV), where the HBV or HCV was contracted through the employment Hepatic cirrhosis - employment involving contact with human bodily secretions – for a person with known Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV), where the HBV or HCV was contracted through the employment		
Human immunodeficiency virus (HIV)	N/A	N/A	HIV (§31F Workers' Compensation and Injury Management Act 1981)	N/A	Health care workers or laboratory workers if the worker has become HIV positive after a needle-stick injury that occurs while at work.	Infectious Disease - HIV/AIDS	health care worker or laboratory worker who becomes HIV positive after a needlestick injury	Employment involving work with needles or sharps in a healthcare services setting	N/A
Leptospirosis	Leptospirosis. (Schedule 1 Workers' Compensation Regulation 2016)	Leptospirosis	Leptospirosis	Leptospirosis	Occupations involving a) work with animals or animal carcasses (including, but not limited to, farmers or farm workers, abattoir workers, forestry workers, hunters, veterinarians and livestock transport operators); or b) work with animal or human waste	Infectious Disease - Leptospirosis	Employment involving work with animals or animal carcasses or work with animal or human waste.	Employment involving work with animals, animal carcasses, animal parts, or animal waste	Leptospirosis diagnosed as caused by working with animals or their carcasses

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
					(including, but not limited to, plumbers).				
Diseases caused by other biological agents at work not mentioned in the preceding terms	Q fever. (Schedule 1 Workers' Compensation Regulation 2016)	Q fever as caused by the micro-organism <i>Coxiella burnetii</i> (also known as <i>Rickettsia burnetii</i>), in any of its clinical manifestations [abattoirs, slaughterhouses, knackeries]. Septic poisoning or its sequelae (from meat, meat products, animal products)	Communicable diseases. Endemic typhus. Scrub typhus. Brill's disease. Swineherds disease. Plague. Mite dermatitis. Scrub itch. AIDS (s31F of the 1981 Act)	Ankylostomiasis (mining). Q fever. Septic poisoning or its sequelae (from meat, meat manufacture, meat products, animal by-products with the trade of butcher or slaughterman)	Orf - Occupations involving work with sheep, goats or sheep or goat carcasses (including, but not limited to, sheep farmers or farm workers, goat farmers or farm workers, abattoir workers and meat inspectors). Q-fever - Occupations involving contact with animals or animal parts in a rural setting (including, but not limited to, abattoir workers, stock workers, livestock transport operators, shearers, hide processors, farmers and veterinarians). Tuberculosis - occupations – (a) involving contact with persons or animals in situations where the prevalence of tuberculosis is likely to be significantly higher than the general community (including, but not limited to, health	Infectious Disease: Orf Q-fever Tuberculosis	Q fever, Orf, Tuberculosis	Occupational infectious or parasitic diseases (health or laboratory work, veterinary work, handling of animals)	Orf diagnosed as caused by working with animals or their carcasses. Streptococcus suis diagnosed as caused by working with animals or their carcasses

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
					workers, clinical laboratory workers, funeral parlour staff, farmers and veterinarians); or (b) that have resulted in the worker being diagnosed with silicosis, if that occupation is presumed under the Act to have contributed to the silicosis.				
Respiratory Diseases									
Asthma caused by recognised sensitizing agents or irritants inherent to the work process	N/A	N/A	Occupational asthma caused by sensitizing agents or irritants inherent to the work process	Asthma or asthmatic attacks (dust of red pine, western red cedar, blackwood, flour, flour dust)	Occupational asthma other than pre-existing asthma in workers exposure to sensitising agents or irritants (including, but not limited to, arthropods or mites, biological enzymes, bioaerosols, products derived from fish/shellfish/animal , flour, sensitising foods, flowers, latex, wood dusts, soldering, reactive dyes, anhydrides, acrylates, epoxy, ethylene oxide, aldehydes, pesticides, amines, ammonia, industrial cleaning agents, acids, isocyanates, other reactive	Respiratory Diseases - Occupational asthma (excluding pre-existing asthma worsened due to exposure to workplace irritants)	Occupational asthma (excluding pre-existing asthma worsened due to exposure to workplace irritants)	Employment for at least 4 weeks (whether consecutive or not) involving work with an agent or thing specified in column 2 of an item of the table in Schedule 2 .	Occupational asthma diagnosed as caused by recognised sensitising agents inherent in the work process such as, but not limited to, isocyanates, certain wood dusts, flour dusts, animal proteins, enzymes and latex

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
					chemicals, sensitising metals and sensitising drugs).				
Bronchopulmonary diseases caused by dust of cotton (byssinosis), flax, hemp, sisal or sugar cane	Byssinosis Bagassosis (Schedule 1 of the Workers' Compensation (Dust Diseases) Act 1942)	N/A	Bronchopulmonary diseases caused by cotton, flax, hemp or sisal dust	N/A	Byssinosis in workers exposed to cotton, flax, hemp or sisal dust.	Respiratory Diseases - Byssinosis	Byssinosis employment involving exposure to cotton, flax, hemp or sisal dust	Employment for at least 4 weeks (whether consecutive or not) involving work with unprocessed cotton, unprocessed flax unprocessed hemp; or unprocessed sisal.	Byssinosis diagnosed as caused by working with cotton, flax, hemp, or sisal dust
Bronchopulmonary diseases caused by hard-metal dust	Hard metal pneumoconiosis (Schedule 1 of the Workers' Compensation (Dust Diseases) Act 1942)	N/A	N/A	N/A	Other forms of pneumoconiosis in workers' exposed to known causes of pneumoconiosis (including, but not limited to, beryllium, tin, iron oxide, barium, aluminium, cobalt and tungsten).	Respiratory Diseases - Other pneumoconiosis	N/A	Employment for at least 5 years (whether consecutive or not) involving work with aluminium, barium, beryllium, cobalt, iron oxide, tin or tungsten.	N/A
Chronic obstructive pulmonary diseases caused by inhalation of coal dust, dust from stone quarries, wood dust, dust from cereals and agricultural work, dust in animal stables, dust from textiles, and	Coal dust pneumoconiosis Farmer's lung (Schedule 1 of the Workers' Compensation (Dust Diseases) Act 1942)	N/A	N/A	N/A	Coal workers' pneumoconiosis in workers' exposed to coal	Respiratory Diseases: Coal workers' pneumoconiosis Silicosis Byssinosis Malignancy: Nasopharynx Nasal cavity and para-nasal sinuses Lung	Silicosis Coal workers' Pneumoconiosis Byssinosis Malignancy: Nasopharynx Nasal cavity and para-nasal sinuses Lung	Employment for at least 5 years (whether consecutive or not) involving work with material containing crystalline silica or silica.	Chronic obstructive pulmonary disease diagnosed as caused by coal, silica, cotton dust or grain dust

Comparison report

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
paper dust arising from work activities									
Diseases of the lung caused by aluminium	Aluminosis (Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>)	N/A	N/A	N/A	See Occupational asthma and other forms of Pneumoconiosis above.	Respiratory Diseases - Other Pneumoconiosis	Other Pneumoconiosis	As above – hard metal dust.	N/A
Extrinsic allergic alveolitis caused by the inhalation of organic dusts or microbially contaminated aerosols	N/A	N/A	Extrinsic allergic alveolitis caused by the inhalation of organic dusts	N/A	Extrinsic allergic alveolitis in workers' exposed to damp material of biological origin (including, but not limited to, mouldy hay, straw, grain and feathers).	Respiratory Diseases - Extrinsic allergic alveolitis – all work involving damp material of biological origin, such as mouldy hay, straw, grain and feathers	Extrinsic allergic alveolitis employment involving exposure to damp material of biological origin	Employment for at least 4 weeks (whether consecutive or not) involving work with feathers, grain, hay or straw	Extrinsic allergic alveolitis diagnosed as caused by work involving the inhalation of organic dusts
Pneumoconioses caused by fibrogenic mineral dust (silicosis, anthracosis, asbestosis)	Asbestosis Silicosis (Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>)	Asbestosis, with or without mesothelioma Silicosis, with or without pulmonary tuberculosis	N/A	Asbestosis (any work involving exposure to inhalation of asbestos fibres)	Diseases caused by occupational exposure to asbestos are covered by the Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 from 31 Oct 2011	Respiratory Diseases: Asbestosis Silicosis	Asbestosis. Other Pneumoconiosis Silicosis	As above – hard metal dust, and: Employment for at least 5 years (whether consecutive or not) involving work with: a) asbestos; or b) asbestos-containing material.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthracosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor causing the resultant incapacity or death
Pneumoconioses caused by non-fibrogenic mineral dust	Talcosis Berylliosis (Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>)	N/A	Pneumoconiosis (mineral dusts)	Pneumonconiosis, including silicosis (any work involving mining, quarrying, cutting, crushing, grinding or pushing stone or melting, grinding or polishing metal)	Exposure to known causes of pneumoconiosis (including, but not limited to, beryllium, tin, iron oxide, barium, aluminium, cobalt and tungsten).	Respiratory Diseases - Other pneumoconiosis - All work exposures known to occasionally cause pneumoconiosis such as beryllium, tin, iron oxide,	Pneumoconiosis involving exposure known to occasionally cause pneumoconiosis (for example beryllium, tin, iron oxide, barium, aluminium, cobalt or tungsten)	As above – hard metal dust.	Pneumoconiosis diagnosed as caused by tin, iron oxide, barium or cobalt

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
						barium, aluminium, cobalt and tungsten			
Silicotuberculosis	Silico-tuberculosis (Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>)	Silicosis, with or without pulmonary tuberculosis	N/A	N/A	Pneumoconioses caused by silica dust (silicosis, anthracosilicosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death from silico-tuberculosis	Infectious Disease - Tuberculosis - persons with silicosis involved in contact with persons or animals in situations where tuberculosis prevalence is likely to be significantly higher than the general community	Silicosis – employment involving exposure to silica	As above – hard metal dust.	Silico-tuberculosis
Other respiratory disease not mentioned in the preceding items	Asbestos related pleural diseases Asbestos induced carcinoma Mesothelioma Farmers lung (Schedule 1 <i>Workers' Compensation (Dust Diseases) Act 1942</i>)	N/A	Diffuse pleural fibrosis Mesothelioma	N/A	N/A	Malignancy - Mesothelioma	Malignancy Larynx Malignancy – Lung Malignancy – Mesothelioma Extrinsic allergic alveolitis	Employment for at least 4 weeks (whether consecutive or not) involving work with an agent or thing specified in column 2 of an item of the table in Schedule 2 .	N/A
Skin Diseases									
Allergic contact dermatoses and contract urticaria caused by other recognised allergy-provoking agents arising from work activities not	N/A	N/A	N/A	N/A	Contact dermatitis (irritant or allergenic) in workers exposed to sensitising agents or irritants (including, but not limited to, alcohols, cutting fluids, degreasers, disinfectants, petroleum products, soaps and cleaners, solvents, wet work,	Skin Diseases - Contact dermatitis (irritant and allergenic) – All work involving sensitising agents or irritants	Contact dermatitis (irritant and allergic) - employment involving exposure to sensitising agents or irritants	Employment for at least 4 weeks (whether consecutive or not) involving work and contact with: a) 2,5-diaminotoluene sulfate; or b)4-phenylenediamine base; or	Occupational allergic contact dermatitis diagnosed as caused by recognised sensitising agents inherent in the work process such as, but not limited to, nickel and other metals, rubber additives, resins, petroleum distillates, solvents,

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
included in other items					chromates, cobalt, cosmetics and fragrances, epoxy resin, latex, nickel, plants, preservatives, resins and acrylics).			c) ammonium persulfate; or d) cobalt chloride; or e) cocamide diethanolamide; or f) coconut diethanolamide; or g) colophonium/colophony/rosin; or h) diazolidinyl urea; or i) epoxy resin; or j) formaldehyde; or k) fragrance mix I: (i) amylcinnamaldehyde; or (ii) cinnamic alcohol; or (iii) cinnamic aldehyde; (iv) eugenol; or (v) geraniol; or (vi) hydroxycitronellal; or (vii) isoeugenol; or (viii) oakmoss absolute; or l) fragrance mix II: (i) citral; or (ii) citronellol; or (iii) coumarin; or (iv) farnesol; or (v) hexyl cinnamic aldehyde; or	soaps, detergents, and plant allergens

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
								(vi) hydroxyisohexyl 3-cyclohexene carboxaldehyde; or m) glyceryl monothioglycolate; or n) hydroxyethyl methacrylate; or o) mercaptobenzothiazole; or p) methyl chlorisothiazolinone; or q) mixture of methylchlorisothiazolinone and methylisothiazolinone; or r) nickel sulfate; or s) potassium dichromate; or t) quaternium 15; or u) thiuram mix: (i) tetramethylthiuram disulfide; or (ii) tetramethylthiuram monosulfide; or (iii) tetraethylthiuram disulfide.	
Vitiligo caused by other recognised agents arising from work activities not	N/A	N/A	N/A	N/A	Occupational vitiligo in workers exposed to para-tertiary-butylphenol, para-tertiary-butylcatechol, para-	Skin Diseases - Occupational vitiligo – All work involving para-tertiary-butylphenol, para-tertiary-	Occupational vitiligo employment involving exposure to para-tertiary-butylphenol, para-	Employment for at least 4 weeks (whether consecutive or not) involving work with: a) hydroquinone; or	Vitiligo diagnosed as caused by para-tertiary-butylphenol, para-tertiary-butylcatechol, para-

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
included in other items					amyphenol, hydroquinone or the monobenzyl, or monobutyl, ether of hydroquinone	butylcatechol, para-amyphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone	tertiary-butylcatechol, para-amyphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone	b) monobenzyl ether of hydroquinone; or c) monobutyl ether of hydroquinone; or d) para-amyphenol; or e) para-tertiary-butylcatechol; or f) para-tertiary-butylphenol.	hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone
Other skin diseases caused by physical, chemical or biological agents at work not included in other items	N/A	Dermatitis venenata (contact with vegetable or mineral matter)	Any dermatosis, ulceration or injury to the mucous membranes of the mouth or nose wholly or partly produced or aggravated by contact with or inhalation or ingestion of irritating dusts, solids, gases or fumes or mineral or vegetable irritants or ray burn	Dermatitis (dust of blackwood)	N/A	N/A	N/A	N/A	N/A
Chronic tenosynovitis of hand and wrist due to repetitive movements, forceful exertions and extreme postures of the wrist	N/A	Tenosynovitis (inflammation of the tendon sheaths of the hand, wrists, forearm or elbow)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Olecranon bursitis due to prolonged	N/A	Subcutaneous cellulitis or acute	N/A	N/A	Bursitis of the Elbow	Musculoskeletal Disease - Bursitis	Bursitis (at the elbow or knee) - employment	Employment for at least 6 months (whether	N/A

	NSW	Vic	WA	SA	Tas ¹	NT	ACT	C'wealth ²	New Zealand
pressure of the elbow region		bursitis over the elbow (mining)			employment involving prolonged external friction or pressure or repetitive motion at or about the elbow	(at the elbow or knee)	involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee	consecutive or not) involving a work activity that: a) for bursitis at the elbow: involves prolonged external friction or prolonged external pressure, recurrent external friction, or recurrent external pressure at or about the elbow. b) for bursitis at the knee: involves prolonged external friction or prolonged external pressure or recurrent external friction or recurrent external friction at or about the knee	
Prepatellar bursitis due to prolonged stay in kneeling position	N/A	Subcutaneous cellulitis or acute bursitis arising at or about the knee (beat knee) (mining)	N/A	N/A	Bursitis of the Knee employment involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee	Musculoskeletal Disease - Bursitis (at the elbow or knee)	Bursitis of the Knee employment involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee	As above.	N/A

1. Unless otherwise specified occupational diseases listed in Table 1 are specified in the [Workers Rehabilitation and Compensation \(Deemed Diseases\) Notice 2017](#)

2. Includes Seacare.

Table 4.13: Occupational cancers caused by agents arising from work activities

	NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
Asbestos	Asbestos induced carcinoma ² Asbestosis ² Asbestos related pleural diseases ² Mesothelioma ² (Schedule 1 of the Workers' Compensation (Dust Diseases) Act 1942)	Asbestosis, with or without mesothelioma	Mesothelioma Lung cancer Diffuse pleural fibrosis	Asbestosis (any work involving exposure to inhalation of asbestos fibres)	Primary malignant neoplasm of the mesothelium (diffuse mesothelioma) of the pleura or of the peritoneum NB: from 31 Oct 2011, diseases caused by occupational exposure to asbestos are covered by the Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011	Malignancy: Larynx Lung Mesothelioma Ovary	Asbestosis Mesothelioma Lung Ovary Larynx	Employment for at least 5 years (whether consecutive or not) involving work with: a) asbestos; or b) asbestos-containing material.	Lung cancer or mesothelioma diagnosed as caused by asbestos
Beta-naphthylamine	N/A	N/A	N/A	N/A	Bladder cancer (2-naphthylamine)	Malignancy – Bladder - all work involving 2-naphthylamine	Bladder employment involving exposure to 2-naphthylamine, benzidine, cyclophosphamide, ionizing radiation, ortho-toluidine, polycyclic aromatic hydrocarbons associated with aluminium production	N/A	Bladder cancer diagnosed as caused by 2-naphthylamine, benzidine, 4-aminobiphenyl, N,N-Bis (2-chloroethyl)-2-naphthylamine, other aromatic amines, or polycyclic aromatic hydrocarbons
Bis chloromethyl ether (BCME)	N/A	N/A	N/A	N/A	Lung cancer	Malignancy - Lung (bis chloromethyl)	Malignancy -Lung	N/A	Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl

	NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
									methyl ether), cadmium, coke oven emissions, nickel, radon, silica or soot
Coal tars, coal tar pitches or soots	N/A	N/A	N/A	N/A	Lung cancer and skin cancer (non-melanoma)	Malignancy - Lung – all work involving soot (chimney sweeping)	Coal workers' pneumoconiosis Lung Cancer	May include coal workers' pneumoconiosis. Employment for at least 5 years (whether consecutive or not) involving work with coal.	Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl methyl ether), cadmium, coke oven emissions, nickel, radon, silica or soot
Coke oven emissions	N/A	N/A	N/A	N/A	Lung cancer	Malignancy: Lung – all work involving polycyclic aromatic hydrocarbons Skin (non-melanoma) – all work involving polycyclic aromatic hydrocarbons Bladder – all work involving polycyclic aromatic hydrocarbons	N/A	N/A	Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl methyl ether), cadmium, coke oven emissions, nickel, radon, silica or soot
Nickel compounds	N/A	N/A	N/A	N/A	Lung cancer	Malignancy: Nasal cavity and para-nasal sinuses – all work involving nickel Lung – all work involving nickel	Nasal cavity and para-nasal sinuses Lung	May include primary malignant disease of the nasal cavity or para-nasal sinuses. Employment for at least 5 years (whether consecutive or not) involving work with: 1. equipment that produces ionising radiation; or 2. substances that emit ionising radiation; or	Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl methyl ether), cadmium, coke oven emissions, nickel, radon, silica or soot

	NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
								3. nickel; or 4. leather; or 5. wood.	
Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances	Primary epitheliomatous cancer of the skin (Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances) (Schedule 1 of the Workers' Compensation Regulation 2016)	Primary epitheliomatous cancer of the skin (exposure to tar, pitch, bitumen, mineral oil, paraffin or compounds, products, or residues of these substances)	Epitheliomatous cancer or ulceration of skin or the corneal surface of the eye due to tar, pitch, bitumen, mineral oil, paraffin or compounds, products, or residues of those substances	Primary epitheliomatous cancer of the skin due to handling or use of tar, pitch, bitumen, mineral oil, paraffin or compounds, products, or residues of those substances	Lung cancer and skin cancer (non-melanoma)	Malignancy: Lung – all work involving polycyclic aromatic hydrocarbons Skin (non-melanoma) – all work involving polycyclic aromatic hydrocarbons Bladder – all work involving polycyclic aromatic hydrocarbons	N/A	N/A	Primary epitheliomatous cancer of the skin diagnosed as caused by tar, pitch, bitumen, mineral oil, anthracene or the compounds, products, or residues of these substances Primary epitheliomatous cancer of the skin diagnosed as caused by shale oil
Vinyl chloride	N/A	N/A	N/A	N/A	Liver cancer	Malignancy - Liver	Liver	May include primary malignant disease of the liver. Employment for at least 5 years (whether consecutive or not) involving work with vinyl chloride monomer.	Angiosarcoma of the liver diagnosed as caused by vinyl chloride monomer.
Wood dust	N/A	N/A	N/A	Asthma or asthmatic attacks (dust of red pine, western red cedar, blackwood, flour, flour dust)	Nasopharynx cancer and nasal cavity, or paranasal sinuses, cancer,	Malignancy: Nasal cavity and paranasal sinuses – all work involving wood dust Nasopharynx – all work involving wood dust	Nasal cavity and para-nasal sinuses Nasopharynx	May include primary malignant disease of the nasopharynx, nasal cavity, or paranasal sinuses. Employment for at least 5 years (whether consecutive or not) involving work with	Sino-nasal carcinoma diagnosed as caused by working with wood dust Hodgkin's lymphoma diagnosed as caused by wood dust

	NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
								<p>formaldehyde or wood.</p> <p>Employment for at least 5 years (whether consecutive or not) involving work with:</p> <ol style="list-style-type: none"> 1. equipment that produces ionising radiation; or 2. substances that emit ionising radiation; or 3. nickel; or 4. leather; or 5. wood. 	
<p>Cancer caused by other agents at work not mentioned in the preceding items</p>	<p>Eligible firefighters diagnosed with 12 specific cancers outlined in Schedule 4 to the 1987 Act, who meet the corresponding minimum qualifying periods of service, are considered to have contracted the cancer in the course of their employment or volunteer service as a firefighter if acquired on or after 27 September 2018.</p>	N/A	N/A	<p>Schedule 9 amendment 23 of the Return to Work Act 2014 amended s 31 of the Workers Rehabilitation and Compensation Act 1986 to remove the qualifying periods applicable to volunteer firefighters with prescribed cancers (Schedule 2A). This amendment applies retrospectively i.e. on or after 1 July 2013</p>	<p>Nasopharynx and nasal cavity for workers exposed to leather dust or nickel Lung cancer exposure to diesel engine exhaust, environmental tobacco smoke, Radon-222 and its decay products</p>	<p>s50A of the Return to Work Act 1986 provides the legal presumption that if an employee has been employed as a firefighter for a certain period before being diagnosed with one of the prescribed cancers in regulation 5B and has been exposed to the hazards of a fire scene during that period, their employment has contributed to a significant degree to the contraction of the disease.</p> <p>These provisions provide a separate mechanism for firefighters to access compensation under the Act.</p> <p>Malignancy: Nasopharynx – formaldehyde</p>	<p>Salivary Gland - employment involving exposure to ionizing radiation</p> <p>Lung cancer exposure to arsenic, beryllium, cadmium, chromium VI, diesel engine exhaust, environmental tobacco smoke, ionizing radiation, polycyclic aromatic hydrocarbons, Radon-222 and its decay products, silica dust (crystalline)</p> <p>Nasopharynx – formaldehyde</p> <p>Oesophagus, Stomach, Colon and rectum, Bone, Breast, kidney, brain, thyroid, nasal cavity and para-nasal sinuses, and non-</p>	<p>s7(8) and s7(9) of the SRC 1988 provide the legal presumption that if an employee has been employed as a firefighter for a certain period before being diagnosed with one of the prescribed cancers in s7(8); and has been exposed to the hazards of a fire scene during that period, their employment has contributed to a significant degree to the contraction of the disease</p> <p>The above provisions provide a separate mechanism for firefighters to access</p>	<p>Naso-pharyngeal carcinoma diagnosed as caused by formaldehyde</p> <p>Laryngeal carcinoma diagnosed as caused by sulphuric acid mists or organic solvents</p> <p>Lung cancer diagnosed as caused by bis (chloromethyl) ether (and chloromethyl methyl ether), cadmium, coke oven emissions, nickel, radon, silica or soot</p> <p>Bladder cancer diagnosed as caused by 2-</p>

NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
					<p>Liver - Hepatitis B virus or Hepatitis C virus exposure related to occupation</p> <p>Nasal cavity and paranasal sinuses – leather dust</p> <p>Larynx – strong inorganic acid mist</p> <p>Lung – Arsenic, beryllium, bis(chloromethyl)ether, cadmium, chromium VI, diesel engine exhaust, environmental tobacco smoke, Radon-222 and its decay products, silica dust (crystalline)</p> <p>Skin (melanoma) – solar radiation, polychlorinated biphenyls</p> <p>Skin (non-melanoma) – solar radiation</p> <p>Kidney – trichlorethylene</p> <p>Bladder – naphthylamine, benzidine, cyclophosphamide, ortho-toluidine</p> <p>Leukaemia (excluding chronic lymphatic leukaemia) – benzene, butadiene, cyclophosphamide, formaldehyde, hepatitis C virus exposure related to occupation</p>	<p>Hodgkin's lymphoma employment involving exposure to ionizing radiation</p> <p>Liver - employment involving exposure to vinyl chloride monomer, Hepatitis B virus or Hepatitis C virus</p> <p>Skin (melanoma) - employment involving exposure to solar radiation or polychlorinated biphenyls</p> <p>Skin (non-melanoma) - employment involving exposure to ionizing radiation, polycyclic aromatic hydrocarbons or solar radiation</p> <p>Bladder - employment involving exposure to 2-naphthylamine, benzidine, cyclophosphamide, ionizing radiation, ortho-toluidine, polycyclic aromatic hydrocarbons associated with aluminium production</p> <p>Leukaemia (excluding chronic lymphatic leukaemia) - employment involving exposure to benzene, butadiene, cyclophosphamide, formaldehyde, Hepatitis C virus or ionizing radiation</p>	<p>compensation under the SRC Act.</p>	<p>naphthylamine, benzidine, 4-aminobiphenyl, N,N-Bis (2-chloroethyl)-2-naphthylamine, other aromatic amines, or polycyclic aromatic hydrocarbons</p>

	NSW	Vic	WA	SA	Tas	NT	ACT	C'wealth ¹	New Zealand
							Kidney – employment involving exposure to trichloroethylene Nasal cavity and para-nasal sinuses – leather dust		
Miners' nystagmus	N/A	N/A	N/A	N/A	Occupations involving working in or about an active mining area	N/A	N/A	N/A	N/A
Legislation and/ or instrument	<i>Workers Compensation Regulation 2016</i> — Schedule 1 <i>Workers' Compensation (Dust Diseases) Act 1942</i> — Schedule 1 ²	<i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — s51 Victoria Government Gazette No.92 — Friday, 30 August 1985	<i>Workers' Compensation and Injury Management Act 1981</i> — Schedule 3	<i>Return to Work Act 2014</i> — Schedule 2	<i>Workers Rehabilitation and Compensation (Deemed Diseases) Notice 2017</i> — Schedule 1	<i>Return to Work Act 1986</i> – s4(6)(a) <i>Return to Work Regulations 1986</i> — Schedule 2	<i>Workers Compensation Regulation 2002</i> — Schedule 1	<i>Safety, Rehabilitation and Compensation Act 1988</i> s7(1) . Safety, Rehabilitation and Compensation (Specified Diseases and Employment) Instrument 2017 <i>Seafarers' Rehabilitation and Compensation Act 1992</i> s10(1) . Seafarers Rehabilitation and Compensation (Specified Diseases and Employment) Instrument 2021	<i>Accident Compensation Act 2001</i> s30(3), 60 — Schedule 2

1. Includes Seacare.

2. Schedule 1 of the *Workers' Compensation (Dust Diseases) Act 1942* lists the following dust diseases: Aluminosis, Asbestosis, Asbestos induced carcinoma, Asbestos related pleural disease (ARPD), Bagassosis, Berylliosis, Byssinosis, Coal dust pneumoconiosis, Farmers' Lung, Hard Metal Pneumoconiosis, Mesothelioma, Silicosis, Silico-tuberculosis and Talcosis

Permanent Impairment

Definition of permanent impairment

A prerequisite to determining the level of permanent impairment is the understanding that impairment should not be determined until the claimant has reached a point of maximum medical improvement. This is the point at which the impairment has become stable, or is not likely to improve despite medical treatment.

In addition to the principles of assessment contained in the American Medical Association (AMA) Guides, scheme legislation also provides substantial guidance on how to determine whether or not impairment is permanent. Table 4.14 lists the legislative definitions of permanent impairment and also the criteria by which an injury is judged to be permanent.

Permanent impairment guidelines

Each of the schemes substitutes or removes sections of their respective editions of the AMA Guide. The necessity for these modifications is primarily due to differences in Australian and US clinical practice, but these are sometimes the result of differences in legislative processes. Table 4.15 illustrates the particular approach taken by the various schemes to substitute or remove assessment criteria from the AMA Guide.

Discounting of prior impairments

Most schemes require that where a pre-existing non-compensable impairment exists, the assessing doctor must discount this pre-existing impairment before making a final assessment of impairment. However, if the deductible portion is difficult or costly to determine, schemes may designate a nominal amount for this purpose or in some instances, accept complete liability for the injury. Table 4.16 lists the discounting provisions under each scheme.

Table 4.14: Statutory definitions of permanent and impairment and criteria for determining whether impairment is permanent

Definition of 'permanent' and 'impairment'		Statutory criteria for determining whether an impairment is permanent
NSW	Assessments are only conducted when the medical assessor considers that the worker's degree of permanent impairment is unlikely to improve further and has attained maximum medical improvement (s322, s322A 1998 Act). This is considered to occur when the worker's condition is well stabilised and is unlikely to change substantially in the next year with or without medical treatment.	No statutory criteria for determining whether impairment is permanent Assessment is based on medical opinion in accordance with the NSW workers compensation guidelines for the evaluation of permanent impairment
Vic	s55 <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> : 1. Despite anything to the contrary in the AMA Guides, an assessment under this division of the degree of impairment resulting from an injury must be made — after the injury has stabilised, Except where disease is an EPD (s68A) or 'lung injury' (s68D) – stability not required and subject to s53 , based on the worker's current impairment as at the assessment date, including any changes in the signs and symptoms following any medical or surgical treatment undergone by the worker in respect of the injury. s54(2) <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> : AMA Guides apply in respect of an assessment under 3.3d of Chapter 3 of the AMA Guides as if the following were omitted — 'with the Injury Model, surgery to treat an impairment does not modify the original impairment estimate, which remains the same in spite of any changes in signs or symptoms that may follow the surgery and irrespective of whether the patient has a favourable or unfavourable response to treatment'.	Other than as provided by AMA 4 there is no legislative guidance as to when an impairment becomes permanent
Qld	<i>Workers' Compensation and Rehabilitation Act 2003</i> : s38 Meaning of permanent impairment — A permanent impairment, from injury, is an impairment that is stable and stationary and not likely to improve with further medical or surgical treatment s37 Meaning of impairment — An impairment from injury is a loss of, or loss of efficient use of, any part of a worker's body	<i>Workers' Compensation and Rehabilitation Act 2003</i> : s179 Assessment of permanent impairment <ul style="list-style-type: none"> An insurer may decide, or a worker may ask the insurer, to have the worker's injury assessed to decide if the worker's injury has resulted in a degree of permanent impairment. The insurer must have the degree of permanent impairment assessed: (a) for industrial deafness by an audiologist; or (b) or a psychiatric or psychological injury by a medical assessment tribunal; or (c) or another injury by a doctor. The degree of permanent impairment must be assessed in the way prescribed under a regulation and a report must be given to the insurer stating the matters taken into account and the weight given to the matters, in deciding the degree of permanent impairment; and any other information prescribed under a regulation. The degree of permanent impairment must be assessed in accordance with the Guidelines for Evaluation of Permanent Impairment (the Queensland Guide) to decide the degree of permanent impairment for the injury, and a report complying with the Queensland Guide must be given to the insurer. <i>Workers' Compensation and Rehabilitation Regulation 2014</i> : <ul style="list-style-type: none"> Part 4 Division 3, Entitlement to compensation for permanent impairment
WA	No statutory definition s146A(1) notes that a worker's degree of impairment is to be evaluated, as a percentage in accordance with the WorkCover WA Guidelines for the Evaluation of Permanent Impairment	No statutory criteria for determining whether impairment is permanent. This is based on medical opinion in accordance with WorkCover WA Guidelines for the Evaluation of Permanent Impairment . The Guides are based on AMA5 and the New South Wales Guides for the Evaluation of Permanent Impairment
SA	The ReturnToWorkSA Impairment Assessment Guidelines provide the following definitions: Permanent: 'The meaning given to the word 'permanent' in various decisions of the courts includes:	No statutory criteria

Definition of 'permanent' and 'impairment'		Statutory criteria for determining whether an impairment is permanent
	<ol style="list-style-type: none"> for a long and indeterminate time but not necessarily forever more likely than not to persist in the foreseeable future.' <p>Impairment: 'A loss, loss of use or derangement of any body part, organ system or organ function (AMA5).'</p>	
Tas	<p>The WorkCover Guidelines for the Assessment of Permanent Impairment state: 'it must be shown that the problem has been present for a period of time, is static, well stabilised, and is unlikely to change substantially regardless of treatment.'</p> <p>However where impairment assessment is a prerequisite for access to common law, and where strict time limits apply, a medical assessor may undertake an assessment where the impairment does not meet the definition of 'permanent' to verify that the level of impairment will not be less than the statutory threshold. Under amendments which commenced on 1 July 2010, the threshold for access to common law is 20% whole person impairment (WPI) — page 4.</p>	No statutory criteria
NT	<p>s 70 Return to Work Act 1986: 'permanent impairment means an impairment or impairments assessed in accordance with the guides approved and published by the Authority, as being an impairment or combination of impairments of not less than 5% of the whole person'.</p> <p>Permanent Impairment</p>	The guides approved by the Authority are the NT WorkSafe Guidelines for the Evaluation of Permanent Impairment (v1.1) which calls up AMA 5th edition
ACT	<p>s 51 of the <i>Workers Compensation Act 1951</i> is based on the concept of loss arising from a compensable injury. 'Loss' is defined to mean loss of a thing or permanent loss of use or efficient use of the thing. The definition also includes permanent musculoskeletal impairment and loss, damage, impairment, disfigurement and diseases listed in Schedule 1 of the Workers Compensation Act 1951.</p>	Part 4.4 Workers Compensation Act 1951
C'wealth Comcare	<p>Safety, Rehabilitation and Compensation Act 1988</p> <p>s4 — Permanent means likely to continue indefinitely</p> <p>s4 — Impairment means the loss, the loss of the use, or the damage or malfunction, of any part of the body or of any bodily system or function or part of such system or function</p>	<p>Safety, Rehabilitation and Compensation Act 1988 — s24(2) For the purpose of determining whether an impairment is permanent, Comcare shall have regard to:</p> <ol style="list-style-type: none"> the duration of the impairment the likelihood of improvement in the employee's condition whether the employee has undertaken all reasonable rehabilitative treatment for the impairment, and any other relevant matters. <p>Assessments must be made in accordance with the Comcare Guide to the Assessment of the Degree of Permanent Impairment</p>
C'wealth Seacare	<p>Seafarers' Rehabilitation and Compensation Act 1992</p> <p>s3 — Permanent means likely to continue indefinitely</p> <p>s3 — Impairment means the loss, the loss of the use, or the damage or malfunction, of any part of the body or of the whole or part of any bodily system or function</p>	<p>Seafarers' Rehabilitation and Compensation Act 1992 — s39(2) For the purpose of determining whether an impairment is permanent, the employer must have regard to the following matters:</p> <ol style="list-style-type: none"> the duration of the impairment the likelihood of improvement in the employee's condition whether the employee has undertaken all reasonable rehabilitative treatment for the impairment, and any other relevant matters. <p>Assessments must be made in accordance with the Seacare Authority Guide to the Assessment of the Degree of Permanent Impairment</p>

Definition of 'permanent' and 'impairment'		Statutory criteria for determining whether an impairment is permanent
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) — Permanent means likely to continue indefinitely — s68(1)(b)(ii)</p> <p>Impairment, in relation to a person, means the loss, the loss of the use, or the damage or malfunction, of any part of the person's body, of any bodily system or function, or of any part of such a system or function — s5</p> <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) — s4 — Permanent means likely to continue indefinitely</p> <p>s4 — Impairment means the loss, the loss of the use, or the damage or malfunction, of any part of the body or of any bodily system or function or part of such system or function</p>	<p>MRCA — s73 For the purposes of subparagraph s68(1)(b)(ii) and subparagraphs s71(1)(b)(ii) and s71(2)(a)(ii), in deciding whether an impairment suffered by a person is likely to continue indefinitely, the Commission must have regard to:</p> <ol style="list-style-type: none"> 1. the duration of the impairment, and 2. the likelihood of improvement in the one or more service injuries or diseases concerned, and 3. whether the person has undertaken all reasonable rehabilitative treatment for the impairment, and 4. any other relevant matters. <p>DRCA — s24(2) For the purpose of determining whether an impairment is permanent, MRCC shall have regard to:</p> <ol style="list-style-type: none"> 1. the duration of the impairment; 2. the likelihood of improvement in the employee's condition; 3. whether the employee has undertaken all reasonable rehabilitative treatment for the impairment; and 4. any other relevant matters. <p>Assessments must be made in accordance with the MRCC Guide to the Assessment of the Degree of Permanent Impairment</p>
New Zealand	<p><i>Accident Compensation Act 2001</i> defines 'impairment' as 'a loss, a loss of use, or derangement of any body part, organ system or organ function.'</p>	<p><i>Accident Compensation Act 2001</i> - Clause 57(1), Schedule 1</p> <p>The Corporation must not assess the claimant's entitlement to lump sum compensation until the earlier of the following:</p> <ol style="list-style-type: none"> (a) The Corporation receives a certificate from a medical practitioner indicating that: <ol style="list-style-type: none"> i. the claimant's condition resulting from the personal injury has stabilised; and ii. it is likely that there is permanent impairment resulting from the personal injury; or (b) after 2 years have passed since the date of the personal injury, the Corporation receives a certificate from a medical practitioner indicating that: <ol style="list-style-type: none"> i. the claimant's condition resulting from the personal injury has not stabilised; but ii. it is likely that there is permanent impairment resulting from the personal injury.

Table 4.15: Permanent impairment guides

	AMA Edition	Format ¹	Substituted/removed	Authorisation of the guide
NSW	5th Edition	Modifier 1	<p>NSW Workers compensation guidelines for the evaluation of permanent impairment – 4th edition (Guidelines), modify several Chapters in AMA5.</p> <p>Removed: Chapter 18 Pain.</p> <p>Substituted:</p> <ul style="list-style-type: none"> • Vision — AMA4 • Psychiatric and Psychological Disorders — Chapter 11, Guidelines • Hearing — Chapter 9, Guidelines, with some reference to AMA5 (Chapter 11, pp 245–251), but uses National Acoustic Laboratory (NAL) Tables from the NAL Report No 118, Improved Procedure for Determining Percentage Loss of Hearing, January 1988. • Evaluation of permanent impairment arising from chronic pain — Chapter 17, used for Complex Regional Pain Syndrome types 1 and 2. 	s376 , <i>Workplace Injury Management and Workers Compensation Act 1998</i>
Vic	4th Edition	Designator 2	<p>Removed: Chapter 15 Pain.</p> <p>Substituted:</p> <ul style="list-style-type: none"> • Chapter 9 s9.1a Hearing replaced with the Improved Procedures for Determination of Percentage Loss of Hearing (1988 Edition or later prescribed edition). • Chapter 14 Mental and Behavioural Disorders replaced with The Guide to the Evaluation of Psychiatric Impairment for Clinicians. • Omitted from s3.3d of Chapter 3 'with the Injury Model, surgery to treat an impairment does not modify the original impairment estimate, which remains the same in spite of any changes in signs or symptoms that may follow the surgery and irrespective of whether the patient has a favourable or unfavourable response to treatment'. Replaced with: the degree of impairment resulting from an injury must be made after the injury has stabilised and based on the worker's current impairment as at the date of the assessment, including any changes in the signs and symptoms following any medical or surgical treatment undergone by the worker in respect of the injury. • Specified assessments of spinal impairment are to specify the whole person values derived in accordance with s3.3 of Chapter 3 of the AMA Guides. • Statutory Guideline Extensions: <ul style="list-style-type: none"> ◦ Impairment Assessment in Workers with Occupational Asthma, and ◦ Clinical Guidelines to the Rating of Impairments arising from Infectious Occupational Diseases. 	ss 54 , 61 , 64 , 66 and s68 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>
Qld	5th Edition	Modifier 1	<p>The Guidelines for Evaluation of Permanent Impairment (the Queensland Guide) is Queensland's guide for assessing permanent impairment. It is predominantly based on AMA5. Note that:</p> <ul style="list-style-type: none"> • Chapter 8, AMA4 applies to the assessment of permanent impairment of the visual system, subject to the modifications in the Queensland Guide. • evaluation of permanent impairment due to hearing loss adopts the methodology in the Queensland Guide (Chapter 9) based on AMA5 (Chapter 11, pp 245–251) and National Acoustic Laboratory (NAL) Tables from the NAL Report No 118, Improved Procedure for Determining Percentage Loss of Hearing, January 1988. 	<i>Workers' Compensation and Rehabilitation Regulation 2014</i>

AMA Edition	Format ¹	Substituted/removed	Authorisation of the guide
		<ul style="list-style-type: none"> the AMA5 chapter on pain (Chapter 18) is excluded. Conditions associated with chronic pain are assessed on the basis of the underlying diagnosed condition. Where pain is commonly associated with a condition, an allowance is made in the degree of impairment under the Queensland Guide. Complex regional pain syndrome is assessed in accordance with Chapter 17 of the Queensland Guide. 	
WA	5th Edition	Modifier 1 The WorkCover WA Guidelines are based on the Safe Work Australia template National Guidelines. Removed: Chapter 18 AMA5 regarding assessment of pain is excluded. Substituted: <ul style="list-style-type: none"> Chapter 14 AMA5 — Mental and behavioural disorder replaced with chapter in WorkCover WA Guides on Psychiatric Impairment Rating Scale (PIRS) Chapter 18 AMA5 regarding assessment of pain is excluded Vision — based on AMA4, and Hearing loss — continues to be assessed based on s24A and s31E and Schedule 7 of the Workers' Compensation and Injury Management Act 1981. 	s146R , <i>Workers' Compensation and Injury Management Act 1981</i> WorkCover WA may issue directions with respect to the evaluation of degree of impairment: <ul style="list-style-type: none"> The directions, and any amendment of them, are to be developed in consultation with an advisory committee appointed under s100A for the purposes of this section The directions may adopt the provisions of other publications, whether with or without modification or addition and whether in force at a particular time or from time to time, and ss41–44 of the Interpretation Act 1984 apply to the directions as if they were regulations.
SA	5th Edition	Modifier 1 Vision assessments based on AMA4. Evaluation of permanent impairment due to hearing loss adopts the methodology indicated in these guides (Chapter 9) with some reference to AMA5, but uses National Acoustic Laboratory (NAL) tables from the NAL report No 118, 'Improved procedure for determining percentage loss of hearing', January 1988. Pain (chapter 18, AMA5) and Mental and Behavioural Disorders (chapter 14, AMA5) are omitted as the Act excludes entitlement for psychiatric impairment (Refer to Impairment Assessment Guidelines).	The Impairment Assessment Guidelines are published in the South Australian Government Gazette under s22(4) of the Return to Work Act 2014,
Tas	4th Edition	Modifier 1 Guidelines for the Assessment of Permanent Impairment modify several chapters in AMA4. Removed: Chapter 15 Pain. Substituted: <ul style="list-style-type: none"> Chapter 7 of WorkCover Tasmania Guides (Mental and Behavioural Disorders) incorporating the Psychiatric Impairment Rating Scale (PIRS) is substituted for chapter 14 AMA4 evaluation of hearing impairment adopts the methodology indicated in chapter 6 of WorkCover Tasmania Guides including the use of the National Acoustic Laboratory (NAL) Tables, Report No 118, Improved Procedure for Determining Percentage Loss of Hearing, January 1988, and guidelines (and legislation) require the level of binaural hearing impairment to be converted to WPI. 	<i>Workers Rehabilitation and Compensation Act 1988</i> — s72(1)(a)
NT	5th Edition	Modifier 1 The NT Guidelines for the Evaluation of Permanent Impairment (V1.1) is based on the Safe Work Australia template National Guidelines. The NT Guidelines modify several Chapters in AMA5. Removed: <ul style="list-style-type: none"> Chapter 18 AMA5 regarding assessment of pain is excluded Substituted: <ul style="list-style-type: none"> Vision — Chapter 8 of AMA4 	<i>Return to Work Act 1986</i> — s70 ,

Comparison report

AMA Edition	Format ¹	Substituted/removed	Authorisation of the guide	
		<ul style="list-style-type: none"> Chapter 14 AMA5 is excluded and replaced by Chapter 11 of the NT Guidelines - Psychiatric and psychological disorders — Psychiatric Impairment Rating Scale (PIRS) is used Hearing — Chapter 9, Guidelines, with some reference to AMA5 (Chapter 11, pp 245–251), but uses National Acoustic Laboratory (NAL) Tables from the NAL Report No 118, Improved Procedure for Determining Percentage Loss of Hearing, January 1988. <p>Variation:</p> <ul style="list-style-type: none"> Maximum Medical Improvement includes where an assessment for a progressive disease is conducted, the claimant will be considered to have reached maximum medical improvement based on the assessment of the person as they present on the day of the assessment, provided the disease is in the course of its natural progression and is unlikely to substantially improve in the next 12 months. 		
ACT	5th Edition	Stand-alone (authorised by the Regs)	<p>The ACT has approved:</p> <ul style="list-style-type: none"> American Medical Association Guides to the Evaluation of Permanent Impairment (5th Edition), and New South Wales WorkCover Guides for the Evaluation of Permanent Impairment (3rd Edition) <p>Workers Compensation (Medical Guidelines) Approval 2010 (No 1)</p>	<p>Reg 5(1)(b) of the Workers' Compensation Regulation 2002 allows the Minister to approve medical guidelines,</p>
C'wealth Comcare²	5th Edition	Stand-alone	<p>The Guide to the Assessment of the Degree of Permanent Impairment is a stand-alone document that was prepared for the Comcare scheme predominantly based on AMA5 but with modifications and some substitution.</p> <p>Substituted:</p> <ul style="list-style-type: none"> Visual impairment is based on AMA4 Psychiatric conditions assessed with reference to specific methodology Hearing impairment is assessed in accordance with the current procedures from Australian Hearing Services (Hearing Australia). <p>The Guide does provide for an assessment to be made with direct reference to AMA5 if an employee's impairment cannot be assessed in accordance with the provision of Part 1 of the Guide, with exceptions. An assessment is not to be made using the American Medical Association's Guides to the Evaluation of Permanent Impairment for:</p> <ul style="list-style-type: none"> mental and behavioural impairments (psychiatric conditions) impairments of the visual system hearing impairment chronic pain conditions except in the case of migraine or tension headaches. 	<p>Safety Rehabilitation and Compensation Act 1988</p> <p>An 'approved guide' is defined by s4 of the SRC Act as meaning:</p> <ul style="list-style-type: none"> the document, prepared by Comcare in accordance with s 28 under the title 'Guide to the Assessment of the Degree of Permanent Impairment', that has been approved by the Minister and is for the time being in force; and if an instrument varying the document has been approved by the Minister — that document as so varied. <p>Authority for the Guide rests in subsections 28(1), 28(2) and 28(3) of the SRC Act.</p>
C'wealth Seacare	5th Edition	Stand-alone	<p>The Guide to the Assessment of the Degree of Permanent Impairment is a stand-alone document that was prepared for the Comcare scheme predominantly based on AMA5 but with modifications and some substitution.</p> <p>Substituted:</p> <ul style="list-style-type: none"> Visual impairment is based on AMA4 Psychiatric conditions assessed with reference to specific methodology 	<p><i>Seafarers' Rehabilitation and Compensation Act (1992)</i></p> <p>An 'approved guide' is defined by s3 of the Seafarers Act as meaning:</p> <ul style="list-style-type: none"> the document, prepared by the Authority in accordance with s 42 under the title 'Guide to the Assessment of the Degree of Permanent Impairment', that has been approved by the Minister and is for the time being in force; and

AMA Edition	Format ¹	Substituted/removed	Authorisation of the guide	
		<ul style="list-style-type: none"> Hearing impairment is assessed in accordance with the current procedures from Australian Hearing Services (Australian Hearing). <p>The Guide does provide for an assessment to be made with direct reference to AMA5 in the event that an employee's impairment cannot be assessed in accordance with the provision of Part 1 of the Guide, with exceptions. An assessment is not to be made using the AMA Guides to the Evaluation of Permanent Impairment for:</p> <ul style="list-style-type: none"> mental and behavioural impairments (psychiatric conditions) impairments of the visual system hearing impairment, or chronic pain conditions except in the case of migraine or tension. 	<ul style="list-style-type: none"> if an instrument varying the document has been approved by the Minister — that document as so varied. <p>Authority for the Guide rests in subsections 42(1), 42(2) and 42(3) of the Seafarers Act</p>	
C'wealth DVA	MRCA — N/A DRCA — 5th edition	MRCA — N/A DRCA — designator	<p>MRCA — Permanent impairment is not assessed under the AMA</p> <p>DRCA — <i>The Safety, Rehabilitation and Compensation (Defence-related Claims)—Guide to the Assessment of the Degree of Permanent Impairment 2023</i> (DRCA Guide) is the new standalone guide for the assessment of the degree of permanent impairment for defence force members, following expiry of Part 1 and Part 2 of the Comcare administered <i>Guide to the Assessment of the Degree of Permanent Impairment – Edition 2.1</i> on 1 April 2023.</p> <p>The AMA Guides are to be used on a very restricted basis for assessments of permanent impairment for Defence personnel, and then only in consultation with, or under the direction of, an approved medical provider. A common case of use of the AMA Guides is for fingers or toes in place of Table 9.4.</p>	<p>MRCA — Impairment points of a person means the points worked out for the person using the guide determined under s67 — (s5)</p> <p>The Commission may determine, in writing, a guide setting out:</p> <ul style="list-style-type: none"> criteria to be used in deciding the degree of impairment of a person resulting from a service injury or disease, and methods by which the degree of that impairment can be expressed in impairment points on a scale from 0 to 100, and criteria to be used in assessing the effect of a service injury or disease on a person's lifestyle, and methods by which the effect of a service injury or disease on a person's lifestyle can be expressed as a numerical rating, and methods by which the impairment points of a person, and the effect on a person's lifestyle, from a service injury or disease can be used to determine the compensation payable to the person under this Part by reference to the maximum compensation that can be payable to a person under this Part. — s67(1). <p>DRCA — An 'approved guide' is defined by s4 as:</p> <ul style="list-style-type: none"> the document prepared by MRCC in accordance with s 28 under the title 'Guide to the Assessment of the Degree of Permanent Impairment', that has been approved by the Minister and is for the time being in force; and if an instrument varying the document has been approved by the Minister — that document as so varied. <p>Authority for the Guide rests in 28(1), 28(2) and 28(3) of the DRCA.</p>
New Zealand	4th Edition	Designator 2 Modifier 1	<p>AMA4</p> <p>ACC User Handbook — this takes precedence over the AMA4</p>	<p>Injury Prevention, Rehabilitation, and Compensation (Lump Sum and Independence Allowance) Regulations 2002</p> <p>Assessment tool for assessing eligibility for lump sum payments and independence allowance</p> <p>Assessment of a person's whole-person impairment, for the purposes of determining the person's eligibility to receive lump sum compensation or</p>

AMA Edition	Format ¹	Substituted/removed		Authorisation of the guide
				<p>an independence allowance, must be carried out by an assessor using the assessment tool prescribed by subclause (2).</p> <ol style="list-style-type: none"> 1. The assessment tool comprises: <ol style="list-style-type: none"> a. the AMA Guides to the Evaluation of Permanent Impairment (4th Edition), and b. the ACC User Handbook to AMA4. 2. The ACC User Handbook to AMA4 prevails if there is a conflict between it and the AMA4 Guides to the Evaluation of Permanent Impairment.

¹ Modifier refers to an edition of the AMA Guide that is attached with additional instructions for assessors and which acts to modify the AMA Guides or chapters. Schemes applying this modified approach publish separate guidelines to clarify the key points of divergence for doctors. The authority for these documents is contained in the legislation or its associated regulations. Designator refers to an edition of the AMA Guide which is designated by legislation as the Guide to be followed. Depending on the particular scheme, the designated Guide may also be a modifier (see above).

² Unlike other schemes, Comcare amalgamates modifications to AMA5 (as noted in this table) in a stand-alone document known as the Guide to the Assessment of the Degree of Permanent Impairment. Section 28 of the SRC Act is also unique in that it does not designate the use of AMA produced guidelines for assessment purposes.

Table 4.16: Discounting of prior conditions

Threshold test	Waiting period	Permits discounting?
<p>NSW</p> <p>For exempt workers: Police officers, firefighters, paramedics, volunteers under the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i>, and workers injured while working in or around a coal mine:</p> <ul style="list-style-type: none"> • >0% WPI, except for 15% WPI for psychiatric and psychological impairment, and 6% binaural hearing loss for hearing loss claims • Entitlement to pain and suffering payment: 10% WPI for physical injuries, and 15% WPI for psychiatric and psychological injuries • Entitlement to claim under common law: 15% WPI <p>All other workers for permanent impairment claims made on and from 19 June 2012:</p> <ul style="list-style-type: none"> • >10% WPI, except for 15% WPI for psychiatric and psychological impairment. • Entitlement to claim under common law: 15% WPI • Discounting of prior conditions is tenth of the assessed impairment unless this is at odds with available evidence. 	<p>No waiting period</p>	<p>Yes</p>
<p>Vic</p> <p>10% WPI for physical injuries (5% for Chapter 3 musculoskeletal impairments)</p> <p>10% for hearing loss (no threshold for further hearing loss claims if 10% threshold previously breached)</p> <p>30% WPI for psychiatric impairment — not arising secondary to physical injury</p>	<p>Minimum of 12 months or when condition has stabilised</p>	<p>Apportionment</p>
<p>Qld</p> <p>5% DPI for hearing loss (s125)</p>	<p>No waiting period</p>	<p>Yes</p>
<p>WA</p> <p>>0% WPI, except for 10% WPI for initial noise induced hearing loss (NIHL) and 5% for subsequent NIHL</p>	<p>No waiting period</p>	<p>No</p>
<p>SA</p> <p>Non-economic loss lump sum payments available for workers with degree of whole person impairment (WPI) from physical injury 5% or more, s 58(2) <i>Return to Work Act 2014</i>.</p> <p>Economic loss lump sum available to workers whose WPI is between 5% and 34%. Seriously injured workers with a WPI of 35% or more cannot receive an economic loss lump sum. They receive income support until retirement age or until otherwise discontinued under the <i>Return to Work Act 2014</i>.</p> <p>Psychiatric disorders are assessed separately from physical injuries. For assessment of psychiatric impairment AMA5 chapter 14 is excluded and replaced by Chapter 16 Impairment Assessment Guidelines</p>	<p>A worker cannot be assessed until the injury has stabilised s122(6)(a)</p>	<p>Yes</p>
<p>Tas</p> <p>5% WPI for physical injuries with the exception of loss of part or all of a finger or toe — s71(1)</p> <p>>0% WPI for loss of all or part of a finger or toe — s71(1)(d)</p> <p>10% WPI for psychiatric impairment — s71(2)</p> <p>5% for binaural hearing impairment caused by industrial deafness — s72A</p>	<p>No waiting period</p>	<p>Yes. refer WorkCover Tasmania Guidelines for the Assessment of Permanent Impairment, p6</p>
<p>NT</p> <p>Permanent impairment: impairment, or combination of impairments not less than 5% of the whole person – s70</p> <p>If impairment is 5–14% WPI, compensation payable is calculated on a sliding scale. – s71</p>	<p>No waiting period</p>	<p>Apportionment</p>

	Threshold test	Waiting period	Permits discounting?
	Impairments of 15– 84% WPI attract a benefit equal to the actual percentage given – s71 >85% WPI receives maximum entitlement – s71		
ACT	0% (no threshold) 6% threshold for hearing loss (boilermaker's deafness)	A claim for permanent injuries may not be made for 2 years after the injury unless the worker has leave from the Magistrates Court or the injury has stabilised. Injury is stabilised if the worker has returned to pre-injury weekly hours for at least 3 months s121	Yes
C'wealth Comcare	10% WPI 5% binaural hearing loss At least 1% loss of fingers/toes, loss of taste/smell Must qualify for PI to qualify for non-economic loss payment	No waiting period	No direct apportioning or discounting
C'wealth Seacare	10% WPI 10% hearing loss At least 1% Finger/toe, taste/smell Must qualify for PI to qualify for non-economic loss payment	No waiting period	No direct apportioning or discounting
C'wealth DVA	<i>Military Rehabilitation and Compensation Act 2004 (MRCA)</i> <ul style="list-style-type: none"> Initial compensation — 10 impairment points (IP) s69 Additional compensation — 5 IPs 5 IPs loss of hearing, fingers, toes, taste, or smell <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) s24</i> <ul style="list-style-type: none"> 10% WPI 5% binaural hearing loss >0% loss of fingers/toes, loss of taste/smell Must qualify for PI to qualify for non-economic loss payment	No waiting period	MRCA Yes — apportionment DRCA No direct apportioning or discounting
New Zealand	10%	Independence allowance: In most cases, claimant suffered personal injury on or after 1 April 1974 and before 1 April 2002. At least one year after the date of the injury or condition has stabilised Lump sums: In most cases, claimant suffered personal injury on or after 1 April 2002. At least 2 years after day of the injury or condition stabilised	Yes — apportionment

Exclusionary provisions

Exclusionary provisions — general

Most jurisdictional workers' compensation legislation contains exclusionary provisions. These provisions set out certain circumstances in which workers' compensation will be denied. Exclusionary provisions apply to ensure that people who exhibit reckless or wilful behaviour in the workplace are excluded from receiving workers' compensation benefits. If an injury is caused by the serious and wilful misconduct of a worker, but results in death or serious and permanent impairment, workers' compensation will usually be payable. Table 4.15 shows the general exclusionary provisions in each jurisdiction.

Exclusionary provisions for psychological injuries

Statutory threshold requirements for psychological injuries vary significantly from physical injuries. To be eligible for compensation, the claimant of a psychological injury must be able to demonstrate that the injury was not related to any reasonable action taken by their employer in relation to a dismissal, retrenchment, transfer, performance appraisal, demotion, disciplinary action or deployment.

In addition to these criteria, the claimant must also meet the designated impairment threshold for psychological injury. There are also significant differences in the way in which each jurisdiction assesses psychological impairment. Table 4.16 lists the exclusionary provisions for psychological injuries.

Table 4.17: Exclusionary provisions (general)

Exclusionary provisions	
NSW	<p>No compensation for heart attack or stroke unless nature of employment results in significantly greater risk — s 9E, <i>Workers Compensation Act 1987</i></p> <p>If a worker's injury is solely attributable to their serious and wilful misconduct, compensation is not payable for that injury, unless it results in death or serious and permanent disablement — s14(2), <i>1987 Act</i></p> <p>No compensation is payable in respect of any injury to or death of a worker caused by an intentional self-inflicted injury — s14(3), <i>1987 Act</i></p>
Vic	<p>If a worker's injury (whether or not intended to be inflicted) is deliberately or wilfully self-inflicted, there is no entitlement to compensation for that injury — s40(4), <i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p> <p>Subject to s42, s43, s43A and s44, if a worker's injury is attributable to their serious and wilful misconduct (including, but not limited to, being under the influence of intoxicating liquor, or a drug) there is no entitlement to compensation for that injury, unless the injury results in death or severe injury (as defined) — s40(5) and s40(6)</p> <p>s42 – 44 apply where a worker's incapacity for work results from or is materially contributed to by an injury caused by a transport accident involving a motor vehicle driven by the worker if the worker is convicted of drink or drug driving offences to reduce a worker's weekly payments for 130 weeks or to disentitle the worker to compensation under the Act if the offence is also a serious offence except where the injury results in death or severe injury or WorkSafe, or a self-insurer, is satisfied that the presence of drugs or alcohol did not contribute in any way to the injury.</p> <p>If it is proved that before commencing employment an employer in writing requested that the worker disclose all pre-existing injuries and diseases, and the worker did not disclose the information, compensation is not payable for any recurrence, aggravation, acceleration, exacerbation or deterioration — s41</p>
Qld	<p>Compensation is not payable for an injury:</p> <ul style="list-style-type: none"> • sustained by a worker if the injury is intentionally self-inflicted — s129, <i>Workers' Compensation and Rehabilitation Act 2003</i> • caused by the serious and wilful misconduct of the worker, unless it results in death or injury and/or could result in a degree of permanent impairment (DPI) of 50% or more — s130(1) • caused by misconduct, could result in DPI of 50% or more arising from a psychiatric or psychological injury or combining a psychiatric or psychological injury and another injury — s130(2) <p>If the worker knowingly supplies false or misleading information about a pre-existing condition to a prospective employer, the entitlement to compensation and damages for any event that aggravates the condition ends — s571C</p>
WA	<p>If it is proved that the injury of a worker is attributable to their:</p> <ul style="list-style-type: none"> • voluntary consumption of alcoholic liquor or of a drug of addiction, or both, which impairs the proper functioning of their faculties • failure, without reasonable excuse, proof of which is on them, to use protective equipment, clothing or accessories provided by their employer for the worker's use, or • other serious and wilful misconduct any compensation claimed in respect of that injury shall be disallowed unless the injury has serious and permanent effects or results in death — s22 <p>Compensation is not payable to a person while participating as a contestant, engaged in training or preparation for participating, or engaged in promotional activities or engaged in regular journeys in any sporting activity — s11, <i>Workers' Compensation and Injury Management Act 1981</i></p>
SA	<p>Under s 8(2), <i>Return to Work Act 2014</i>, compensation is not payable if the injured worker is guilty of serious and wilful misconduct or in contravention of their employer's instruction (except in the case of death or permanent total incapacity), or it is established on the balance of probabilities that the injury is predominantly attributable to serious and wilful misconduct or the influence of alcohol or an illegal drug (except in the case of death or serious and permanent injury)</p>
Tas	<p>Compensation is not payable in respect of –</p> <ol style="list-style-type: none"> 1. any injury which is attributable to the serious and wilful misconduct of the worker, unless the injury results in the death or serious and permanent incapacity of the worker or an intentional self-inflicted injury; 2. the disease known as undulant fever or brucellosis, unless a medical practitioner has certified in writing that he is satisfied as to the result of the pathological examination of the blood of the worker that the worker is suffering from that disease; 3. coronary heart disease, a diseased heart valve, an aortic aneurism or a cerebral aneurism or any prescribed injury, unless the employment contributed to the disease or injury to a substantial degree; or

Exclusionary provisions	
	4. any disease, including the disease mentioned in paragraph (b), in any case where the worker, at the time of entering his employment, wilfully and falsely represented himself in writing as not having previously suffered from that disease.— s25(2) , <i>Workers Rehabilitation and Compensation Act 1988</i>
NT	<p>Compensation is not payable in respect of an injury to a worker that was deliberately self-inflicted; or (not being an injury resulting in the worker's death or permanent or long term capacity) attributable to the worker's serious or wilful misconduct — s57, <i>Return to Work Act 1986</i></p> <p>A worker is not entitled to compensation in respect of an injury sustained whilst driving a motor vehicle, after consuming alcoholic liquor which materially contributed to the accident and injury, or while under the influence of a drug. Where concentration of alcohol at the time of the accident was equal to 80 milligrams or more of alcohol per 100 milligrams of blood, the consumption of the alcoholic liquor shall be presumed to have materially contributed to the accident and injury, unless proven otherwise. This does not affect the entitlement to compensation if the injury results in death, or medical, surgical or rehabilitation treatment — s60</p> <p>Weekly compensation is not payable in respect of any period during which the worker is imprisoned (some exceptions) — s65A</p>
ACT	<p>Compensation is not payable if the injury to, or death of, the worker is caused by:</p> <ol style="list-style-type: none"> 1. an intentionally self-inflicted injury — s82(2), <i>Workers Compensation Act 1951</i> 2. the worker's serious and wilful misconduct, unless the injury results in the death or serious and permanent disablement — s82(3) <ol style="list-style-type: none"> a. A personal injury received by a worker is attributable to the serious and wilful misconduct of the worker if at the time of the injury the worker was under the influence of alcohol or prescription drugs, unless the alcohol or drug did not contribute to the injury or was not consumed or taken voluntarily — s82(4)(a) b. A personal injury received by a worker was otherwise attributable to the serious and wilful misconduct of the worker — s82(4)(b) 3. the worker being imprisoned — s83, or 4. the injury was sustained as a result of the person's engagement in professional sporting activity — s84
C'wealth Comcare	<p>Compensation is not payable in respect of:</p> <ul style="list-style-type: none"> • any period during which the worker is imprisoned — s23(2), <i>Safety, Rehabilitation and Compensation Act 1988</i> • any injury, disease or aggravation suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment — s5A(1), reasonable administrative action defined in s5A(2) • a disease, if the employee, for the purposes connected with their employment or proposed employment has made a wilful and false representation that he/she did not suffer, or had not previously suffered, from that disease — s7(7) • an injury that is intentionally self-inflicted — s14(2) • an injury that is caused by the serious and wilful misconduct of the worker, but is not intentionally self-inflicted, unless the injury results in death, or serious and permanent impairment: — s14(2) and s14(3), or • where the employee sustains an injury because he or she voluntarily and unreasonably submitted to an abnormal risk of injury — s6(3)
C'wealth Seacare	<p>Compensation is not payable in respect of:</p> <ul style="list-style-type: none"> • any period during which the employee is imprisoned — s38(3), <i>Seafarers Rehabilitation and Compensation Act 1992</i> • an injury that is intentionally self-inflicted — s26(2) • any injury, disease or aggravation suffered as a result of reasonable disciplinary action taken against the employee, or failure to by the employee to obtain a promotion, transfer or benefit in connection with their employment — s3 definition of injury • an injury caused by the serious and wilful misconduct of the worker, unless the injury results in death, or serious and permanent impairment — s12 and s26(3) • where an employee made a wilful and false representation that he/she suffered from a disease or an aggravation of a disease — s10(7), or • where the employee sustains an injury because he or she voluntarily and unreasonably submitted to an abnormal risk of injury — s9(4)
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004 (MRCA)</i> — Compensation is not payable in respect of:</p> <ul style="list-style-type: none"> • an injury or disease that results from the person's serious default or wilful act except if the injury or disease results in a serious and permanent impairment — MRCA s32 • an injury or disease that results from reasonable and appropriate counselling or failure to obtain a promotion, transfer or benefit in relation to a person's service as a member — MRCA s33

Exclusionary provisions

- a wilful and false representation in connection with service or proposed service that not suffering the injury or disease — MRCA [s34](#)
 - an injury, disease, or death that results from a substantial delay commencing journey, routes that are not reasonably direct, and substantial interruptions to journeys — MRCA [s35](#), or
 - injury, disease, or death that results from the use of tobacco products — MRCA [s36](#)
- Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) — Compensation is not payable in respect of:
- any period during which the worker is imprisoned — [s23\(2\)](#)
 - any injury, disease or aggravation suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment — [s5A\(1\)](#), reasonable administrative action defined in [s5A\(2\)](#)
 - a disease, if the employee, for the purposes connected with their employment or proposed employment has made a wilful and false representation that they did not suffer, or had not previously suffered, from that disease — [s7\(7\)](#)
 - an injury that is intentionally self-inflicted — [s14\(2\)](#)
 - an injury that is caused by the serious and wilful misconduct of the worker, but is not intentionally self-inflicted, unless the injury results in death, or serious and permanent impairment: — [s14q4\(2\)](#) and [s14\(3\)](#) (NB: amendment is before Parliament to provide that no injury caused by serious and wilful misconduct of the worker will be compensable), or
 - where the employee sustains an injury because they voluntarily and unreasonably submitted to an abnormal risk of injury — [s6\(3\)](#)

New Zealand

Personal injury does not include a cardio-vascular or cerebro-vascular episode unless [20\(2\)\(i\)](#) or (j) applies, personal injury caused wholly or substantially by the aging process, or personal injury to teeth or dentures caused by the natural use of those teeth or dentures [s26\(4\)](#)

Compensation is not payable:

- where the injury or death is due to suicide or wilfully self-inflicted injury — [s119](#)
- where the claimant became entitled to it because of the death of another person and they have been convicted in New Zealand or another country of the murder of the person — [s120](#)
- where the claimant is in prison — [s121](#), or
- where the claimant was injured committing an offence for which they are imprisoned and that offence is punishable by a maximum term of imprisonment of 2 years or more — [s122](#), *Accident Compensation Act 2001*

Table 4.18: Exclusionary provisions for psychological injuries

	Exclusionary provisions for psychological injuries	Impairment threshold	Diagnostic methodology of assessment
<p>NSW</p>	<p>No compensation is payable under this Act in respect of an injury that is a psychological injury if the injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers. — s11A(1), <i>Workers Compensation Act 1987</i>.</p> <ol style="list-style-type: none"> No compensation is payable for permanent impairment that results from a secondary psychological injury. In assessing the degree of permanent impairment that results from a physical injury or primary psychological injury, no regard is to be had to any impairment or symptoms resulting from a secondary psychological injury. No compensation is payable for permanent impairment that results from a primary psychological injury unless the degree of permanent impairment resulting from the primary psychological injury is at least 15%. <p>NB: If more than one psychological injury arises out of the same incident, s322 of the <i>Workplace Injury Management and Workers Compensation Act 1998</i> requires the injuries to be assessed together as one injury to determine the degree of permanent impairment.</p> <ol style="list-style-type: none"> If a worker receives a primary psychological injury and a physical injury, arising out of the same incident, the worker is only entitled to receive compensation under this Division in respect of impairment resulting from one of those injuries, and for that purpose the following provisions apply: <ol style="list-style-type: none"> the degree of permanent impairment that results from the primary psychological injury is to be assessed separately from the degree of permanent impairment that results from the physical injury (despite s65(2)) the worker is entitled to receive compensation under this division for impairment resulting from whichever injury results in the greater amount of compensation being payable to the worker under this Division (and is not entitled to receive compensation under this Division for impairment resulting from the other injury), and the question of which injury results in the greater amount of compensation is, in default of agreement, to be determined by the Commission. <p>NB: If there is more than one physical injury those injuries will still be assessed together as one injury under s322 of the <i>1998 Act</i> but separately from any psychological injury. Similarly, if there is more than one psychological injury, those psychological injuries will be assessed together as one injury, but separately from any physical injury — s65A, <i>1987 Act</i>.</p>	<p>15% WPI for a primary psychological injury</p>	<p>Chapter 11 NSW Workers compensation guidelines for the evaluation of permanent impairment — 4th edition using the Psychiatric Impairment Rating Scale (PIRS)</p>
<p>Vic</p>	<p>There is no entitlement to compensation in respect of an injury to a worker if the injury is a mental injury caused wholly or predominately by any one or more of the following:</p> <ol style="list-style-type: none"> management action taken on reasonable grounds and in a reasonable manner by or on behalf of the worker's employer, or a decision of the worker's employer, on reasonable grounds, to take, or not to take any management action, or any expectation by the worker that any management action would, or would not, be taken or a decision made to take, or not to take, any management action, or an application under s154 of the <i>Local Government Act 2020</i> or proceedings as a result of that application, in relation to the conduct of a worker who is a Councillor within the meaning of Clause 15 Schedule 1 — s40(1), <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> <p>In s40(7), management action, in relation to a worker, includes, but is not limited to, any one or more of the following:</p> <ol style="list-style-type: none"> appraisal of the worker's performance counselling of the worker suspension or stand-down of the worker's employment disciplinary action taken in respect of the worker's employment 	<p>N/A</p>	<p>DSM IV - Diagnostic and Statistical Manual of Mental Disorders</p>

	Exclusionary provisions for psychological injuries	Impairment threshold	Diagnostic methodology of assessment
	<ol style="list-style-type: none"> 5. transfer of the worker's employment 6. demotion, redeployment or retrenchment of the worker 7. dismissal of the worker 8. promotion of the worker 9. reclassification of the worker's employment position 10. provision of leave of absence to the worker 11. provision to the worker of a benefit connected with the worker's employment 12. training a worker in respect of the worker's employment 13. investigation by the worker's employer of any alleged misconduct: <ol style="list-style-type: none"> a. of the worker; or b. of any other person relating to the employer's workforce in which the worker was involved or to which the worker was a witness; or 14. communication in connection with an action mentioned in any of the above paragraphs — s40(7) 		
Qld	<p>An injury does not include a psychiatric or psychological disorder arising out of, or in the course of, any of the following circumstances:</p> <ol style="list-style-type: none"> 1. reasonable management action taken in a reasonable way by the employer in connection with the worker's employment 2. the worker's expectation or perception of reasonable management action being taken against the worker, and 3. action by the Regulator or an insurer in connection with the worker's application for compensation. <p>Reasonable management actions include action taken to transfer, demote, discipline, redeploy, retrench or dismiss the worker, a decision not to award or provide promotion, reclassification or transfer of, or leave of absence or benefit in connection with, the worker's employment — s32(5).</p>	None	The Guidelines for Evaluation of Permanent Impairment are used to assess the degree of permanent impairment
WA	<p>Treatment of stress for compensation purposes: Compensation is not payable for diseases caused by stress if the stress wholly or predominately arises from the worker's dismissal, retrenchment, demotion, discipline, transfer or redeployment, or the worker's not being promoted, reclassified, transferred or granted leave of absence or any other benefit in relation to employment or a worker's expectation of a matter or decision unless it is considered to be unreasonable or harsh on the part of the employer — s5(4), <i>Workers' Compensation and Injury Management Act 1981</i></p> <p>Treatment of secondary conditions in assessing impairment: Secondary conditions are not included for the purposes of assessing impairment for common law, specialised retraining programs or payments of additional medical expenses. 'Secondary condition' means a condition, whether psychological, psychiatric, or sexual, that, although it may result from the injury or injuries concerned, arises as a secondary, or less direct, consequence of that injury or those injuries.</p>	N/A	For impairment assessment only: WorkCover WA Guidelines 4th ed. Psychiatric Impairment Rating Scale (PIRS)

	Exclusionary provisions for psychological injuries	Impairment threshold	Diagnostic methodology of assessment
SA	<p>In the case of psychiatric injury, it must arise out of or in the course of employment and the employment must be the significant contributing cause of the injury. The injury must not arise wholly or predominantly from any action of decision designated under s 7(4), which includes:</p> <ol style="list-style-type: none"> 1. reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline or counsel a worker or to bring about the cessation of a worker's employment; 2. on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with a worker's employment; 3. reasonable administrative action taken in a reasonable manner by an employer in connection with a worker's employment; 4. reasonable action taken in a reasonable manner under the Act affecting the worker — s7, <i>Return to Work Act 2014</i> 	<p>In the case of physical injury - 35% WPI to be regarded as seriously injured for the purposes of the <i>Return to Work Act 2014</i>.</p> <p>In the case of psychiatric injury - 30% WPI to be regarded as seriously injured for the purposes of the <i>Return to Work Act 2014</i>.</p>	Chapter 14 of the Return to Work Scheme Impairment Assessment Guidelines
Tas	<p>Compensation is not payable in respect of a disease which is an illness of the mind or a disorder of the mind and which arises substantially from:</p> <ol style="list-style-type: none"> 1. reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline or counsel a worker or to bring about the cessation of a worker's employment; 2. a decision of an employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with a worker's employment; 3. reasonable administrative action taken in a reasonable manner by an employer in connection with a worker's employment; 4. the failure of an employer to take action of a type referred to above in relation to a worker in connection with the worker's employment if there are reasonable grounds for not taking that action; or 5. reasonable action taken by an employer under this Act in a reasonable manner affecting a worker — s25(1A), <i>Workers Rehabilitation and Compensation Act 1988</i> 	10% WPI for psychiatric impairment - s71(2)	Chapter 7 (Mental and Behavioural Disorders) of WorkCover Tasmania Guidelines for the Assessment of Permanent Impairment , incorporating the Psychiatric Impairment Rating Scale (PIRS) is substituted for chapter 14 AMA4.
NT	A mental injury is not an injury if due to management action taken on reasonable grounds and in a reasonable manner — s3A(2) <i>Return to Work Act 1986</i> . See s3(1) for definition of 'management action'.	None	N/A
ACT	A Mental Injury (including stress) does not include a mental injury (including stress) that is completely or mostly caused by reasonable action taken, or proposed to be taken, by or on behalf of an employer in relation to the transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of a worker or the provision of an employment benefit to a worker — s4(2) , <i>Workers Compensation Act 1951</i>	0% WPI	N/A
C'wealth Comcare	<p>Compensation is not payable in respect of an injury (being a disease) if the injury is:</p> <ul style="list-style-type: none"> • due to reasonable administrative action taken in a reasonable manner in respect of the employee's employment s5A(1) — a non-exclusive list of what might be taken to be 'reasonable administrative action' is included at s5A(2) • intentionally self-inflicted — s14(2) • a disease, or an aggravation of a disease, which the employee had made a wilful and false representation that he or she did not suffer, or had not previously suffered, for purposes connected with their employment or proposed employment by the Commonwealth or a licensed corporation — s7(7), <i>Safety, Rehabilitation and Compensation Act 1988</i>. 	10% WPI	Comcare Guide Edition 3.0, Chapter 5
C'wealth Seacare	<p>Compensation is not payable in respect of an injury (being a disease) if the injury is:</p> <ul style="list-style-type: none"> • due to reasonable disciplinary action or failure by the employee to obtain a promotion, transfer or benefit in connection with their employment — s3 	10% WPI	Seacare Authority Guide 3.0, Chapter 5

Exclusionary provisions for psychological injuries		Impairment threshold	Diagnostic methodology of assessment
	<ul style="list-style-type: none"> intentionally self-inflicted — s26(2) a disease, or an aggravation of a disease, which the employee made a wilful and false representation that he or she did not suffer, or had not previously suffered from that disease, for the purposes connected with their employment — s10(7), Seafarers Rehabilitation and Compensation Act 1992. 		
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) — Psychological injuries are not treated any differently than other injuries or diseases</p> <p>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) — Psychological injuries are not treated any differently than other injuries or diseases</p>	<p>MRCA s69</p> <p>Initial compensation — 10 impairment points (IP)</p> <p>DRCA</p> <p>10% Whole person impairment (WPI) s24</p>	<p>MRCA</p> <p>Additional compensation — 5 IPs</p> <p>As per Chapter 4 'Emotional and Behavioural', GARP M</p> <p>DRCA</p> <p>Comcare Guide Edition 2.1, Part 2, Chapter 5</p>
New Zealand	Cover does not exist for mental injuries if the mental injury is not caused by physical injuries s26(1)(c) , the result of a sudden traumatic event s21B , or as a consequence of certain criminal acts s21 , <i>Accident Compensation Act 2001</i>	N/A	N/A

Cross-border provisions

Workers' compensation schemes vary significantly between jurisdictions, which can lead to confusion for employers and workers. All jurisdictions have acknowledged this and, where applicable, have implemented cross-border provisions that are based on the National Cross-Border Model developed by Heads of Workers' Compensation Authorities. Cross-border provisions provide coverage for workers who travel to or work temporarily in different jurisdictions, as long as workers meet a 'state of connection' test.

An injured worker's state or territory of connection is determined by the following tests:

- Test A — the territory or state in which the worker usually works in that employment, or
- Test B — if not identified through (A) — the territory or state in which the worker is usually based for the purposes of that employment, or
- Test C — if not identified through (A) or (B) — the territory or state in which the employer's principal place of business in Australia is located.

If no state of connection can be determined for a worker and a worker is not entitled to compensation for the same matter under the laws of a place outside Australia, a worker's employment is connected with the state where the injury occurred.

These tests are hierarchical, so if the first test does not provide an answer, the next test is applied until the worker's status is determined. Special arrangements apply for workers on ships and a safety net also applies. Table 4.19 shows the status of implementation of the national cross-border model in each jurisdiction.

Table 4.19: Cross border provisions

Cross border provisions	
NSW	National cross-border model implemented on 1 January 2006 In March 2012 NSW harmonised its cross-border guidance material with the national cross-border guidance material In July 2018, NSW published updated cross-border guidance on the application of the 'State of connection' provisions as set out in sections 9AA – 9AC of the Workers Compensation Act 1987 :Cross-border arrangements for workers compensation
Vic	National cross-border model implemented from 1 September 2004 Effective from 1 July 2005, Victorian legislation imposed a Victorian premium liability on employers only in respect of workers who are connected with Victoria as defined. Victoria published the guideline " Premium Guideline: Interstate Workers " to assist interstate workers.
Qld	National cross-border model implemented as at 1 July 2003
WA	National cross-border model implemented 22 December 2004
SA	National cross-border model implemented as at 1 January 2010 (see s10 of the Return to Work Act 2014)
Tas	National cross-border model implemented from December 2004, s31A Workers Rehabilitation and Compensation Act 1988
NT	National cross-border model implemented from 26 April 2007 Workers compensation – Cross border information
ACT	National cross-border model implemented from 3 June 2004, s36B
C'wealth Comcare	State/Territory compensation schemes have no application if <i>Safety Rehabilitation and Compensation Act 1988</i> applies
C'wealth Seacare	State/Territory compensation schemes have no application if <i>Seafarers Rehabilitation and Compensation Act 1992</i> applies
C'wealth DVA	N/A
New Zealand	The ACC Scheme covers New Zealand residents injured outside of New Zealand if they have been or remain absent for less than 6 months or intend to be absent for less than 6 months



Chapter 5:

Benefits



Benefits

Once it is established that an injured worker is entitled to workers' compensation, the next step is to determine the type and amount of benefits the worker is entitled to receive. The benefits should assist the injured worker financially while they are recovering from their injury. It should also help them return to their pre-injury employment or alternative employment, in a timely, safe and durable manner through rehabilitation and other necessary support.

The types of benefits that an injured worker may receive include:

- income replacement payments
- costs of medical and hospital treatment
- permanent impairment entitlements
- death entitlements, and
- other benefits.

Income replacement

Income replacement payments (generally known as weekly payments) are periodic payments that are usually based on the worker's pre-injury earnings. These payments aim to fairly substitute the injured worker's lost earnings and are limited based on the worker's incapacity. Income replacement payments are 'stepped down' by a percentage or to a set amount for workers who cannot earn an income because of a work-related injury.

Most jurisdictions index income replacement amounts notionally to keep pace with increases in average incomes, although the amounts and timing of indexation vary.

An injured worker may elect to receive a one-off lump sum payment, which replaces the worker's ongoing weekly income replacement payments. This type of payment needs to be agreed by the injured worker and the insurer and can be referred to as settlement, redemption or commutation payment. There may be criteria that must be met for an injured worker to receive a lump sum settlement payout. If an injured worker elects to receive a lump sum payment, the insurer's liability and weekly income replacement benefits cease, but in some jurisdictions this payment does not affect medical and like expenses.

Table 5.1 outlines the income replacement arrangements in each jurisdiction.

Medical, hospital and other costs

Payment of medical and hospital costs assist workers recover by providing necessary rehabilitation and medical services. Most workplace injuries will require medical assistance, and there are instances where the worker requires hospital admission due to the injury's severity. Workers' compensation schemes cover medical, hospital and allied health expenses. In some cases, payments are also made for other services such as home help, attendant care and vehicle or home modifications. Table 5.2 outlines medical, hospital and other costs by jurisdiction.

Permanent impairment payments

In most cases injured workers will make a full recovery, but there are instances where an injury sustained by a worker is permanent. In these situations, an injured worker may be entitled to permanent impairment benefits, which are awarded in addition to income replacement payments. Permanent impairment payments are a lump sum payment for each impairment sustained to cover non-economic loss. Table 5.3 shows permanent impairment payments in each jurisdiction.

Death entitlements

If a workplace injury results in death, all jurisdictions provide access to death entitlements. A spouse or dependant of a worker that died in a work-related incident may be entitled to certain payments, which can assist the family with funeral costs and ongoing living expenses. The amount and type of damages accessible vary between jurisdictions. Table 5.4 outlines death entitlements in each jurisdiction and table 5.5 outlines the treatment of spouse and dependants for death entitlements.

Common law access

Before the introduction of statutory workers' compensation schemes, injured workers had to sue their employers under common law to receive any benefits. If an injured worker had a cause of action, they were entitled to bring such an action and could receive a wide variety of damages. Each case was decided on its individual merits and there was no guarantee of success, unlike statutory entitlements that are fixed in law. However, with the introduction of statutory 'no-fault' workers' compensation schemes, and with the benefit of reducing costs for all parties involved, access to common law has been significantly restricted. Some jurisdictions have:

- abolished the right to access common law, or
- introduced threshold tests, and/or
- placed restrictions on types of damages that an injured worker can receive, and/or
- placed caps on the amount of damages that can be awarded.

Despite these restrictions, some injured workers still want to pursue common law. If an injured worker elects to pursue common law, they may have to reimburse their employer or the compensation authority for any statutory benefits paid out. Table 5.6 outlines the access to common law in each jurisdiction.

Suspension and cessation of benefits

Compensation and rehabilitation of injured workers impose mutual obligations on insurers, employers and employees. Payments may be suspended or ceased if certain obligations are not met by the injured worker. Table 5.7 lists the provisions in legislation that may result in compensation being ceased or suspended until certain conditions are met.

Settlement of future incapacity benefits

Some jurisdictions provide for settlement of future incapacity payment entitlements to injured workers, if certain criteria are met. These payments (often referred to as redemptions or commutations) are paid out as a settlement payment by the relevant Authority, which may include provisions that the injured worker can no longer claim benefits for their injury. Table 5.8 provides information on the settlement provisions in each jurisdiction.

Table 5.1: Income replacement

NSW	Calculation	Settlement, redemption, commutation
	<p>Part 3, Div 2 (Workers Compensation Act 1987).</p> <p>No current work capacity *</p> <ul style="list-style-type: none"> • First 13 weeks — lesser of: <ul style="list-style-type: none"> ○ 95 % pre-injury average weekly earnings (PIAWE) or ○ the maximum weekly compensation amount (\$2,423.60) minus any deductible amount. • 14–130 weeks — lesser of: <ul style="list-style-type: none"> ○ 80% PIAWE or ○ the maximum weekly compensation (\$2,423.60) <p>NB: Workers will be subject to work capacity assessments at any point throughout the duration of the claim to gather information about the workers ability to return to work in pre-injury employment or suitable employment.</p> <ul style="list-style-type: none"> • 31–260 weeks: A worker has no entitlement to weekly payments after receiving weekly payments for 130 weeks unless the insurer has made an assessment that they have no current work capacity and this is likely to continue indefinitely • Weekly payments are the lesser of: <ul style="list-style-type: none"> ○ 80% PIAWE minus the value of any deductible amount, or ○ the maximum weekly compensation amount (\$2,423.60) minus any deductible amount. <p>NB: Workers will be subject to a work capacity assessment at least every 2 years.</p> <ul style="list-style-type: none"> • After 260 weeks (5 years)***: Weekly payments will cease except for workers who are determined to be workers with high needs (greater than 20% permanent impairment) and meet the requirements of s38(3A) of the 1987 Act. • Weekly payments are the lesser of: <ul style="list-style-type: none"> ○ 80% PIAWE or ○ the maximum weekly compensation amount (\$2,423.60) Workers will be subject to a work capacity assessment at least every 2 years. However, workers with highest needs (greater than 30% permanent impairment) continue to be entitled to weekly payments without the requirement for a work capacity assessment. <p>*** Workers with highest needs are entitled to receive a minimum weekly payment of \$978.00 providing they meet the requirements under s38A of the 1987 Act.</p> <p>Current work capacity*</p> <ul style="list-style-type: none"> • First 13 weeks — lesser of: <ul style="list-style-type: none"> ○ 95% PIAWE minus earnings** or ○ the maximum weekly compensation amount (\$2423.60) minus earnings and the value of any deductible amount. • 14–130 weeks <ul style="list-style-type: none"> ○ Working 15 hours or more per week, the lesser of: <ul style="list-style-type: none"> ▪ 95% PIAWE minus earnings or 	<p>A liability in respect of an injury may be commuted to a lump sum with the agreement of the worker. A commutation is a lump sum paid by the insurer on behalf of the employer, the receipt of which brings to an immediate end all future entitlements to weekly payments, hospital, medical and related treatment and rehabilitation expenses in respect of that injury. A commutation is only available if the following pre-conditions are met:</p> <ul style="list-style-type: none"> • the injured worker has a permanent impairment of at least 15% • compensation for that permanent impairment has been paid • the worker is currently eligible for ongoing weekly payments and must have received weekly payments regularly and periodically during the previous 6 months • the worker has an existing and continuing entitlement to weekly payments of compensation • it is more than 2 years since worker first claimed compensation • injury management and return to work opportunities have been fully exhausted, and • weekly payments have not been stopped or reduced as a result of the worker not complying with their return to work obligations <p>[s 87EA, 1987 Act]</p> <p>Prior to receiving a commutation:</p> <ul style="list-style-type: none"> • the worker must receive and understand independent legal advice and be advised of the desirability of obtaining independent financial advice • the insurer, and worker must agree with the commutation • SIRA must certify the commutation meets the preconditions, and • all agreements must be registered with the Workers' Compensation Commission <p>[s 87E, 1987 Act]</p> <p>There is no entitlement to commute weekly payments for workers under the Workers' Compensation (Dust Diseases) Act 1942 however dependant entitlements may be redeemed.</p>

Calculation

- the maximum weekly compensation amount (\$2423.60) minus earnings and the value of any deductible amount.
- Working less than 15 hours per week, the lesser of:
 - 80% PIAWE minus earnings or
 - the maximum weekly compensation amount (\$2423.60) minus earnings

NB: Workers will be subject to work capacity assessments at any point throughout the duration of the claim to gather information about their ability to return to work in pre-injury employment or suitable employment.

- 131–260 weeks: A worker has no entitlement to weekly payments after receiving weekly payments for 130 weeks unless:
 - the worker is assessed by the insurer as having no current work capacity and likely to continue indefinitely to have no current work capacity, or
 - the worker (other than a worker with high needs) has completed an '[Application for continued weekly payments after 130 weeks: Form](#)' and submitted it to the insurer, and
 - the worker is working 15 hours or more per week and earning at least \$216 per week and has been assessed by the insurer as indefinitely incapable of undertaking further employment to increase their earnings, and
- Weekly payments are the lesser of:
 - 80% PIAWE minus earnings or
 - the maximum weekly compensation amount (\$2423.60) minus any earnings

NB: Except for workers with highest needs, workers will be subject to a work capacity assessment at least every 2 years.

- After 260 weeks (5 years)***: Weekly payments will cease, except for workers with greater than 20% permanent impairment who meet the requirements of [s38](#), 1987 Act.
- Weekly payments are the lesser of:
 - 80% PIAWE minus earnings or the amount or
 - the maximum weekly compensation amount (\$2423.60) minus any earnings and the value of any deductible amount.

*Claims by the following exempt workers continue to be managed and administered as though the June 2012 changes never occurred and the above weekly payment regime does not apply:

- police officers, paramedics and firefighters
- workers injured while working in or around a coal mine
- bush fire and emergency service volunteers, and
- people with a dust disease claim under the Workers' Compensation (Dust Diseases) Act 1942.

**Earnings means the amount to be taken into account as the worker's earnings after the injury, calculated as whichever of the following is the greater amount:

- the amount the worker is able to earn in suitable employment, or
- the workers current weekly earnings.

Settlement, redemption, commutation

Calculation	Settlement, redemption, commutation
<p>*** Workers with highest needs are entitled to receive a minimum weekly payment of \$978.00. Workers who were in receipt of weekly payments before 1 October 2012 may continue to be entitled to weekly payments after 260 weeks if:</p> <ul style="list-style-type: none"> • an assessment of the degree of permanent impairment is pending and has not been made because an approved medical specialist has declined to make the assessment on the basis that maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, or • the insurer is satisfied that the degree of permanent impairment is likely to be more than 20% (whether or not the degree of permanent impairment has previously been assessed). <p>(indexation of weekly payment amounts occurs on 1 April and 1 October each year)</p>	
<p>Vic</p> <p>Due to statutory changes to scheme on 12/11/97, benefit rates depend on date of entitlement.</p> <p>Pre 12/11/97 claims: Worker is entitled to receive weekly payments — old rates apply.</p> <p>Post 05/04/10 claims:</p> <p>First 13 weeks:</p> <p>If no current work capacity: 95% of pre-injury average weekly earnings (PIAWE)* less deductible amount** or maximum (twice State average weekly earnings — \$2,660), whichever is the lesser.</p> <p>If current work capacity: the difference between 95% PIAWE less deductible amount and the worker's current weekly earnings or the difference between the maximum (twice State average weekly earnings — \$2,660) less the worker's current weekly earnings, whichever is the lesser — s161, Workplace Injury Rehabilitation and Compensation Act 2013</p> <p>>13 weeks:</p> <ul style="list-style-type: none"> • If no current work capacity: 80% of PIAWE less deductible amount or maximum (twice State average weekly earnings — \$2,660), whichever is the lesser. • If current work capacity: the difference between 80% of PIAWE less deductible amount and 80% of the worker's current weekly earnings or the difference between the maximum (twice State average weekly earnings — \$2,660) less 80% current weekly earnings, whichever is the lesser — s162 <p>>52 weeks:</p> <ul style="list-style-type: none"> • Weekly payments continue as above, except PIAWE is reduced as no further entitlement to shift allowance or overtime (earnings enhancements) — s152, s153 and s157. <p>>130 weeks (Note for pre 1 Jan 2005 claim ≥ 104 weeks):</p> <ul style="list-style-type: none"> • Weekly payments can continue to be paid until retirement age (except where worker injured within or after 130 weeks of retirement age where maximum of 130 weeks applies) as long as: <ul style="list-style-type: none"> ○ the worker is likely to have no current work capacity indefinitely. The weekly payment is then 80% of PIAWE less deductible amount or maximum (twice State average weekly earnings — \$2,660), whichever is the lesser — s163, or ○ the worker has a current work capacity and has returned to work at their maximum capacity and is working at least 15 hours per week and earning at least \$177 per week. The weekly payment is then the difference between 80% of PIAWE less deductible amount and 80% of the worker's current weekly earnings or the difference between the maximum which is twice State average 	<p>A settlement of weekly payments in a lump sum is allowable in some circumstances — Part 5, Division 9. The settlement is only for weekly payments and does not include reasonable medical and like expenses which continue to be paid.</p>

Calculation	Settlement, redemption, commutation
<p>weekly earnings — \$2,660) and 80% current weekly earnings, whichever is the lesser — s165, or</p> <ul style="list-style-type: none"> the worker is working 15 hours per week and earning at least \$177 per week and requires surgery and is incapacitated for work — worker entitled to maximum of 13 weeks of weekly payments on same basis as s162 above if worker applies more than 13 weeks after weekly payment entitlement has ceased after 130 weeks — s164. <p>*Pre-injury average weekly earnings is defined in s152 to s158 but generally means a worker's average ordinary earnings during the 12 months prior to injury excluding any week that the worker was not actually working and not on paid leave expressed as a lump sum and any earnings enhancements (shift allowance, overtime) in that 12 months. Earnings enhancements are included in PIAWE for the first 52 weeks of weekly payments only.</p> <p>**Deductible amount is defined in s152 but generally means the total value of any ongoing employment benefits including non-pecuniary benefits such as the value of residential accommodation, motor vehicle use, health insurance and education fees.</p>	
<p>Qld</p> <p>For the first 26 weeks: Workers under an industrial instrument s150(1)(a), Workers' Compensation and Rehabilitation Act 2003 — the greater of:</p> <ul style="list-style-type: none"> 85% of the worker's NWE, or amount payable under the worker's industrial instrument. <p>Workers not under an award or agreement s151(1)(a) — the greater of:</p> <ul style="list-style-type: none"> 85% of NWE*, or 80% of QOTE**. <p>Queensland Ordinary Time Earnings (QOTE) is \$1,760.70 as at 1 July 2023.</p> <p>Workers on contract s152(1)(a) — the greater of:</p> <ul style="list-style-type: none"> 85% NWE*, or the amount payable under the worker's contract of service. <p>From the end of the first 2 years to the end of the first 5 years: where a worker demonstrates that the injury could result in a degree of permanent impairment (DPI) of more than 15% — s150(1)(c)(i), s151(1)(c)(i) and s152(1)(c)(i) — the greater of:</p> <ul style="list-style-type: none"> 75% of the worker's NWE*, or 70% of QOTE**. <p>Workers with DPI less than or equal to 15%, receive an amount equal to the single pension rate.</p> <p>Total amount payable for weekly benefits is \$380,580 as at 1 July 2023.</p> <p>*NWE can include amounts paid to the worker regularly for overtime, higher duties, penalties and allowances. It cannot include some allowances (such as those paid for travelling, meals, education, and living away from home), superannuation contributions or lump sum payments made on termination of a workers' employment for superannuation or accrued leave — s98 Workers' Compensation and Rehabilitation Regulation 2014.</p>	<p>Liability for weekly compensation payments can be discharged by a redemption payment agreed between the insurer and worker if worker has been receiving weekly payments for at least 2 years and the worker's injury is not stable and stationary for the purpose of assessing permanent impairment — Chapter 3, Part 9, Division 7.</p> <p>After a redemption payment has been made the worker has no further entitlement to compensation for the injury, including weekly benefits, and medical and rehabilitation expenses.</p>

Calculation		Settlement, redemption, commutation
	**QOTE for a financial year, means the amount of Queensland full-time adult persons ordinary time earnings declared by the Australian Statistician in the original series of the statistician's average weekly earnings publication most recently published before the start of the financial year (s107).	
WA	<p>A cap on weekly payments of \$3,020 applies for the duration of claims. This amount is indexed every 1 July.</p> <p>Workers whose earnings are prescribed by an industrial award:</p> <ul style="list-style-type: none"> • First 13 weeks of claim — Weekly payments will consist of the rate of the worker's average weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis, including overtime, bonuses or allowances up to a maximum of \$3,020. Overtime, bonuses or allowances are averaged over the 13 weeks before the disability occurred — Schedule 1, clause 11(3)(a). • 14th week onward — Weekly payments consist of the rate of weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis, any allowance paid on a regular basis as part of the worker's earnings and related to the number and pattern of hours worked but excluding overtime, bonuses or allowances. Maximum payment is \$3,020. Subject to the cap of \$3,020, the minimum rate of weekly earnings payable, at the time of the incapacity, for the appropriate classification under the relevant award — Schedule 1, clause 11(3)(b). <p>Workers whose earnings are not prescribed by an industrial award:</p> <ul style="list-style-type: none"> • First 13 weeks of claim — Weekly payments will consist of the worker's average weekly earnings (including overtime, bonuses and allowances) averaged over the year before the disability occurred, up to a maximum of \$3,020 — Schedule 1, clause 11(4)(a). • 14th week onward — Weekly payments 'step down' to 85% of the worker's average weekly earnings, maximum payment is \$3,020. Minimum rate: The minimum rate of weekly earnings payable under the Minimum Conditions of Employment Act 1993 — Schedule 1, clause 11(4)(b). 	<p>Lump sum redemption payment for loss of future wages, medical and like expenses, as a result of a permanent total or partial incapacity.</p> <p>Criteria: worker received weekly payments for not less than 6 months, worker and employer agree to redemption and the lump sum amount, the worker will automatically waive their common law rights and the Director of Conciliation Services is satisfied the worker is aware of the consequences of redeeming their claim — s67, Workers' Compensation and Injury Management Act 1981.</p> <p>Compensation for permanent impairment is also available under Schedule 2 of the Act which lists specific compensable injuries against which a percentage of the prescribed amount is listed.</p>
SA	<p>A worker's average weekly earnings rate will be calculated by reference to the worker's average earnings over the 12 months before the injury s5, Return to Work Act 2014. A cap of twice the State Average Weekly Earnings applies for the duration of the claim (\$3434.00 per week as at 19/08/2021) — s5(15)(c).</p> <p>An injured worker who is not seriously injured, is entitled to income maintenance for 2 years from the date of first entitlement to weekly payments — s4(11). For the first 52 weeks the worker is entitled to 100% of their average weekly earnings. This entitlement reduces to 80% for the following 52 weeks.</p> <p>A worker may be entitled to an additional 13 weeks of income support for any pre-approved surgery (s40, s41). If the combined amount that a worker would receive would result in the worker receiving less than the Federal minimum wage, the amount of compensation paid will be increased so that the combined amount equals the Federal minimum wage.</p> <p>Seriously injured workers are those whose work injury results in a degree of whole person impairment of 35% or more (physical injury) and 30% or more (psychological injury). Seriously injured workers will be eligible to receive income support until retirement age (100% average weekly earnings for the first 52 weeks, 80% until retirement age). An adjustment to the amount may be made annually to account for movement in wages (s41).</p>	<p>A liability to make weekly payments may, by agreement, be redeemed by a capital payment to the worker. An agreement for the redemption of a liability of weekly payments cannot be made unless;</p> <ul style="list-style-type: none"> • the worker has received competent professional advice about the consequences of redemption and about the investment or use of money to be received on redemption. • the Corporation has consulted with the employer out of whose employment the injury arose and has considered any representations made by the employer; and • a recognised health practitioner has certified that the extent of the worker's incapacity resulting from the work injury can be determined with a degree of confidence — s53.
Tas	<p>s69B, Workers Rehabilitation and Compensation Act 1988</p> <p>≤ 26 weeks:</p>	<p>s132A</p> <p>Settlements made within 2 years of the date of claim:</p>

Calculation	Settlement, redemption, commutation
<ul style="list-style-type: none"> • 100% of weekly payment i.e. the greater of normal weekly earnings (NWE), or ordinary-time rate-of-pay for work engaged in immediately prior to incapacity. • NWE is the worker's average weekly earnings with that employer over the previous 12 months or the period of employment if less than 12 months. Overtime is included if it was regular and would have continued to be paid if the worker was not incapacitated. <p>> 26 weeks to ≤ 78 weeks:</p> <ul style="list-style-type: none"> • 90% of weekly payment. The Act provides that the worker is to receive 95% of the weekly payment if the employer fails to provide suitable alternative duties. <p>> 78 weeks:</p> <ul style="list-style-type: none"> • 80% of weekly payment. The Act provides that the worker is to receive 85% of the weekly payment if the employer fails to provide suitable alternative duties. • Cessation of entitlement to weekly payments depends on the worker's degree of whole person impairment (WPI): <ul style="list-style-type: none"> ○ 9 years if < 15% WPI ○ 12 years if ≥15% WPI but < 20% WPI ○ 20 years if ≥20% WPI but < 30% WPI, or ○ To date of cessation of employment under s87 (normally the pension age) if ≥ 30% WPI. <p>Minimum amount payable is 70% of the basic salary (which is \$667.95 per week, as at 1 January 2021) or 100% of the weekly payment determined under s69 — whichever is the lesser amount (or pro rata equivalent) — s69B(3).</p>	<p>Settlement by agreement of outstanding entitlements to compensation made within 2 years of the date of the claim must be approved by the Tasmanian Civil and Administrative Tribunal. The Tribunal must be satisfied that:</p> <ul style="list-style-type: none"> • all reasonable steps have been taken to enable the worker to be rehabilitated, retrained or to return to work, or • the worker has returned to work, or • there has been a reasonably arguable case determination, that the proposed agreement is in the best interests of the worker, or • there are special circumstances that make rehabilitation, retraining or return to work impracticable and the proposed agreement is in the best interests of the worker. <p>The Tribunal must also be satisfied that the worker has received appropriate professional advice about the proposed agreement to settle and that the worker's entitlement to lump sum compensation for permanent impairment has been considered.</p> <p>Settlements made after 2 years of the date of claim:</p> <p>Agreements to settle made more than 2 years after the date of the claim do not have to be approved by the Tribunal. A party can subsequently refer the agreement to the Tribunal to be reviewed and possibly set aside. Referral must be made within 3 months of the date of the agreement. The Tribunal can set aside an agreement if it is of the opinion that:</p> <ul style="list-style-type: none"> • a party entered the agreement under duress, or • the worker has not received appropriate advice, or • a party was induced to enter the agreement by a misrepresentation by another party (or their agent).
<p>NT</p> <p>< 26 weeks:</p> <ul style="list-style-type: none"> • NWE i.e. worker's pre-injury gross weekly remuneration from all employment, including overtime and shift penalties (where worked in a regular and established pattern) — s49A (for NWE) and s64 Return to Work Act 1986 <p>> 26 weeks:</p> <p>s65(1B) - Whichever is the lesser of:</p> <ul style="list-style-type: none"> • 75% of NWE; or • 150% of average weekly earnings. <p>s 65 Long-term incapacity</p> <ul style="list-style-type: none"> • s65(7) - Where a worker is totally incapacitated for work and the compensation the worker is entitled to under subsection (1B) is less than the amount calculated in accordance with subsection (12), the worker shall, notwithstanding subsection (1B), but subject to subsection (10), be entitled to compensation equal to 90% of their loss of earning capacity or the amount so calculated, whichever is the lesser.: <ul style="list-style-type: none"> ○ 90% of loss of earning capacity; or ○ 50% of average weekly earnings plus 12.5% of average weekly earnings for a dependant spouse and 6.25% of average weekly earnings for each dependent child. 	<p>Settlement by agreement between worker and employer/insurer — s78A</p> <ul style="list-style-type: none"> • Prior to a settlement the worker must receive legal advice, paid for by the employer and if requested, financial advice paid for by the employer - s78A(4) • If settlement is before 104 weeks, there is a 6 month cooling off period — s78A(6)

Calculation	Settlement, redemption, commutation
<p>Post 26 weeks weekly benefits are indexed annually on 1 January in accordance with movements in average weekly earnings as published by ABS for Northern Territory Full Time Adult Persons Ordinary Time Earnings. — s3(1), s65(3) and s65(3A).</p> <p>< 104 weeks:</p> <ul style="list-style-type: none"> Weekly benefits may reduce or cease, if the worker has been deemed to have an earning capacity, provided that suitable employment is reasonably available — s65(2)(b)(i) <p>> 104 weeks</p> <ul style="list-style-type: none"> Weekly benefits may reduce or cease, if the worker has been deemed to have an earning capacity, without having regard to the availability of suitable employment — s65(2)(b)(ii) <p>> 260 weeks —</p> <ul style="list-style-type: none"> Entitlement ceases unless WPI 15% or greater s65(1BA) where entitlement can continue until pension age 	
<p>ACT</p> <p>First 26 weeks of incapacity — Where the worker is totally incapacitated, weekly compensation is payable at the worker's average pre-incapacity earnings — s39(4)(a), <i>Workers Compensation Act 1951</i></p> <p>Where the worker is partially incapacitated during the first 26 weeks, weekly compensation is payable calculated as the difference between:</p> <ul style="list-style-type: none"> the worker's average pre-incapacity weekly earnings, and the average weekly amount that the worker is being paid for working or could earn in reasonably suitable employment: s39(4)(b) <p>If the worker is totally incapacitated for any period after the 26-week period, they are entitled to weekly compensation equal to:</p> <ul style="list-style-type: none"> 100% of the worker's average pre-incapacity weekly earnings — if 100% of the worker's average pre-incapacity weekly earnings is less than the pre-incapacity floor for the worker, or the statutory floor — if 100% of the worker's average pre-incapacity weekly earnings is more, but 65% of those earnings is less, than the pre-incapacity floor for the worker, or whichever is more — if 65% of the worker's average pre-incapacity weekly earnings is more than the pre-incapacity floor for the worker — s41(1) <p>If the worker is partially incapacitated for period after the 26-week period, they are entitled to weekly compensation equal to the difference between the weekly amount the worker is being paid for working or could earn in reasonably available suitable employment and:</p> <ul style="list-style-type: none"> 100% of the worker's average pre-incapacity weekly earnings if that amount is less than the statutory floor, or the statutory floor if the relevant percentage of the worker's average pre-incapacity weekly earnings is less than the statutory floor, or the statutory ceiling if the relevant percentage of the worker's average pre-incapacity weekly earnings is more than the statutory ceiling 3, or in any other case — the relevant percentage of the worker's average pre-incapacity weekly earnings — s42(1) <p>For these purposes the 'relevant percentage' is:</p>	<p>Negotiated between injured worker and employer/insurer. Schedule 1 of the Act provides a list of injuries, including for the loss of toes, taste and smell, and sets out a % rate (from 2% to 100%) of the single loss amount payable.</p> <p>Unlimited Common Law.</p> <p>Benefits may be commuted.</p>

Calculation	Settlement, redemption, commutation
<ul style="list-style-type: none"> • 65% if the worker is not working or works 25% of the worker's average pre-incapacity weekly hours or less, or • 75% if the worker is working more than 25% of the worker's average pre-incapacity weekly hours but not more than 50%, or • 85% if the worker is working more than 50% of the worker's average pre-incapacity weekly hours but not more than 75%, or • 95% if the worker is working more than 75% of the worker's average pre-incapacity weekly hours but not more than 85%, or • 100% if the worker is working more than 85% of the worker's average pre-incapacity weekly hours — s42(2) <p>Definitions:</p> <ul style="list-style-type: none"> • Pre-incapacity floor, for a worker, means the statutory floor that applied immediately before the initial incapacity date for the worker in relation to the injury — s41(2) • Statutory floor, means the national minimum wage set by a national minimum wage order in an annual wage review by Fair Work Australia — s36G(1) • Statutory ceiling, in relation to an amount, means 150% of AWE at the time the amount is to be paid — s42(4). 	
<p>C'wealth Comcare</p> <p>Current Employees</p> <p>< 45 weeks — see s19(2), <i>Safety, Rehabilitation and Compensation Act 1988</i>:</p> <ul style="list-style-type: none"> • 100% NWE which includes overtime if regular and required and penalties, with no maximum cap applied <p>45 weeks — see s19(3):</p> <ul style="list-style-type: none"> • If not working — 75% of NWE. • If working >0% to <=25% of pre injury hours — 80% of NWE less Able to Earn • If working >25% to <=50% of pre injury hours — 85% of NWE less Able to Earn • If working >50% to <=75% of pre injury hours — 90% of NWE less Able to Earn • If working >75% to <100% of pre injury hours — 95% of NWE less Able to Earn • If working 100% of pre injury hours — 100% of NWE less Able to Earn. <p>Minimum earnings — see s19(7): \$557.67 p/w</p> <p>Additional for prescribed person — see s19(8): \$138.09 p/w,</p> <p>Additional for each dependent child — see s19(9): \$68.98 p/w</p> <p>Maximum amount of compensation after 45 weeks' incapacity — see s19(5):</p> <p>– \$2757.15p/w from 17 August 2023 (150% of Average Week Ordinary Time Earnings for Full-time Adults as published by Australian Bureau of Statistics).</p> <p>Compensation payments for ex-employees are increased by reference to the ABS Consumer Price Index for year ending 31 December applicable from 1 July each year.</p> <p>Retired Employees (those not currently working and earning any income):</p>	<p>Redemptions of weekly benefits are only available in some circumstances and are calculated per s30(1) (or s137(1) for 'former employees') under the SRC Act. Medical, rehabilitation or permanent impairment payments are not affected. A redemption lump sum can only be paid out in lieu of ongoing weekly incapacity payments when a worker's weekly incapacity payments are equal to or less than an indexed amount (currently \$138.09 per week, since 1 July 2023) and Comcare is satisfied that the degree of incapacity is unlikely to change. The lump sum payment is calculated by a specified formula.</p>

Calculation	Settlement, redemption, commutation
<p>The combined workers' compensation and employer funded superannuation benefit payable to retired employees is the equivalent of 70% of their former normal weekly earnings. This is calculated by subtracting from the amount of compensation otherwise payable</p> <ul style="list-style-type: none"> (i) the employer-funded part of their weekly superannuation pension (or its deemed weekly interest from the employer funded lump sum), and (ii) 5% of the employee's former normal weekly earnings to equate with the typical superannuation contribution most employees would have been paying had the employee not retired. <p>The above mentioned 'amount of compensation otherwise payable' takes into account any actual or able to earn amount — see ss20(3), 21(3) and 21A(3).</p> <p>As per s23(1) compensation ceases to be payable to an employee who has reached pension age, unless their date of injury has reached the age that is 2 years before pension age in which case they will receive a maximum of 104 weeks of compensation as per s23(1A).</p>	
<p>C'wealth Seacare</p> <p>< 45 weeks — 100% NWE — s31(2), <i>Seafarers Rehabilitation and Compensation Act 1992</i>.</p> <p>> 45 weeks — s31(5):</p> <ul style="list-style-type: none"> if not working — 75% of NWE. if working >0% to <=25% of pre injury hours — 80% of NWE less Able to Earn, or if working >25% to <=50% of pre injury hours — 85% of NWE less Able to Earn if working >50% to <=75% of pre injury hours — 90% of NWE less Able to Earn if working >75% to >100% of pre injury hours — 95% of NWE less Able to Earn if working 100% of pre injury hours — 100% of NWE less Able to Earn. Minimum earnings — see s31(9) \$557.67 per week Additional for prescribed person — see s31(10) \$138.09 per week Additional for each dependent child — see s31(11) \$68.98 per week Maximum amount of compensation after 45 weeks' incapacity — see s31(7) Maximum: \$2,757.15 per week from 17 August 2023 (150% of Average Week Ordinary Time Earnings for Full-time Adults as published by Australian Bureau of Statistics). <p>s38(1) compensation ceases to be payable to an employee who has reached pension age, unless their date of injury has reached the age that is 1 year before pension age in which case they will receive a maximum of 104 weeks of compensation as per s38(2).</p>	<p>Redemptions of weekly benefits are only available in some circumstances. Medical, rehabilitation or permanent impairment payments are not affected. A redemption lump sum can only be paid out in lieu of ongoing weekly incapacity payments when a worker's weekly incapacity payments are equal to or less than the statutory rate (\$138.09 per week at 1 July 2023) and the employer is satisfied that the degree of incapacity is unlikely to change. The lump sum payment is calculated by a specified formula (s44).</p>
<p>C'wealth DVA</p> <p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA):</p> <ul style="list-style-type: none"> 100% normal earnings (NE) for current members — Chapter 4 Part III. <45 weeks — 100% NE for former members — s129. >45 weeks — if not working: 75% of NE — s131. Minimum: Federal Minimum Wage — s179. <p>Compensation payments for ex-workers are increased by reference to the ADF pay scales:</p> <ul style="list-style-type: none"> if working >0% to <=25% of pre injury hours — 80% of NE less actual earnings (AE) if working >25% to <=50% of pre injury hours — 85% of NE less AE 	<p>MRCA</p> <p>Redemptions of weekly benefits are only available in some circumstances and are calculated per (s138).</p> <p>DRCA</p> <p>Redemptions of weekly benefits are only available in some circumstances and are calculated per s30(1) [or s137(1) for 'former employee'].</p>

Calculation	Settlement, redemption, commutation
<ul style="list-style-type: none"> • if working >50% to <=75% of pre injury hours — 90% of NE less AE • if working >75% to <100% of pre injury hours — 95% of NE less AE, or • if working 100% of pre injury hours — 100% of NE less AE. • Maximum: no maximum. <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA):</i></p> <ul style="list-style-type: none"> • <45 weeks — see s19(2): 100% NEW which includes overtime and allowances • >45 weeks — see s19(3): If not working — 75% of NWE • if working >0% to <=25% of pre injury hours — 80% of NWE less Able to Earn • if working >25% to <=50% of pre injury hours — 85% of NWE less Able to Earn • if working >50% to <=75% of pre injury hours — 90% of NWE less Able to Earn • if working >75% to <100% of pre injury hours — 95% of NWE less Able to Earn • if working 100% of pre injury hours — 100% of NWE less Able to Earn. • Minimum earnings — see s19(7): \$557.67 pw • Additional for prescribed person — see s19(8): \$138.09pw • Additional for each dependent child — see s19(9): \$68.98 pw • Maximum amount of compensation after 45 weeks' incapacity — see s19(5): • \$2,757.15 (150% of Average Week Ordinary Time Earnings for Full-time Adults as published by Australian Bureau of Statistics). • Compensation payments are increased by reference to the ABS Wage Cost Index <p>Compensation where the person is in receipt of superannuation</p> <ul style="list-style-type: none"> • The combined workers' compensation and employer funded superannuation benefit payable to retired employees is the equivalent of 70% of their former normal weekly earnings. This is calculated by subtracting from the amount of compensation otherwise payable • the employer-funded part of their weekly superannuation pension (or its deemed weekly interest from the employer-funded lump sum), and • 5% of the employee's former normal weekly earning to equate with the typical superannuation contribution most employees would have been paying had the employee not retired. • The above mentioned 'amount of compensation otherwise payable' takes into account any actual or able to earn amount — see ss20(3), 21(3) and 21A(3). 	
<p>New Zealand</p> <p>Employees (<i>Accident Compensation Act 2001</i>)</p> <ul style="list-style-type: none"> • For weeks 2 to 5, 80% of short term rate, which is defined as: <ul style="list-style-type: none"> ○ Permanent employees — earnings in the 4 weeks prior divided by number of weeks in which they were derived — Schedule 1, Part 1, clause 34 ○ Non-permanent employees — all earnings in the 4 weeks prior divided by number of weeks in which they were derived — Schedule 1, Part 1, clause 36 • Week 5, 80% of the long term rate, which is defined as: <ul style="list-style-type: none"> ○ Permanent employees — earnings from employment with that employer in the 52 weeks prior divided by weeks in which they were derived — Schedule 1, Part 1, clause 34 ○ Non-permanent employees — all earnings in the 52 weeks prior divided by 52 weeks — Schedule 1, Part 1, clause 36 	<p>Injury prior to 1 April 2002, an independence allowance may be payable if impairment > 10%.</p> <p>From 1 April 2002, spouse of person killed can apply to have weekly compensation commuted.</p> <p>The independence allowance can be capitalised for periods of 5 years, weekly compensation and medical costs cannot be commuted.</p>

Calculation	Settlement, redemption, commutation
<p>Shareholder-employees</p> <p>Either:</p> <ol style="list-style-type: none"> 1. earnings as an employee in the 52 weeks prior to incapacity divided by the number of weeks worked 2. earnings as an employee in the 52 weeks prior to incapacity and as a shareholder employee in the relevant year divided by weeks as an employee plus weeks worked as a shareholder-employee, or 3. weeks as an employee divided by 52 plus shareholder-employee earnings divided by 52 — Schedule 1, Part 1, clause 39 <ul style="list-style-type: none"> • Maximum weekly compensation amount is NZ\$2,257.17. Will be reduced by a proportion of any earnings derived in the period of incapacity. • Minimum for full-time earners — 80% of NZ\$908.00. (The IPRC Amendment Act 2008 removed the need for a different minimum earner rate for full-time earners under 18). 	

Table 5.2: Medical, hospital and other costs

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
NSW	<p>Covers all medical and related treatment and hospital/ambulance costs reasonably necessary as a result of the injury. Most medical and related expenses require prior approval.</p> <p>Fees for many services are covered by fee schedules.</p> <p>s59, 60, 60A, 61, 62 and 63 of Workers Compensation Act 1987.</p>	<p>Covered under medical and related treatment.</p>	<p>Reasonably necessary domestic assistance covered if a medical practitioner certifies it is required and the worker performed the task before the injury.</p> <p>It is available for 6 hours/week for cumulative 12 week period or longer if the injury has resulted in at least 15% permanent impairment.</p> <p>s60AA of 1987 Act.</p>	<p>Other costs covered under medical and related treatment, (e.g. domestic assistance, home and vehicle modifications etc), hospital treatment and workplace rehabilitation service as defined in s59 of the 1987 Act.</p>	<p>Medical benefit entitlement period:</p> <ul style="list-style-type: none"> All workers are entitled to at least 2 years of medical benefits from when weekly payments cease being payable or from the date of claim if no weekly payments are made. Further time frames are: 5 years from when weekly payments cease to be payable for those with 11-20% permanent impairment or for life for those with greater than 20% permanent impairment. Some medical treatment and services are exempt from this compensation period limit. See s59A, 1987 Act. Maximum fee rates for allied health providers, medical practitioners; public, private hospitals and ambulance apply. s61(2) of the 1987 Act
Vic	<p>All reasonable costs for road accident rescue services, medical, hospital, nursing, personal and household, occupational rehabilitation and ambulance services received because of the injury — s224(1), Workplace Injury Rehabilitation and Compensation Act 2013</p> <p>Reasonable costs is defined in s223(2)</p> <p>For more information go to the Online Claims Manual</p>	<p>Attendant care is covered under the definition of 'personal and household services' in s3.</p> <p>When making an assessment of an attendant care program consideration needs to be given to the worker's:</p> <ul style="list-style-type: none"> abilities degree of self-reliance accommodation needs extent of family support, and family's need for respite. 	<p>Personal and household services are defined in s3 and payable under s224(1)</p> <p>In determining entitlement for personal and household services the individual circumstances of the worker need to be assessed having regard to:</p> <ul style="list-style-type: none"> the reasonableness of the cost of the service, and whether the service is necessary in the circumstances. 	<p>WorkSafe Victoria can pay the reasonable costs of home or car modifications reasonably required as a result of a work related injury where approval is given before the costs are incurred — s231</p> <p>WorkSafe Victoria is liable to pay the reasonable costs of modifying the car, or if the car is not capable of being modified, to contribute a reasonable amount to the purchase cost of a suitably modified car.</p> <p>WorkSafe Victoria is liable to pay the reasonable costs of modifying the home, or if the home cannot be reasonably modified, to contribute a reasonable amount towards the purchase costs of a semi-detachable portable unit or the costs of relocating the worker to another home that is suitable.</p>	<p>WorkSafe Victoria may issue guidelines identifying services or classes of services for which approval should be sought from WorkSafe Victoria before the services are provided — s224(2)</p> <p>Entitlement to medical and like services ceases 52 weeks after the entitlement to weekly payments cease, or if compensation is only payable for medical and like services, 52 weeks after entitlement commenced unless certain circumstances apply — s232</p> <p>If a worker's injury is severe (s223) for which immediate inpatient treatment in a hospital is received or results in death, family members are eligible for counselling services — s224(1)(b). Maximum family counselling expenses are \$7,550 from 1 July 2023.</p>

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
Qld	<p>The insurer must pay the cost of the medical treatment or hospitalisation that the insurer considers reasonable having regard to the worker's injury. Under the table of costs, WorkCover may impose conditions on the provision of the medical treatment — s210, Workers' Compensation and Rehabilitation Act 2003.</p> <p>The insurer must pay the costs that it accepts as reasonable, having regard to the relevant table of costs, for medical treatment by a registered person (s211). The Table of costs is published by WorkCover Queensland. The Insurer must pay the fees or costs of rehabilitation that the insurer accepts to be reasonable, having regard to the worker's injury — ss222 & 223.</p> <p>NIIS</p> <p>The insurer must pay treatment, care and support payments to an eligible worker (who has sustained a serious personal injury that meets the eligibility criteria in Part 5A of the Workers' Compensation and Rehabilitation Regulation 2014) during their eligibility period under Chapter 4A (which can be for the workers' lifetime). Treatment, care and support payments are for the worker's necessary and reasonable treatment, care and support needs resulting from the injury. These needs are for (s232J)</p> <ul style="list-style-type: none"> • medical treatment • hospitalisation • dental treatment • rehabilitation • ambulance transportation • respite care • attendant care and support services • aids and appliances other than ordinary personal or household items 	<p>As above for Act references. Insurer decision on a case by case basis with respect to funding these services. Home Nursing services are listed under the Nursing services table of costs</p> <p>NIIS</p> <p>Attendant care is included in the definition of treatment, care and support needs (s232J) and may be the subject of treatment, care and support payments from an insurer.</p> <p>Under s117R of the Workers' Compensation and Rehabilitation Regulation 2014, the insurer must obtain and consider information regarding home, transport or workplace modifications from a person who is appropriately qualified to provide advice on the needs. The insurer must also refer to the appropriately qualified person when considering attendant care and support services to assist a person to participate in the community. S 232K(2)(b) of the Act prescribes a registered provider must provide home modification, workplace modification or a service for the coordination of treatment, care or support.</p>	<p>Insurer decision on a case by case basis with respect to funding these services. Domestic assistance covered under the Support Services table of costs.</p> <p>Act s224. A caring allowance may be paid if the insurer is satisfied — the worker depends on day to day care for the fundamental activities of daily living; and the care is to be provided to the worker at the worker's home on a voluntary basis by another person in relation to whom compensation is not payable.</p> <p>NIIS</p> <p>Attendant care is included in the definition of treatment, care and support needs (s232J) and may be the subject of treatment, care and support payments from an insurer.</p> <p>As above for s 232K(2)(b) of the Act.</p>	<p>The insurer must pay the cost of the medical treatment or hospitalisation that the insurer considers reasonable having regard to the workers injury. Under the table of costs, WorkCover may impose conditions on the provision of the medical treatment (s210 of the Act).</p> <p>The insurer must pay the costs that it accepts as reasonable, having regard to the relevant table of costs, for medical treatment by a registered person (s211). The Table of costs are published by WorkCover. The Insurer must pay the fees or costs of rehabilitation that the insurer accepts to be reasonable, having regard to the worker's injury — ss222 & 223.</p> <p>NIIS</p> <p>Home and workplace modifications are included in the definition of treatment, care and support needs (s232J) and may be the subject of treatment, care and support payments from an insurer.</p> <p>As above for s 232K(2)(b) of the Act.</p>	<p>As above for Act references. Insurer decision on a case by case basis with respect to funding these services. Home Nursing services are listed under the Nursing services table of cost published by WorkCover.</p> <p>NIIS</p> <p>An eligible worker's eligibility period for treatment, care and support payments, ends when the worker dies or the worker stops being entitled to payments under Chapter 4A. Under s232S, the worker's entitlement to treatment, care and support payments ends if the insurer determines that their serious personal injury is not likely to continue to meet the eligibility criteria after the interim period ends.</p> <p>Under s232ZC, the worker's entitlement to treatment, care and support payments for their injury ends if they accept an award of treatment, care and support damages.</p> <p>Under s232ZG an insurer may review and amend an approved support plan or service request to amend a worker's approved services if the worker is leaving Australia.</p> <p>Under s232ZH, the insurer may suspend the worker's entitlement to treatment, care and support payments if the insurer considers them affected by the worker's absence from Australia.</p>

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
	<ul style="list-style-type: none"> • prosthesis • education or vocational training • home, transport or workplace modifications <p>Under s232O, an insurer must also provide the worker with a support plan on their treatment, care and support needs.</p> <p>The worker may receive treatment, care and support payments for an eligible injury via an insurer's funding agreement or response to a payment request (s232Q).</p> <p>A funding agreement is between the eligible worker and their insurer for the payment of particular expenses to be incurred for the treatment, care and support for the worker in a stated period (s232Q).</p> <p>A payment request is a written request by an eligible worker for an expense relating to their treatment, care or support to be paid or partly paid by an insurer (s232Q). An insurer is not liable to pay a payment request that exceeds an amount prescribed by regulation for the treatment, care or support (s232R(4)).</p> <p>Part 5A Division 2 of the Workers' Compensation and Rehabilitation Regulation 2014 specifies the assessment process for assessing a worker's needs.</p>				
WA	<p>Reasonable expenses incurred — Schedule 1, clause 17. Limited to 30% of prescribed amount (\$75,817). An additional \$50,000 can be granted by an arbitrator where the worker's social and financial circumstances justify it — Schedule 1, clause 18A(1).</p> <p>If a worker meets an exceptional medical circumstances test and has a WPI of not less than 15%, they may apply for additional medical and related expenses</p>	<p>Reasonable expenses associated with a nursing home may be paid where a medical practitioner certifies that the worker is totally and permanently incapacitated and requires continuing medical treatment and maintenance, which cannot be administered in the worker's domestic environment — Schedule 1, clause 17(1).</p>	N/A	<p>Not prescribed in legislation. In special circumstances insurers may approve limited home and vehicle modifications.</p> <p>Injured workers that require assistance from an approved vocational rehabilitation provider to assist them to return to work can access the entitlement for vocational rehabilitation expenses, which represents 7% of the</p>	Limits as in first column

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
	capped at \$250,000. Workers granted such an extension are excluded from seeking common law damages — Schedule 1, clause 18A , Workers' Compensation and Injury Management Act 1981.			prescribed amount (up to \$17,691).	
SA	A worker is entitled to be compensated for costs of services that are reasonably incurred by the worker in consequence of having suffered a work injury — s33 , Return to Work Act 2014.	A worker is entitled to the costs of attendance by a registered or enrolled nurse (or by some other person approved by RTWSA) where the injury is such that the worker requires nursing or personal attendance — s33(2)(f) .	A worker is entitled to be compensated for costs of services that are reasonably incurred, which can include home services depending upon the circumstances of the injury — s33(2)(i) .	ReturnToWorkSA may as part of a recovery/return to work services provide equipment, facilities and services (including home, vehicle modification, aids and appliances) to assist workers to cope with their injuries at home or in the workplace — s24(1)(f) and s33(2)(i) .	There is no monetary limit defined in the legislation. However, there are limits on duration of support for medical and other expenses. If the worker is entitled to weekly payments for incapacity in respect of the injury, entitlement to compensation for medical and other expenses ceases 52 weeks after their entitlement to weekly payment ceases. If the worker is not entitled to weekly payments for incapacity, entitlement to compensation for medical and other expenses ceases 52 weeks after the claim — s33(20) . Fees are regulated by gazette for hospital, medical and allied health services — s33(11) . Other costs may be reimbursed if reasonably incurred — s33(1) .
Tas	A worker is entitled to compensation for reasonable expenses necessarily incurred as a result of the injury — s75(1)(a) , Workers Rehabilitation and Compensation Act 1988.	A worker is entitled to compensation for reasonable expenses for constant attendance services necessarily incurred as a result of the injury — s75(1)(a) . Constant attendance services are services provided by a person other than a member of the worker's family where the worker requires the regular or constant personal attendance of another person — (s74) . Where there is any dispute in relation to constant attendance services, the Tribunal can make a determination as to: the necessity for the services, the period for which they are to be provided, and the level of payments that are reasonable and appropriate for those services — s75(3) .	A worker is entitled to compensation for reasonable expenses for household services necessarily incurred as a result of the injury — s75(1)(a) . Household services are services provided to the worker (other than by a family member) of a domestic nature and services required for the proper running and maintenance of the worker's residential premises — s74 . Where there is any dispute in relation to household services, the Tribunal can make a determination as to: the necessity for the services, the period for which they are to be provided, and the level of payments that are reasonable and	A worker is entitled to compensation for reasonable expenses for rehabilitation services necessarily incurred as a result of the injury — s75(1)(a) . Rehabilitation services include any treatment, training or other assistance to facilitate or assist a worker's rehabilitation, and necessary and reasonable modifications required to be made to the worker's workplace, place of residence or motor vehicle. It also includes workplace rehabilitation services — s74 . Where there is a dispute in relation to rehabilitation services, the Tribunal can make a determination as to: the necessity for the services, the period for which they	There is no monetary limit. However, there are limits on duration. If the worker is entitled to weekly payments for incapacity in respect of the injury, entitlement to compensation for medical and other expenses ceases 52 weeks after the lawful termination of weekly payments — s75(2) . If the worker is not entitled to weekly payments for incapacity, entitlement to compensation for medical and other expenses ceases 52 weeks after the date the claim was made — s75(2AA) . Compensation for medical and other expenses can be extended by Tribunal order — s75(2AB) .

Comparison report

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
			appropriate for those services — s75(3) .	are to be provided, and the level of payments that are reasonable and appropriate for those services — s75(3) .	
NT	Costs reasonably incurred — s73 Return to Work Act 1986 .	Costs that are reasonable and necessary — s78	Costs that are reasonable and necessary — s78	Costs that are reasonable and necessary — s78	No monetary limit If less than 15% WP impaired – 12 months after 260 weeks cessation of weekly benefits – s61A If 15% or more WP impaired – no limit
ACT	Medical treatment reasonably received (s70 Workers' Compensation Act 1951)	Other costs reasonably required (s70(1)(c) Workers' Compensation Act 1951)	Other costs reasonably required (s70(1)(c) Workers' Compensation Act 1951)	Cost of alterations (s70(1)(b) Workers' Compensation Act 1951)	No limit except on repair or replacement of contact lenses, crutches, prosthesis, spectacles or other artificial aid or damage to clothing: Costs are as agreed with the insurer or \$794.82 indexed
C'wealth Comcare	Medical treatment at a cost appropriate to that treatment — s16, Safety, Rehabilitation and Compensation Act 1988 .	<p>Compensation is payable for attendant care services reasonably required — s29(1). This is generally from 28 days after the date of injury. If a catastrophic injury under s29A there is no monetary cap for attendant care services. s29(4) requires consideration of:</p> <ul style="list-style-type: none"> nature of injury and degree that injury impairs ability to provide for personal care extent to which any medical service or nursing care received provides for essential and regular personal care extent to which reasonable to meet any wish by the employee to live outside an institution extent to which attendant care services are necessary to enable the employee to undertake or continue employment any assessment made in relation to rehabilitation of the employee, or the extent to which a relative might reasonably be expected to provide attendant care services. <p>Compensation is not payable where an employee is residing in a nursing home or other similar place — s29(3). Comcare is liable to pay the lesser of \$552.12 (statutory rate updated 1 July) or an amount per week</p>	<p>Compensation is payable for household services reasonably required — s29(1). This is generally from 28 days after the date of injury. If a catastrophic injury under s29A there is no monetary cap for household services and is available within the first 28 days.</p> <p>s29(2) requires consideration of:</p> <ul style="list-style-type: none"> extent to which household services were provided by the employee before the injury and extent to which employee is able to provide those services after that date number of persons living with the employee as members of household, their ages and their need for household services extent to which household services were provided by the persons referred to in paragraph (b) before the injury extent to which the persons referred to in paragraph (b), or any other members of employee's family, might reasonably be expected to 	<p>Comcare is liable to pay compensation of such amount as is reasonable in respect of costs payable by the employee due to any alteration of the employee's place of residence or work, any modifications of a vehicle or article used or any aids/appliances for the use of the employee, or the repair or replacement of same — s39.</p>	<ul style="list-style-type: none"> No limits on medical and hospital costs, all appropriate costs payable — s16. Other costs — no limits.

Comparison report

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
		paid or payable by the employee for those services.	<p>provide household services for themselves and for the employee after the injury, or</p> <ul style="list-style-type: none"> the need to avoid substantial disruption to the employment or other activities of the persons referred to in paragraph (b). <p>Comcare is liable to pay not less than 50% of the amount paid or payable by the employee no more than \$552.12 (statutory rate updated 1 July).</p>		
C'wealth Seacare	Medical treatment at a cost appropriate to that treatment — s28 , Seafarers Rehabilitation and Compensation Act 1992.	<p>Compensation is payable for attendant care services reasonably required — s43(4). This service is generally not payable from 28 days after the date of injury. If a catastrophic injury under s43A there is no monetary cap for attendant care services. s43(5) requires consideration of:</p> <ul style="list-style-type: none"> nature of the injury and the degree to which that injury impairs the worker's ability to provide for their personal care extent to which any medical service or nursing service received by the employee provides for their essential and regular personal care extent to which it is reasonable to meet any wish by the employee to live outside an institution extent to which attendant care services are necessary to enable the employee to undertake or continue employment any assessment made in relation to the rehabilitation of the employee, and extent to which a relative of the employee might reasonably be expected to provide attendant care services. 	<p>Compensation is payable for household services reasonably required — s43(1). This is generally from 28 days after the date of injury. If a catastrophic injury under s43A there is no monetary cap for attendant care services. s43(3) requires consideration of:</p> <ul style="list-style-type: none"> extent to which household services were provided by the employee before the date of the injury and the extent to which he or she is able to provide those services after that date number of persons living with the employee as members of their household, their ages and need for household services extent to which household services were provided to the employee before the injury extent to which members of the household might reasonably be expected to provide household services for themselves and injured employee, and the need to avoid substantial disruption to the employment 	<p>s51</p> <p>Where an employee is undertaking, has undertaken or completed a rehabilitation program or is assessed as not capable of undertaking a program, the following are payable if reasonable:</p> <ul style="list-style-type: none"> costs of alteration of employee's residence or place of work modifications to a vehicle used by employee, and aids and appliances including repair or replacement. 	<p>Attendant care — \$552.12 per week</p> <p>Household help — \$552.12 per week, not less than 50% paid by employee, no more than \$552.12 per week (1 July 2023).</p> <p>Medical and hospital costs — no limits — appropriate costs — s28</p> <p>Other costs — no limits.</p>

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help or other activities of persons in the household.	Other costs (i.e. home modification)	Limits to benefits listed above
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA):</p> <p>For 'service related conditions': all reasonable costs but not more than the amount actually incurred (s288A, s288B, s288C & s288F).</p> <p>Where a person has suffered a serious impairment from a service injury or disease (s281 & s282): all reasonable costs for all medical conditions but not more than the amount actually incurred.</p> <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA)</p> <p>Medical treatment at a cost appropriate to that treatment — s16.</p>	<p>Liable to pay compensation for attendant care services reasonably required (MRCA s219 & DRCA s29(1))</p> <p>If a catastrophic injury under DRCA s29A and MRCA 219(2) there is no monetary cap for attendant care services.</p> <p>Without limiting the matters which can be considered when determining the reasonable requirements, the following matters are to be considered (MRCA s218 & DRCA s29(4)):</p> <ul style="list-style-type: none"> the nature of the person's injury or disease, the degree to which that injury or disease impairs the person's ability to provide for their personal care (MRCA only), the extent to which any medical service or nursing care received by the person provides for their essential and regular personal care, the extent to which the attendant care services are necessary to meet any reasonable wish by the person to live outside an institution, the extent to which attendant care services are necessary to enable the person to undertake or continue to undertake employment (including Defence service) (reference to Defence service in MRCA only) , any assessment made in relation to the rehabilitation of the person, the extent to which a relative of the person might reasonably be expected to provide attendant care services. Any other matter the Commission considers relevant (MRCA only) 	<p>Liable to pay compensation for household services reasonably required (MRCA s216 & DRCA s29(1)).</p> <p>If a catastrophic injury under DRCA s29A and MRCA 216(2) there is no monetary cap for household services.</p> <p>Without limiting the matters which can be considered when determining the reasonable requirements, the following matters need to be considered (MRCA s215 & DRCA s29(2)):</p> <ul style="list-style-type: none"> the extent to which household services were provided by the person before the service injury or disease, the extent to which he or she is able to provide those services after the service injury or disease, the number of other persons (household members) living with that person as members of their household, their ages and their needs for household services, the extent to which household services were provided by household members before the service injury or disease, the extent to which household members, or any other relatives of the person, might reasonably be expected to provide household services for themselves and for the person after the service injury or disease, the need to avoid substantial disruption to the work or other 	<p>Reasonable costs incurred in relation to purchase, loss of, or damage to, medical or rehabilitation aids or appliances (MRCA s226 & s56, DRCA s39).</p> <p>Alterations to a person's place of residence, education, work or service (MRCA s56 DRCA s39).</p> <p>Reasonable costs of a vehicle's modification (MRCA s212 and Motor Vehicle Compensation Scheme & DRCA s39).</p> <p>Reasonable costs of a vehicle's purchase in some circumstances (MRCA s212 and Motor Vehicle Compensation Scheme and DRCA s39(e)).</p> <p>Subsidy for purchase and modification of a vehicle and running and maintenance allowance through the Vehicle Assistance Scheme (VEA volume 3, part IV – allowances and benefits) s105 and Vehicle Assistance Scheme Instrument.</p>	<p>No limits on medical and hospital costs, all appropriate cost payable (DRCA s16 & MRCA Part 4).</p> <p>No limit on attendant care services or household services reasonably required if deemed to have a catastrophic injury.</p> <p>Satisfying the definition of catastrophic injury is not, however, a guarantee that individuals will receive higher levels of household and attendant care services. Those services will be provided on a needs basis subject to an assessment of individual circumstances.</p> <p>DRCA definition Safety Rehabilitation and Compensation (Defence-related Claims) (Catastrophic Injury) Rules 2018</p> <p>MRCA definition: Military Rehabilitation and Compensation (Catastrophic Injury or Disease Determination 2018</p> <p>Otherwise the following limits apply:</p> <p>MRCA</p> <ul style="list-style-type: none"> Attendant care — \$573.61 per week Household services — \$573.61 per week. <p>DRCA</p> <p>Not less than 50% of the amount paid or payable by the employee and no more than the maximum rate (s29)</p> <ul style="list-style-type: none"> Attendant care — \$552.12 per week Household services — \$552.12 per week <p>Vehicle Assistance Scheme</p> <p>Maximum Initial vehicle grant \$39,810.00. Can be more if Commission is satisfied provision of a more expensive vehicle is necessary because of accepted condition.</p>

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
			activities of the household members, <ul style="list-style-type: none"> Any other matter the Commission considers relevant (MRCA only). 		Maximum Replacement vehicle grant \$19,905. Can be more if Commission is satisfied provision of a more expensive vehicle is necessary because of accepted condition. Running and maintenance allowance 26 x recreation transport allowance
New Zealand	<p>Schedule 1, Part 1, s1, Accident Compensation Act 2001. The Corporation is liable to pay or contribute to the cost of the claimant' treatment for personal injury for which the claimant has cover if clause 2 applies,-</p> <p>(a) to the extent required or permitted under an agreement or contract with any person for the provision of treatment; or</p> <p>(b) if no such agreement or contract applies, to the extent required or permitted by regulations made under this Act; or</p> <p>(c) if paragraphs (a) and (b) do not apply, the cost of the treatment.</p>	<p>In deciding whether to provide or contribute to the cost of attendant care, the Corporation must have regard to:</p> <ul style="list-style-type: none"> any rehabilitation outcome that would be achieved by providing it the nature and extent of the claimant's personal injury and the degree to which that injury impairs their ability to provide for their personal care the extent to which attendant care is necessary to enable the claimant to undertake or continue employment (including agreed vocational training) or to attend a place of education, having regard to any entitlement the claimant has to education support the extent to which household family members or other family members might reasonably be expected to provide attendant care for the claimant after the claimant's personal injury the extent to which attendant care is required to give household family members a break, from time to time, from providing attendant care for the claimant, and the need to avoid substantial disruption to the employment or other activities of household family members — Schedule 1, cl(14). 	<p>Reimbursements: Schedule 1, Part 1, 17 Home help (1) In deciding whether to provide or contribute to the cost of home help, the Corporation must have regard to:</p> <ul style="list-style-type: none"> any rehabilitation outcome that would be achieved by providing it, and the extent to which a claimant undertook domestic activities before the claimant's personal injury and the extent to which he or she is able to undertake domestic activities after their injury, and the number of household family members and their need for home help, and the extent to which domestic activities were done by other household family members before the claimant's personal injury, and the extent to which other household family members or other family members might reasonably be expected to do domestic activities for themselves and for the claimant after the claimant's personal injury, and the need to avoid substantial disruption to the employment or other activities of the household family members, and the impact of the claimant's personal injury on the 	<p>Social rehabilitation' includes:</p> <ul style="list-style-type: none"> aids and appliances child care educational support home modifications training for independence, and transport for independence (including vehicle purchasing and modifications). <p>All assistance must be provided to meet an assessed, injury-based need. ACC is only responsible for providing the level of assistance required to achieve the planned rehabilitation outcome.</p>	Noted in first column

	Medical and hospital benefits	Attendant care (at home or in supported accommodation)	Home help	Other costs (i.e. home modification)	Limits to benefits listed above
			<p>contribution of other family members to domestic activities. Calculation: All assistance must be provided to meet an assessed, injury-based need. ACC is only responsible for providing the level of assistance required to achieve the planned rehabilitation outcome.</p> <p>Limits: The Corporation is not required to pay for home help to the extent that home help continues to be provided after a claimant's injury by a person:</p> <ul style="list-style-type: none"> • who lives in the claimant's home or lived in the claimant's home immediately before the claimant suffered their injury, and • who provided home help before the claimant suffered their injury. 		

Table 5.3: Permanent impairment payments

Benefit type	Maximum amount (current)	Indexation mechanism	Additional benefits conditional to meeting a prescribed degree of impairment	Weekly benefits still payable?	
NSW	<p>For claims made (except claims made by exempt workers), on and after 19 June 2012:</p> <ul style="list-style-type: none"> Permanent impairment compensation (s66, Workers Compensation Act 1987) Exempt workers, including police officers, paramedics and fire fighters, workers injured while working in or about a coal mine and bush fire fighter and emergency service volunteers: Permanent impairment compensation (s66, 1987 Act). 	<p>Date of injury on or from 5th August 2015 - maximum amount payable for permanent impairment is \$713,660 (plus additional 5% for back impairment).</p> <p>Date of injury prior to 5th August 2015 and exempt workers - maximum amount payable for permanent impairment is \$220,000 (plus additional 5% for back impairment).</p> <p>Payments for pain and suffering under s 67 of the 1987 Act are no longer available (except for exempt workers)</p> <p>Exempt workers have access to 'pain and suffering' payments under s 67 of the 1987 Act 10% or more whole person impairment is reached. However, for permanent impairment for psychiatric and psychological injury there is a 15% threshold. The maximum amount payable for pain and suffering is \$50,000.</p>	<p>CPI all groups (Sydney). Adjusted 1 July. Only applies to permanent impairment claims for date of injury on or from 5th August 2015. Also excludes exempt workers.</p> <p>No indexing applies to all other permanent impairment claims.</p>	<p>Thresholds for claims for:</p> <ul style="list-style-type: none"> >10% permanent impairment for lump sum compensation for physical injury except for exempt workers where the threshold is >0% 15% or greater for primary psychological injury (for all claims) Work Injury Damages 15% permanent impairment Commutation 15% permanent impairment >10% and >20% compensation periods for medical benefits, and >20% access to weekly payments past 130 weeks. > 30% minimum weekly payment amount. 	Weekly payments, medical and related expenses are still payable
Vic	Combined	\$713,780 — s 217 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> .	CPI (Melbourne). Adjusted 1 July	See section on common law at Table 5.6	Weekly payments and medical and like expenses are still payable: s 160 and s 224 .
Qld	<ul style="list-style-type: none"> Standard Additional 30% or greater DPI (s192(2)) Gratuitous care (s193(6)) Additional particular workers (s193A(2)) Latent onset (s128B), Workers' Compensation and Rehabilitation Act 2003. 	<ul style="list-style-type: none"> 216.15 times QOTE (standard) 216.15 times QOTE (additional — s192(2)) 244.86 times QOTE (Gratuitous care) \$36,190 (additional — s193A(2)) 453.92 times QOTE (Latent onset) 	Queensland Ordinary Time Earnings (QOTE). Adjusted 1 July.	<p>If 30% or more DPI: up to 216.15 times QOTE additional lump sum compensation, payable according to a graduated scale prescribed by regulation (s192).</p> <p>If a worker sustains an injury that results in a DPI of 15% or more and a moderate to total level of dependency on day to day care for the fundamental activities of daily living, the worker is entitled to additional lump sum compensation of up to 244.86 times</p>	All other payments cease

Benefit type	Maximum amount (current)	Indexation mechanism	Additional benefits conditional to meeting a prescribed degree of impairment	Weekly benefits still payable?	
			<p>QOTE, payable according to a graduated scale prescribed by regulation, but only if:</p> <ul style="list-style-type: none"> day to day care for the fundamental activities of daily living is to be provided at the worker's home on a voluntary basis by another person the worker resides at home on a permanent basis the level of care required was not provided to the worker before the worker sustained the impairment, and the worker physically demonstrates the level of dependency (s193) <p>If a worker sustained an injury on or after 15 October 2013 and before 31 January 2015, and if:</p> <ul style="list-style-type: none"> the worker's injury: results in a DPI of 5% or less; and is not a terminal condition; and the worker has not accepted or rejected an offer of lump sum compensation from an insurer under s189; and <p>subject to the conditions prescribed by regulation (s193A), the worker is entitled to additional lump sum compensation up to \$36,190.</p>		
WA	Lump sum for single or multiple impairments, <i>Workers' Compensation and Injury Management Act 1981</i> .	\$252,724 for Schedule 2 impairments	<p>Indexation occurs annually using the Australian Bureau of Statistics (ABS) Wage Price Index ordinary time hourly rates of pay (excluding bonuses) for Western Australia, varied between the second last December quarter before the financial year commenced, and the last December quarter before the financial year commenced.</p>	<p>Common law: not less than 15% WPI (limited damages) and not less than 25% WPI (unlimited damages)</p> <p>Specialised retraining programs: Not less than 10% WPI but less than 15% WPI (also need to satisfy criteria determined by WorkCover)</p> <p>Payment of additional expenses: (Schedule 1, Clause 18A of up to</p>	<p>Weekly payments cease once a memorandum of agreement is registered pursuant to s76 of the Act.</p> <p>Publications / Guidance : Workers' Compensation and Injury Management: A Guide for Workers. Medical Expenses / Exceptional Circumstances Medical Payments.</p>

Benefit type	Maximum amount (current)	Indexation mechanism	Additional benefits conditional to meeting a prescribed degree of impairment	Weekly benefits still payable?	
		Changes in indexed rates are effective from 1 July each year.	\$250,000). Not less than 15% WPI (Arbitrator is also to have regard to the social and financial circumstances and the reasonable financial needs of the injured worker).	Indexation of Workers' Compensation Payments Settlements.	
SA	<p>There are 2 lump sum payments available:</p> <ul style="list-style-type: none"> Non-economic loss (threshold is minimum 5% WPI) Economic loss (only applies where minimum of 5% and maximum of 34% WPI, as workers with WPI >35% - physical injury and >30% psychiatric injury are entitled to income support until retirement age). <p>See ss55-58, Return to Work Act 2014.</p>	<p>\$585,336 (non-economic loss) \$539,281 (economic loss) See Schedule of Sums</p>	Adjusted on 1 January each year by multiplying the amount by a proportion obtained by dividing the Consumer Price Index for the September quarter of the immediately preceding year by the Consumer Price Index for the September quarter, (with the amount so adjusted being rounded up to the nearest dollar) — s28 .	30% WPI required for access to common law damages (s72)	Payment of non-economic loss lump sum does not impact on any other entitlements
Tas	Lump Sum	\$417,394.55	415 x basic salary. The basic salary is adjusted on 1 January each year taking into account the variation in the average weekly ordinary full-time earnings of adults in Tasmania from May of the preceding year and May in the year before that — s3(1)	Threshold requirement of not less than 20% WPI for access to common law damages (s138AB), Workers Rehabilitation and Compensation Act 1988.	Entitlement to weekly benefits and medical costs is not affected except where payment of impairment benefit is a component of a claim settlement (s71)
NT	Lump sum for single or multiple impairments	<p>\$355,742.40 (208 times AWE) — s71 For injuries prior to 15 October 1991, maximum \$177,871.20 (104 times AWE)</p>	208 times the full-time adult person's Weekly Ordinary Time Earnings for the Northern Territory last published by the Australian Statistician before 1 January annually. Adjustments occur annually on 1 January.	N/A	Payment of Permanent Impairment (PI) does not impact on any other entitlements
ACT	Single or multiple impairments	<p>\$174,369 single loss amount (\$100,000 CPI indexed) — s49 \$261,554 multiple loss amount (\$150,000 CPI indexed) — s50</p>	CPI (Canberra). Adjusted quarterly in line with CPI indexed variations	—	Payment of PI does not impact on any other entitlements

	Benefit type	Maximum amount (current)	Indexation mechanism	Additional benefits conditional to meeting a prescribed degree of impairment	Weekly benefits still payable?
C'wealth Comcare	Economic Non-Economic	\$220,861.39 (Economic) — s24(9) \$82,823.06 (Non-economic) — s27(2)	CPI. Adjusted 1 July 2023	N/A	Payment of PI does not impact on any other entitlements under the Safety, Rehabilitation and Compensation Act 1988.
C'wealth Seacare	Economic Non-Economic	\$220,861.39 (Economic) — s39(9) \$82,823.06 (Non-economic) — s41(2)	CPI. Adjusted 1 July 2023	N/A	Payment of PI does not impact on any other entitlements under the Seafarers Rehabilitation and Compensation Act 1992.
C'wealth DVA	MRCA — Combined payment based on whole person impairment. DRCA — Individual payments available for each eligible injury for both Permanent Impairment Compensation and Non-Economic Loss.	MRCA \$405.11 per week or equivalent age-based lump sum up to maximum \$544,305.80 (s74 & s78). DRCA \$220,861.39 (Permanent Impairment s24 & s25) \$82,823.06 (Non-Economic Loss s27)	CPI. Adjusted 1 July — MRCA s404 . CPI. Adjusted 1 July DRCA s13 .	Additional lump sum of \$104,291.61 to an impaired person who suffers 80 or more impairment points for each eligible dependant — MRCA s80 Education scheme benefits equivalent to Youth Allowance paid for each dependent eligible young person, if the impaired person suffers 80 or more impairment points - MRCA s258 MRCA Supplement maximum of \$13.60 per fortnight paid if the person suffers impairment of 80 or more points — MRCA s223 . Energy Supplement may also be payable. Free medical treatment for all conditions (compensable or otherwise) if the person suffers impairment of 60 or more points from compensable conditions — MRCA s281 Maximum \$3,076.16 for financial and legal advice compensation if the person suffers impairment of 50 or more points — MRCA s82 The Severe Injury Adjustment (SIA) is an additional lump sum payable under the Defence Act 1903; the payment is administered by DVA. \$94,404.35 is the amount payable in accordance with the Defence Determination 2016/19 for the severely	Payment of PI can impact on the payment of Special Rate Disability Pension — MRCA s204 Payment of the DRCA PI lump sums can impact the payment of disability pensions under s25A the Veterans' Entitlements Act 1986 (VEA). The SIA is not offset against disability pensions payable under the VEA.

Benefit type	Maximum amount (current)	Indexation mechanism	Additional benefits conditional to meeting a prescribed degree of impairment	Weekly benefits still payable?
			<p>injured who suffer specific injuries resulting in no less than 80% WPI in the assessment of DRCA eligibility for permanent impairment compensation. The calculation of the SIA payable is the total amount of permanent impairment lump sum payable (economic + non-economic) under DRCA plus the SIA amount (indexed) less the maximum total amount of DRCA compensation payable with respect of the injury.</p> <p>An additional lump sum payment of \$100,143.27 is also payable for each dependent child if the client meets the criteria and is in receipt of the SIA.</p> <p>Maximum \$1,990.52 for financial advice compensation for a person in receipt of the SIA.</p> <p>DRCA supplement \$6.80 per fortnight paid if the person is issued with a treatment card under DRCA..</p>	
New Zealand	Non-Economic	Maximum \$\$166,487.44 Lump Sum payment	Adjusted 1 July	<p>N/A</p> <p>Injury prior to 1 April 2002, an independence allowance may be payable if impairment > 10% WPI</p> <p>The independence allowance can be capitalised for periods of 5 years</p> <p>Receipt of weekly compensation is not affected by a lump sum, or an independence allowance.</p>

Table 5.4: Death entitlements

	Lump sum	Periodic payments	Other payments
NSW	\$901,600 — s25 , Workers Compensation Act 1987 (indexed on 1 April and 1 October each year)	\$161.40 a week to each dependent child — s25(1)(b) , 1987 Act (indexed on 1 April and 1 October each year)	Funeral expenses \$15,000 maximum — s26 , 1987 Act. Cost of transporting the body — s28 , 1987 Act An additional amount for the management of the lump sum death benefit (applicable from 16 December 2022), where the child's share of the lump sum death benefit is managed by the NSW Trustee and Guardian. [Does not apply to Workers Compensation (Dust Diseases) Act 1942 and volunteers under the Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987]
Vic	\$713,780 — s236 & s237 , Workplace Injury Rehabilitation and Compensation Act 2013	Dependant partner — determined by average pre-injury earnings (PIAWE) subject to statutory maximum — s241 : <ul style="list-style-type: none"> • First 13 weeks: • 95% of earnings • \$2,660 max • 14 weeks — 3 years: • 50% of earnings • \$2,660 max • A range of payments for dependent children depending on the particular circumstances of the child 	Reasonable funeral expenses, not exceeding \$15,230 — s224 Counselling for family members, max. total \$7,550 — s224
Qld	404.87 times QOTE 10.83 times QOTE for a totally dependent spouse — s200(2)(aa) , and 21.64 times QOTE for each dependant family member other than the spouse, under 16 or a student — s200(2)(b) , Workers' Compensation and Rehabilitation Act 2003	Weekly payment of 8% of QOTE for the spouse if there is a dependant family member under 6 — s200(2)(ab) , and weekly payment of 10% of QOTE for each dependant under 16 or a student s200(2)(c)	Reasonable funeral expenses — s199 , Chapter 3 Part 11
WA	\$631,810 (subject to Wage Price Index (WPI)) Schedule 1A(7) <i>Workers' Compensation and Injury Management Act 1981</i> (indexed 1 July each year)	A child's allowance of \$149 per week (subject to LPI) for each dependant child up to age 16 or 21 if a student, whichever an arbitrator determines as likely to be in the best interests of that dependant. (indexed 1 July each year)	Reasonable funeral expenses: not exceeding \$11,739 subject to CPI — Schedule 1(17) (indexed 1 July each year)
SA	\$585,336	Dependant domestic partner: weekly payments equal to 50% (less if partially dependant spouse) of the amount of the NWE of the deceased worker — s59(1)(a) Dependant orphaned child: weekly payments equal to 25% (less if partially dependant child) of the amount of the NWE of the deceased worker — s59(1)(b)	Funeral expenses capped at a prescribed amount: \$11,114 — s62

Comparison report

	Lump sum	Periodic payments	Other payments
		<p>Dependant non-orphaned child: weekly payments equal to 12.5% (less if partially dependant child) of the amount of the NWE of the deceased worker — s59(1)(c)</p> <p>Dependant relative: may be eligible for weekly payments if ReturnToWorkSA determines they are eligible in their particular circumstances — s59(1)(d).</p>	
Tas	<p>Maximum payment is currently \$417,394.55 (415 units, where units means the amount represented by the basic salary). The basic salary is currently \$1,005.77. — s67</p>	<p>A dependant spouse or caring partner is entitled to weekly payments for a period of 2 years from the date of death calculated at the same rate as the deceased would have received if he/she became totally incapacitated:</p> <ul style="list-style-type: none"> • first 26 weeks following the date of death: 100% of weekly payments • >26 weeks, up to 78 weeks: 90% of weekly payments, and • >78 weeks, up to 2 years from the date of death: 80% of weekly payments. <p>A dependant child is entitled to weekly payments paid at 15% of the basic salary (\$143.13), commencing on the expiration of 13 weeks after the date of death — s67A</p>	<p>Reasonable expenses of the worker's burial or cremation not exceeding \$9,500 — s75(1)(b)(i) and Regulation 21</p> <p>Reasonable costs of counselling services provided to members of the family by counselling professionals, up to \$4,000 — s75(1)(b)(ii) and Regulation 21</p>
NT	<p>\$622,549.20 (364 times AWE) — s62</p> <p>For injuries prior to 1 July 2015 that result in death, \$444,678.00 (260 times AWE)</p> <p>In prescribed proportions (share with children), or such proportions as the Court determines — s62(1) Return to Work Act 1986</p>	<p>10% of average weekly earnings (\$171.03 for each child under 16 or 21 if student), for up to 10 children — s63</p> <p>Limited to 100% of average weekly earnings (\$1,710.30) per week</p>	<p>Maximum: 20% of the annual equivalent of average weekly earnings (\$17,787.12) for funeral costs — s62(1)(a)</p> <p>Reasonable cost of counselling services & financial advice for dependants — s62(1)(c).</p>
ACT	<p>\$617,131 lump sum to be divided between dependants (WPI indexed) — s77(2)(a), Workers Compensation Act 1951</p>	<p>\$169.72 per child, WPI indexed — s77(2)(b)</p>	<p>\$14,062.53 CPI indexed for funeral expenses — s77(2)(c)</p>
C'wealth Comcare	<p>\$617,130.59 — s17(3) and s17(4), Safety, Rehabilitation and Compensation Act 1988</p>	<p>\$169.72 p/w to each child under 16 (or 25 if full-time student) — s17(5)</p>	<p>Reasonable funeral expenses, not exceeding \$14,062.53 — s18(4)</p>
C'wealth Seacare	<p>\$617,130.59 — s29(3) and s29(4), Seafarers Rehabilitation and Compensation Act 1992</p>	<p>\$169.72 per week to each child under 16 (or 25 if full-time student) — s29(5)</p>	<p>Reasonable funeral expenses, not exceeding \$7,647.52 — s30(2)</p>
C'wealth DVA	<p>MRCA:</p> <ul style="list-style-type: none"> • \$501.25 per week for partner, or equivalent age based lump sum — s234. • \$173,819.34 (age-based maximum additional amount for partner where a service death as defined) — s234. • \$104,291.61 (maximum amount for each 'other dependant') to a maximum of \$330,256.75 for all 'other dependants' — s263 	<p>MRCA:</p> <ul style="list-style-type: none"> • \$173.46 a week to each dependent child under 16 (or to age 25 if full-time student) — s254 • \$6.80 Supplement per week to the partner — s247. Energy Supplement may also be payable • Bereavement payments for a limited time where deceased was in receipt of periodical compensation payments — s243 & s256 <p>DRCA:</p>	<ul style="list-style-type: none"> • Reasonable funeral expenses, not exceeding \$14,062.53 — MRCA s267 & DRCA 18(2) <p>MRCA:</p> <ul style="list-style-type: none"> • Medical treatment for partner and each dependent child — s284302 • \$3,076.16 financial and legal advice for partner — s240 • Children's education expenses allowance — s258.

Comparison report

	Lump sum	Periodic payments	Other payments
	<ul style="list-style-type: none"> \$104,291.61 for each dependent child — s252 DRCA: <ul style="list-style-type: none"> \$617,130.59 (maximum amount) s17(3); s17(4) \$68,132.07 additional death benefit lump sum for spouse Defence Act 1903 s58B \$100,143.27 for each dependent child — Defence Act 1903 s58B 	<ul style="list-style-type: none"> \$169.72 per week for each dependent child s17(5) 	DRCA: <ul style="list-style-type: none"> \$1,990.52 financial advice limit — Defence Act 1903 s58B
New Zealand	Spouse: NZ\$8,032.33 Other dependant (certain criteria): NZ \$4,016.18	Spouse: 60% of the long-term rate of weekly compensation that the earner would have received Each child and other dependant: 20% of the weekly compensation If total entitlement exceeds 100%, individual entitlements are reduced on a pro rata basis	Funeral grant: NZ\$7,491.95 Child care payments: NZ\$170.80 per week for a single child, NZ\$102.48 each if there are 2 children, and a total of NZ\$293.13 for 3 or more children

Table 5.5: Definitions of dependants/spouse for death benefits

Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information
NSW	<p>s25 <i>Workers Compensation Act 1987</i> — dependants: If there are no dependants the lump sum death benefit is paid to the worker’s legal personal representative.</p>	<p>1998 Act, s4: ‘dependants’ of a worker means such of the members of the worker’s family as were wholly or in part dependant for support on the worker at the time of the worker’s death, or would but for the incapacity due to the injury have been so dependant, and includes:</p> <ol style="list-style-type: none"> 1. a person so dependant to whom the worker stands in the place of a parent or a person so dependant who stands in the place of a parent to the worker, and 2. a divorced spouse of the worker so dependant, and 3. a person so dependant who: <ol style="list-style-type: none"> a. in relation to an injury received before the commencement of Schedule 7 to the Workers’ Compensation Legislation Amendment (Dust Diseases and Other Matters) Act 1998 — although not legally married to the worker, lived with the worker as the worker’s husband or wife on a permanent and genuine domestic basis, or b. in relation to an injury received after that commencement — is the de facto partner of the worker. Note: ‘De facto partner’ is defined in s21C of the Interpretation Act 1987 (NSW). <p>1987 Act, s25(5): ‘in this section:</p> <ul style="list-style-type: none"> • ‘child of the worker’ means a child or stepchild of the worker and includes a person to whom the worker stood in the place of a parent. • ‘dependant child of the worker’ means a child of the worker who was wholly or partly dependant for support on the worker. • ‘student’ means a person receiving full-time education at a school, college or university. • Workers’ Compensation (Dust Diseases) Act 1942, s8(2B)(a) — persons dependant for support upon a worker ‘...immediately before the worker’s death, being the following and no other person or persons: <ul style="list-style-type: none"> • a prescribed relative of the worker, or • a surviving spouse and a child or children of the worker’. 	<p>Broad definition of ‘dependant’ — encompasses same sex relationships.</p> <p>The compensation payable to each dependant of a deceased worker may be apportioned by the Workers’ Compensation Commission or by the NSW Trustee – s29 1987 Act</p>
Vic	<p>Dependants</p>	<p>s3, <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — ‘dependant’ means a person who:</p> <ol style="list-style-type: none"> 1. at the time of the death of a worker was wholly, mainly or partly dependant on the earnings of the worker, or 1. would but for the incapacity of a worker due to the injury have been wholly, mainly or partly dependant on the earnings of the worker 	<p>Yes</p> <p>s234: Revised compensation for death of worker</p> <p>Includes definitions: ‘partially dependant partner’ means a partner who is to any extent dependant on the worker’s earnings,</p> <p>s3 — ‘member of a family’ means the partner, father, mother, grandfather, grandmother, stepfather, step-mother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister of the person and any person who stands in the place of a parent in relation to the person.</p>

	Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information
		<p>a. s3 — 'spouse' of a person means a person to whom that person is married.</p> <p>b. s3: 'partner' of a worker means:</p> <p>c. in relation to a worker who died before the commencement of s4 Statute Law Amendment (Relationships) Act 2001 —</p> <p>2. the worker's spouse at the time of the worker's death; or</p> <p>a. a person of the opposite sex who, though not married to the worker, lived with the worker at the time of the worker's death on a permanent and bona fide domestic basis;</p> <p>b. b) in relation to a worker who dies on or after that commencement — the workers' spouse or domestic partner at the time of the worker's death.</p> <p>s3 — 'domestic partner' of a person means:</p> <p>1. a person who is in a registered domestic relationship, or</p> <p>2. a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender).</p>	<p>'dependant partner' means a partner wholly or mainly dependant on the worker's earnings.</p>	
Qld	Chapter 3 part 11: dependant – Workers' Compensation and Rehabilitation Act 2003.	<p>s27 — Meaning of dependant — A dependant, of a deceased worker, is a member of the deceased worker's family who was completely or partly dependant on the worker's earnings at the time of the worker's death or, but for the worker's death, would have been so dependant.</p> <p>s29 — Who is the spouse of a deceased worker:</p> <p>The spouse, of a deceased worker, includes the worker's de facto partner only if the worker and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of s32DA Acts Interpretation Act 1954:</p> <p>generally —</p> <p>i. for a continuous period of at least 2 years ending on the worker's death; or</p> <p>ii. for a shorter period ending on the deceased's death, if the circumstances of the de facto relationship of the deceased and the de facto partner evidenced a clear intention that the relationship be a long term, committed relationship, or</p> <p>if the deceased left a dependant who is a child of the relationship — immediately before the worker's death.</p>	Under the Acts Interpretation Act 1954, 'spouse' includes a de facto partner or civil partner. For either de facto partner or civil partner, the gender of the person is not relevant.	<p>s28 — Meaning of member of the family — A person is a member of the family of a deceased worker, if the person is —</p> <p>1. the worker's: spouse, or</p> <p>a. parent, grandparent and stepparent, or</p> <p>b. child, grandchild and stepchild, or</p> <p>c. brother, sister, half-brother and half-sister, or</p> <p>2. if the worker stands in the place of a parent to another person — the other person, or</p> <p>3. if another person stands in the place of a parent to the deceased worker — the other person.</p>
WA	s5 , Workers' Compensation and Injury Management Act 1981 — 'dependants' means such members of the worker's family as were wholly	s5 — 'member of a family' means spouse, de facto partner, parent, grandparent, step-parent; any person who stands in the place of a parent to another person and also that other person, son, daughter, ex-nuptial son, ex-nuptial daughter, grandson, grand-daughter, step-son, step-daughter (whether the step-son or step-daughter is legally	No specific reference is provided with regard to same sex relationships. However, same sex de facto relationships have been recognised in WA law since 2002. The Interpretation Act 1984	N/A

Comparison report

	Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information
	<p>or in part dependent upon the earnings of the worker at the time of his death, or would, but for the injury, have been so dependant.</p>	<p>adopted by the worker or not), brother, sister, half-brother, half-sister; and with respect to an ex-nuptial worker includes the workers' parents, and his brothers and sisters, whether legitimate or ex-nuptial, who have at least one parent in common with the worker.</p> <p>s5 — 'de facto partner' a person who, immediately before the death of the worker, was living in a de facto relationship with the worker and had been living on that basis with that worker for at least the previous 2 years; and</p> <p>any former de facto partner of the worker if the worker was legally obliged immediately before the death of the worker to make provision for that former de facto partner with respect to financial matters.</p> <p>s5 — 'spouse' includes any former spouse of the worker if the worker was legally obliged immediately before the death of the worker to make provision for that former spouse with respect to financial matters.</p>	<p>s13A(3)(a) — states, with regard to references to de facto relationships and de facto partners, that 'It does not matter whether the persons are different sexes or the same sex.'</p>	
SA	<p>s59 — Dependent spouse, domestic partner, dependent child, dependent relative.</p>	<p>S 4 includes definitions of spouse and child for the purposes of applicability of death benefits. A spouse includes legally married couples and domestic partner of a worker if he or she lives with the worker in a close personal relationship and the person:</p> <p>has been so living with the worker continuously for the preceding period of 3 years, or</p> <p>has during the preceding period of 4 years so lived with the worker for periods aggregating not less than 3 years, or</p> <p>has been living with the worker for a substantial part of a period referred to in subparagraph (i) or (ii) and the Corporation considers that it is fair and reasonable that the person be regarded as the domestic partner of the worker for the purposes of this Act, or</p> <p>'Child', in relation to a deceased worker, includes a person in relation to whom the worker stood, at the date of death, in loco parentis And under s61(1)a in relation to lump sums, child means a person who:</p> <ul style="list-style-type: none"> • is under the age of 18; or • is a full-time student at an educational institution approved by the Corporation for the purposes of this paragraph and • is under the age of 26 years; or is, by reason of physical or mental injury, incapable of earning a living 	<p>Not explicitly referenced, however is included within the broader definition of a domestic partner — s4</p>	<p>s4 — Dependant, in relation to a deceased worker, means a relative of the worker who, at the time of the worker's death:</p> <ol style="list-style-type: none"> 4. was wholly or partially dependant for the ordinary necessities of life on earnings of the worker, or 5. would, but for the worker's injury, have been so dependent, and includes a posthumous child of the worker, and dependant has a corresponding meaning
Tas	<p>Wholly or partially dependant spouse/caring partner</p> <p>Where there is no dependant spouse or caring partner, a wholly or partially dependant child/children. —</p>	<p>'caring partner', in relation to a person, means: a) the person who is in a caring relationship with that person which is the subject of a deed of relationship registered under Part 2 of the Relationships Act 2003, or b) the person who was, at the time of the death of the first-mentioned person, in a caring relationship with that person which</p>	<p>Yes, included in s67 as a result of the definitions of spouse and caring partner</p>	<p>'dependants' means such members of the family of the worker in relation to whom the term is used as: a) were dependent, wholly or in part, upon the earnings of that worker at the time of his</p>

	Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information
	<p>s67, Workers Rehabilitation and Compensation Act 1988</p>	<p>was the subject of a deed of relationship registered under Part 2 of the Relationships Act 2003.</p> <p>'spouse' includes the person with whom a person is, or was at the time of their death, in a significant relationship, within the meaning of the Relationships Act 2003. — s3</p> <p>'dependant caring partner' means a caring partner who is a dependant.</p> <p>'dependant spouse' means a spouse who is a dependant.</p> <p>'child' means a person who: (a) is under the age of 16 years, or (b) is 16 years or more, but less than 21 years and is a full time student.</p> <p>'dependant child' means a child who is a dependant. — s65.</p>		<p>death, or b) would have been so dependent but for the incapacity due to the injury.</p> <p>'member of the family', in relation to a worker, means: a) the spouse, caring partner, father, step-father, grandfather, mother, step-mother, grandmother, son, grandson, daughter, grand-daughter, step-son, step-daughter, brother, sister, half-brother, and half-sister of that worker, or b) a person to whom the worker stood in loco parentis.— s3</p>
<p>NT</p>	<p>s49 Return to Work Act 1986 – Dependant.</p> <p>For funeral benefit – person responsible for cost of funeral s62(1)(A)</p>	<p>Dependant, in relation to a worker, means:</p> <ul style="list-style-type: none"> • a spouse or other member of the worker's family • a person to whom the worker stood in loco parentis or who stood in loco parentis to the worker • a grandchild of the worker. <p>who was wholly or in part dependant on their earnings at the date of their death or who would but for the worker's incapacity due to the injury resulting in their death, have been so dependant</p>	<p>Not explicitly referenced, however is included within the broader definition of a de facto partner pursuant to the De Facto Relationships Act – 3A</p>	<p>Spouse, in relation to a person, includes a de facto partner of the person – s49</p> <p>Interpretation Act s19A(3) - In any Act, de facto partner and de facto relationship have the meanings in s3 of the De Facto Relationships Act</p> <p>'Prescribed child' means a child of the deceased worker, or child in relation to whom the deceased worker stood in loco parentis, and who:</p> <ul style="list-style-type: none"> • has not attained the age of 16 years; or • having attained that age but not having attained the age of 21 years, is a full-time student or is physically or mentally handicapped, other than such a child who is the spouse of another person. • 'Family', in relation to an Aboriginal or Torres Strait Islander, includes all persons who are members of the person's family according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which the person identifies
<p>ACT</p>	<p>s77(2) Workers Compensation Act 1951 — Dependants</p> <p>If the worker did not have dependants, the personal representative of the worker is entitled to a maximum of \$14,062.53 (\$11 828.87 cpi indexed) for the funeral expenses of the worker. s77</p>	<p>Dictionary: dependant of a dead worker, means an individual:</p> <ul style="list-style-type: none"> • who was totally or partly dependant on the worker's earnings on the day of the worker's death or who would, apart from the worker's incapacity because of the injury, have been so dependant, and • who was: <ul style="list-style-type: none"> ○ a member of the worker's family, or 	<p>Yes</p> <p>The definition does not limit the meaning of dependant to a heterosexual relationship</p>	<p>Dictionary: member of the family, in relation to a worker or an employer, means the grandchild, child, stepchild, adopted child, sister, brother, half-sister, half-brother, domestic partner, parent, step-parent, mother-in-law, father-in-law or grandparent of the worker or employer.</p> <p>Note: For the meaning of domestic partner, see s169 of the Legislation Act 2001. If a worker has</p>

Comparison report

Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information	
		<ul style="list-style-type: none"> o a person to whom the worker acted in place of a parent or who acted in place of a parent for the worker. 	<p>died, the definition of domestic partner elsewhere in the dictionary provides that the term refers to the person who was the worker's domestic partner when the worker died.</p> <p>Dictionary: domestic partner, of a worker who has died, means the person who was the worker's domestic partner when the worker died.</p> <p>Note: This definition qualifies the meaning of domestic partner given by s169 of the Legislation Act 2001.</p>	
C'wealth Comcare	<p>s17 <i>Safety, Rehabilitation and Compensation Act 1988</i> — Dependants</p>	<p>s4 — dependant, in relation to a deceased employee, means:</p> <ul style="list-style-type: none"> • the spouse, parent, step parent, father in law, mother in law, grandparent, child, stepchild, grandchild, sibling or half sibling of the employee, or a person in relation to whom the employee stood in the position of a parent or who stood in the position of a parent to the employee, being a person who was wholly or partly dependant on the employee at the date of the employee's death. <p>s4 — Spouse includes:</p> <ul style="list-style-type: none"> • in relation to an employee or a deceased employee — a person who is, or immediately before the employee's death was, a de facto partner of the employee, and • in relation to an employee or a deceased employee who is or was a member of the Aboriginal race of Australia or a descendant of indigenous inhabitants of the Torres Strait Islands — a person who is or was recognised as the employee's husband or wife by the custom prevailing in the tribe or group to which the employee belongs or belonged. 	<p>Yes</p> <p>The Same Sex Relationships (Equal Treatment in Commonwealth Laws-General Law Reform) Act 2008 commenced on and from 10 December 2008. It removed discrimination against same-sex couples, their dependants and their dependant children from a wide range of Commonwealth laws including the Safety, Rehabilitation and Compensation Act 1988</p>	<p>N/A</p>
C'wealth Seacare	<p>s29 <i>Seafarers Rehabilitation and Compensation Act 1992</i> — Dependants</p>	<p>s15(2) — For the purposes of this Act, a person who, immediately before the date of an employee's death, lived with the employee and was:</p> <ul style="list-style-type: none"> • the employee's spouse, or • a prescribed child of the employee, <p>is taken to be a person who was wholly dependent on the employee at that date.</p> <p>s3 — Spouse includes:</p> <ul style="list-style-type: none"> • in relation to an employee or a deceased employee — a person who is, or immediately before the employee's death was, a de facto partner of the employee, and • in relation to an employee or a deceased employee who is or was a member of the Aboriginal race of Australia or a 	<p>Yes</p> <p>The Same Sex Relationships (Equal Treatment in Commonwealth Laws-General Law reform) Act 2008 commenced on and from 10 December 2008. It removed discrimination against same-sex couples, their dependants and their dependant children from a wide range of Commonwealth laws including the Seafarers Rehabilitation and Compensation Act 1992.</p>	<p>N/A</p>

	Who is entitled to death benefits?	Definitions	Reference to same sex relationships	Other relevant information
		<p>descendant of indigenous inhabitants of the Torres Strait Islands — a person who is or was recognised as the employee's husband or wife by the custom prevailing in the tribe or group to which the employee belongs or belonged.</p>		
<p>C'wealth DVA</p>	<p>MRCA — dependant partner, dependant eligible young persons, and other dependants (s15, s233, s251 and s262).</p> <p>DRCA — dependant partner, child, and other eligible dependants (s17).</p>	<p>Dependant means: persons in the following list who are partly or wholly economically dependent on the member (deemed for partners and eligible young persons if living with member) — (DRCA s4 & MRCA s15):</p> <p>DRCA s4</p> <p>Persons from the following list who were wholly or partly economically dependent on the member:</p> <p>Spouse, parent, stepparent, father-in-law, mother-in-law, grandparent, child, stepchild, grandchild, sibling or half-sibling of the employee, or a person in relation to whom the employee stood in the position of a parent or who stood in the position of a parent to the employee.</p> <p>MRCA s15</p> <p>Persons from the above list, plus the member's partner's: father, mother, stepfather, stepmother, child, stepchild, grandfather, and grandmother.</p>	<p>Yes, partner includes a person who is legally married to the member (whether of the same sex or different sex to the member) and a person who is in a de facto relationship (whether of the same sex or different sex to the member) —</p> <p>MRCA s5; DRCA s4 as defined by s2CA & s2F of the Acts Interpretation Act 1901.</p>	<p>If the member is a member of the Aboriginal race of Australia or a descendant of Indigenous inhabitants of the Torres Strait Islands the person is recognised as the member's husband or wife by the custom prevailing in the tribe or group to which the member belongs. (s5 MRCA & s4 DRCA)</p>
<p>New Zealand</p>	<p>s69(e) <i>Accident Compensation Act 2001</i> — Spouse or partner, children and other dependants</p>	<p>s18 — Spouse (in relation to deceased claimant) means a person (person A) to whom the claimant is legally married. However, person A is not the spouse of a claimant if:</p> <ul style="list-style-type: none"> • person A and the claimant are living apart, and • the claimant is not contributing financially to person A's welfare. <p>s18A — Partner means a person (person A) with whom the claimant is in a civil union or a de facto relationship. However, person A is not the partner of a claimant if:</p> <ul style="list-style-type: none"> • person A and the claimant are living apart, and • the claimant is not contributing financially to person A's welfare. 	<p>No specific reference, however de facto partner is not defined, and civil unions in New Zealand are recognised in New Zealand for same sex couples.</p> <p>Same sex marriages are now recognised in New Zealand.</p>	<p>N/A</p>

Table 5.6: Common law provisions

	Access to common law against employer?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
NSW	<p>Yes (modified)</p> <p>Known as Work Injury Damages (WID)</p> <p>Dust disease sufferers can pursue common law damages against an employer, occupier and/or supplier in accordance with the Dust Diseases Tribunal Act 1987 and also continue to receive their statutory benefits under the Workers' Compensation (Dust Diseases) Act 1942</p> <p>No damages for pure mental harm are available to relatives of an injured or deceased worker unless the relative is also a worker under the Act (s151AD Workers Compensation Act 1987)</p>	<p>Damages are paid as one lump sum to cover past and future economic loss of earnings only.</p> <p>The amount of weekly payments already paid must be repaid out of the money awarded</p> <p>Damages can be reduced if the worker's own negligence contributed to the injury — Part 5, Division 3, 1987 Act</p>	<p>To be eligible to make a claim for WID, 3 criteria must be met:</p> <ul style="list-style-type: none"> the work injury is a result of the negligence of the employer the worker must have at least a 15% permanent impairment, and claims for permanent impairment lump sum compensation must be made prior to or at the same time as the WID claim, and must be settled prior to a WID claim being finalised <p>A WID claim cannot be started for at least 6 months after the worker gave notice of the injury to the employer, or not more than 3 years after the date of injury — Part 5, Division 3, 1987 Act</p>	<p>No. If a common law claim is not successful, the worker will continue to receive workers' compensation under the statutory scheme</p>	<p>No</p>
Vic	<p>Yes (limited)</p> <p>Access to common law is for workers injured on or after 20 October 1999</p>	<p>Damages for pain and suffering and/or economic loss may be pursued. There are additional requirements to prove a permanent loss of 40% earning capacity to be able to pursue economic loss damages (s325) — Part 7 Division 2</p> <p>If pain and suffering damages are awarded the amount must be reduced by any lump sum impairment benefit paid — s347 Workplace Injury Rehabilitation and Compensation Act 2013</p>	<p>To obtain common law damages, a worker must first be granted a 'serious injury' certificate, either:</p> <ul style="list-style-type: none"> During the impairment assessment process, be assessed as having a WPI of 30% or more (can combine physical and mental impairments), or WorkSafe Victoria or the County Court determines that the worker has a 'serious injury' pursuant to the narrative test — Part 7 Division 5. <p>A worker has the option of having their WPI assessed first or by-passing the impairment assessment process and relying on the narrative test. Either way, the worker must make a serious injury application and have that application accepted or rejected by</p>	<p>N/A</p>	<p>Damages for pain and suffering must not be awarded if the amount is less than \$70,320 — s340</p> <p>Maximum amount for pain and suffering damages is \$713,780 — s340</p> <p>Damages for economic loss must not be awarded if the amount is less than \$72,820 — s340</p> <p>Maximum amount for economic loss damages is \$1,639,480 — s340.</p> <p>Amounts shown are as of 1 July 2021, indexed 1 July annually.</p>

Access to common law against employer?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
		<p>WorkSafe Victoria before they can proceed to the next step.</p> <p>If the worker's impairment assessment is under 30% and/or their serious injury application relying on the narrative test has been rejected, the worker has 30 days to issue County Court proceedings for a Judge to determine whether they have a 'serious injury' on the narrative test — s335.</p> <p>A worker can have a 'serious injury' that entitles them to pursue pain and suffering damages only and/or economic loss damages. To qualify for serious injury status for economic loss (if serious injury is determined under the narrative test) the worker must prove they have suffered and will continue to suffer a loss of earning capacity of 40% or more — s335.</p>		
Qld	Yes	<p>General damages based on ISV scale — s306Q Workers' Compensation and Rehabilitation Act 2003</p> <p>Economic loss (capped at 3 times QOTE — s306i)</p> <p>No damages available for gratuitous services.</p>	<p>If the worker has a degree of permanent impairment (DPI) of less than 20% the worker must decide to either accept the lump sum payment or seek damages — s189.</p>	<p>General damages (pain and suffering) capped at 239.71 times QOTE</p> <p>Loss of earnings capped at 3 times QOTE per week for each week of the period of loss of earnings.</p>
WA	Yes (limited)	<p>Damages available for both economic and non-economic loss</p>	<p>Access to common law is based on the worker's degree of WPI. The threshold for accessing common law is not less than 15% WPI. Secondary psychological, psychiatric and sexual conditions are excluded — Part IV, Subdivision 3.</p>	<p>N/A</p> <p>Where a worker has a WPI of less than 25% the maximum amount of damages that may be awarded is \$530,724 (indexed annually) — s93K Workers' Compensation and Injury Management Act 1981</p> <p>Unlimited common law is available to a worker with a WPI of greater than 25%.</p>
SA	Yes (limited)	<p>Economic loss only</p>	<p>The Return to Work Act 2014 reintroduced limited common law rights for workers to claim damages from their employer. Damages cannot be awarded against an employer unless the worker's injury results in whole</p>	<p>Yes</p> <p>No</p>

	Access to common law against employer?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
			<p>person impairment of 35% or more or the worker's death. If damages are recovered no further compensation is generally payable and compensation already paid is repayable (s75)</p> <p>In addition, in respect of a psychiatric injury, the injury must primarily be caused by the negligence or other tort of the worker's employer and an employer is not liable for any consequential mental harm — s71(2).</p>		
Tas	Yes (limited) — Part X	Damages available for both economic and non-economic loss — ss132 to 138A , Workers Rehabilitation and Compensation Act 1988	<p>A worker must suffer at least 20% WPI before he or she can commence proceedings for an award of damages or make an agreement to settle a claim for damages — s138AB</p> <p>Note: loss of foetus that the worker has carried for at least 16 weeks since conception is deemed to be 20% WPI — s71(3).</p>	N/A	Unlimited (provided 20% WPI threshold met)
NT	s52 - Abolition of certain rights to bring action - ...no action for damages at common law shall lie in the Territory...	N/A	N/A	N/A	N/A
ACT	Yes	Unlimited	N/A	No. Benefits cease on settlement or outcome in favour of the worker. Benefits received prior to settlement are deducted from the damages settlement to avoid the worker receiving double compensation for the same loss.	Unlimited
C'wealth Comcare	Yes (limited)	Damages for non-economic loss	To have access to common law the employee must first have a successful permanent impairment claim (see s24). Statutory thresholds for accessing common law are outlined in s45 of the <i>Safety, Rehabilitation and Compensation Act 1988</i> .	Yes Employees are able to make an irrevocable election to institute an action or proceedings for damages for non-economic loss under s45 of the Act. No statutory permanent impairment (s24) or non-economic loss (s27) benefits are payable after the date of such an election. However, a damages award does not affect other	Damages shall not exceed \$110,000 This amount is not indexed

	Access to common law against employer?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
				entitlements, such as weekly benefits, medical costs etc	
C'wealth Seacare	Yes (limited)	Damages for non-economic loss	To have access to common law the employee must first be eligible for a permanent impairment claim. Statutory thresholds for accessing common law are outlined in s55 of the <i>Seafarers Rehabilitation and Compensation Act 1992</i> .	Yes Able to make an irrevocable election to institute an action or proceedings for damages for non-economic loss under s55 . No statutory permanent impairment (s39) or non-economic loss (s41) benefits are payable after the date of such an election. However, a damages award does not affect other entitlements, such as weekly benefits, medical costs etc.	Damages shall not exceed \$138,570.52 This amount is not indexed
C'wealth DVA	Yes (limited)	Damages for non-economic loss	To have access to common law the employee must have a successful permanent impairment claim i.e. a benefit payable under the relevant Commonwealth Act — s389 <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) & s45 <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA).	Yes — MRCA Able to make an irrevocable election to institute an action or proceedings for damages for non-economic loss under s389 . No statutory permanent impairment benefits are payable after the date of such an election with respect to a service injury or disease. Common law action is taken against a single condition as distinct from other accepted conditions. Yes — DRCA Able to make an irrevocable election to institute an action or proceedings for damages for non-economic loss under s45 . No statutory permanent impairment (s24) or non-economic loss (s27) benefits are payable after the date of such an election. However, a damages award does not affect other entitlements, such as weekly benefits, medical costs etc.	MRCA s389 and DRCA s45 — Damages shall not exceed \$110,000. This amount is not indexed.
New Zealand	People do not have the right to sue for personal injury, except for exemplary damages.	These damages are punitive and aimed at punishing the conduct of the offender. They are not intended to compensate for the injury.	No threshold	N/A	N/A

Table 5.7: Suspension and cessation of benefits

Criteria for suspension of compensation payments	
NSW	<p>If a person recovers damages in respect of an injury from the employer liable to pay compensation under this Act then (except to the extent that ss(2), ss(3), or ss(4) covers the case):</p> <ul style="list-style-type: none"> • the person ceases to be entitled to any further compensation under this Act in respect of the injury concerned (including compensation claimed but not yet paid), and • the amount of any weekly payments of compensation already paid in respect of the injury concerned is to be deducted from the damages (awarded or otherwise paid as a lump sum) and is to be paid to the person who paid the compensation, and • the person ceases to be entitled to participate in any injury management program provided for under this Act or the 1998 Act <p>— s151A, <i>Workers Compensation Act 1987</i>.</p> <p>If the worker fails to provide a certificate of capacity / medical certificate — The insurer may discontinue weekly payments of compensation if the worker fails to comply with a requirement under s270 1998 Act or s44B 1987 Act within 7 days after it is communicated to the worker by the insurer — s270(2), <i>Workplace Injury Management and Workers Compensation Act 1998</i> / s44B(6) 1987 Act.</p> <p>A liability in respect of any of the following kinds of compensation under this Act or the former Act may be commuted to a lump sum as provided by this Division (and not otherwise):</p> <ul style="list-style-type: none"> • weekly payments of compensation, • compensation under Division 3 (Compensation for medical, hospital and rehabilitation expenses etc) of Part 3 of this Act or s 10 of the former Act. <p>As part of a commutation agreement, a worker may agree that payment of a lump sum removes any liability to make a payment under Division 4 of Part 3 in respect of the injury concerned. This Division applies to the agreement for payment of that lump sum as if it were an agreement to commute the liability to pay that compensation to a lump sum. Payment of the lump sum removes any liability to which the agreement of the worker relates' — s87F(8), 1998 Act</p> <p>If a worker has received 5 years of weekly payments and does not meet the threshold of at least 21% permanent impairment they cease to be entitled to weekly payments of compensation — s39, 1987 Act. [Does not apply to exempt workers — police officer, fire fighters, paramedics, volunteers under the Workers Compensation Bush Fire, Emergency and Rescue Services Act 1987 or workers employed in or about a coal mine.] Note: Workers who were in receipt of weekly payments immediately before 1 October 2012 (existing recipients) may continue to be entitled to weekly payments after 260 weeks if an assessment of the degree of permanent impairment is pending and has not been made because an approved medical specialist has declined to make the assessment on the basis that maximum medical improvement has not been reached and the degree of permanent impairment is not fully ascertainable, or the insurer is satisfied that the degree of permanent impairment is likely to be more than 20% (whether or not the degree of permanent impairment has previously been assessed).</p> <p>If a worker refuses to submit himself or herself for any examination under this section or in any way obstructs the examination:</p> <ul style="list-style-type: none"> • the worker's right to recover compensation under this Act with respect to the injury, or • the worker's right to the weekly payments, is suspended until the examination has taken place <p>— s119(3) and s120(2), 1998 Act</p> <p>If a worker refuses to attend an assessment (under s44A 1987 Act) or the assessment does not take place because of the worker's failure to properly participate in it, the worker's right to weekly payments is suspended until the assessment has taken place [Does not apply to exempt workers — police officer, fire fighters, paramedics, volunteers under the Workers Compensation Bush Fire, Emergency and Rescue Services) Act 1987 or workers employed in or about a coal mine.]</p> <p>If a worker does not comply with an obligation imposed under s48 of 1998 Act [return to work obligations], the insurer may in accordance with this section:</p> <ul style="list-style-type: none"> • suspend the payment of compensation in the form of weekly payments to the worker, or • terminate the payment of compensation in the form of weekly payments to the worker, or • cease and determine the entitlement of the worker compensation in the form of weekly payments in respect of the injury under this Act. <p>[Does not apply to exempt workers — police officer, fire fighters, paramedics, volunteers under the Workers Compensation Bush Fire, Emergency and Rescue Services Act 1987 or workers employed in or about a coal mine.]</p>

Criteria for suspension of compensation payments	
	— s52A, 1987 Act (as at 18 June 2012) [Only applies to exempt workers — police officer, fire fighters, and paramedics.] If a worker receiving, or entitled to receive, a weekly payment of compensation under an award ceases to reside in Australia, the worker shall thereupon cease to be entitled to receive any weekly payment, unless an approved medical specialist certifies, or the Workers Compensation Commission determines, that the incapacity for work resulting from the injury is likely to be of a permanent nature’ — s53(1) , 1987 Act.
Vic	<p>A worker’s entitlement to compensation and access to court proceedings may be suspended if the worker unreasonably refuses to have a medical examination or unreasonably obstructs a medical examination until the examination takes place and weekly payments are forfeited for the suspension period — s27 Workplace Injury Rehabilitation and Compensation Act 2013</p> <p>Weekly payments may be suspended, terminated or ceased and determined if the worker fails to comply with a return to work obligation — s116</p> <p>Entitlement to weekly payments ceases if the worker is absent from Australia — s175</p> <p>No entitlement to weekly payments while worker serves a sentence of imprisonment — s177.</p>
Qld	<p>Insurer may suspend compensation if worker:</p> <ul style="list-style-type: none"> • is serving a term of imprisonment — s137 Workers’ Compensation and Rehabilitation Act 2003 • fails to participate in an independent medical examination — s135 • fails to participate in rehabilitation — s232, or • fails to participate in an examination by the medical assessment tribunal — s510. <p>If compensation payments are suspended, no compensation is payable for the period of suspension — s138.</p>
WA	<p>Suspension of payments during custody — s72 Workers’ Compensation and Injury Management Act 1981</p> <p>Suspension or cessation of payments for failure to undergo medical examination — s72A</p> <p>Suspension or cessation of payments for failure to participate in return to work program — s72B</p> <p>If the employer satisfies an arbitrator that there is a genuine dispute as to liability to pay compensation or as to the proper amount of such weekly payments, and in either case of the grounds of the dispute, the arbitrator may order that the payments be suspended for such time as the arbitrator directs or be discontinued or be reduced to such amount as the arbitrator thinks proper or the arbitrator may dismiss the application — s60(2). An Arbitrator also has powers to suspend weekly payments under — s62(2).</p> <p>In the event that compensation is suspended, no compensation is payable during the suspension period — s63</p> <p>A conciliation officer may direct that weekly payments of compensation are to be suspended or reduced if the conciliation officer considers that it would be reasonable to expect that the resolution or determination of the dispute under this Part would result in the payments being suspended or reduced — s182L.</p>
SA	<p>Reduction or discontinuance of weekly payments is covered by s48 (Return to Work Act 2014) and covers the following circumstances:</p> <p>Discontinued if dismissed from employment for serious and wilful misconduct — s48(2)(e)</p> <p>Discontinued for breach of mutuality — s48(2)(f), including:</p> <ul style="list-style-type: none"> • failure to submit to a medical examination where required by notice — s48(3)(a) • failure to supply a medical certificate where required by notice — s48(3)(b) • refusal or failure to submit to proper medical treatment — s48(3)(c) • refusal or failure to participate in a recovery/return to work program or — s48(3)(d)(i) • failure to comply with obligations under a recover/return to work program — s48(3)(d)(ii) • refusal or failure to undertake work offered and capable of performing, taking reasonable steps to obtain suitable employment or having obtained suitable employment, unreasonably discontinues the employment — 48(3)(e) • refusal or failure to participate in assessments of worker’s capacity, return to work progress or future employment prospects (including failure to attend) — s48(3)(f), and • anything else recognised as a breach of the obligation of mutuality — s48(3)(g)

Criteria for suspension of compensation payments	
	<p>Payments are suspended whilst a worker is in prison — s193</p> <p>Payments are suspended under s46(7) if a worker fails to comply with a requirement under s46(6) (submit to medical examination or furnish evidence of earnings).</p> <p>Payments can be suspended during absence of a worker from Australia under certain circumstances — s51.</p>
Tas	<p>A worker's entitlement to compensation may be suspended if the worker unreasonably refuses to submit to a medical examination or undertake any treatment (with the exception of surgical treatment) — s90C Workers Rehabilitation and Compensation Act 1988</p> <p>An employer may, subject to certain conditions such as providing written notice, terminate or reduce weekly payments where:</p> <ul style="list-style-type: none"> • the payment is in respect of total incapacity and the worker has returned to work • the worker is in receipt of the weekly payment in respect of partial incapacity and is receiving weekly earnings in excess of the amount upon which the amount of such weekly payment was determined • an accredited medical practitioner who has examined the worker has certified that in their opinion the worker has wholly or substantially recovered from the effects of the injury or that the worker's incapacity is no longer wholly or substantially due to that injury, or • a worker's entitlement to weekly payments has expired as provided by s69B(2E) — s86(1) <p>If a worker does not comply with the requirements of a return to work plan or injury management plan, the matter can be referred to the Tribunal which has the power to suspend compensation — s143E(7) and s143Q(7)</p> <p>A worker is not entitled to weekly compensation whilst serving a term of imprisonment — s82.</p>
NT	<p>s75B(2) (<i>Return to Work Act 1986</i>): provides that where a worker unreasonably fails to undertake medical, surgical and rehabilitation treatment or to participate in rehabilitation training or a workplace based return to work program which could enable him or her to undertake more profitable employment, he or she shall be deemed to be able to undertake such employment and their compensation for incapacity benefits may, subject to s69, be reduced or cancelled accordingly. Where under s75B(3) a worker so required under ss(1) unreasonably refuses to present himself or herself for assessment of their employment prospects, he or she shall be deemed to be able to undertake the most profitable employment that would be reasonably possible for a willing worker with their experience and skill and who has sustained a similar injury and is in similar circumstances, having regard to the matters referred to in s68, and their incapacity benefits may, subject to s69, be reduced or cancelled accordingly. s91(2) provides that subject to s69, where a worker unreasonably refuses to have, or unreasonably obstructs, an examination by a medical practitioner, provided and paid for by the employer the employer may cancel or reduce the incapacity compensation payable to the worker until the examination takes place.</p> <p>Imprisonment s65A — a person is not entitled to receive incapacity benefits for periods of incarceration.</p> <p>Residing outside Australia unless the claimant provides, at intervals of not less than 3 months, a declaration, in the approved form (reg 6A) of continued incapacity – s65B. A maximum of 104 weeks is payable if a claimant resides outside Australia — s65B – unless the Court orders otherwise (maximum - a further 104 weeks) - s65B(4).</p> <p>s69 the worker ceases to be incapacitated for work.</p>
ACT	<p>A worker's entitlement to compensation may be suspended under s113 (compliance by workers), s44 (living outside Australia) or s83 (no compensation while imprisoned) of the <i>Workers Compensation Act 1951</i>.</p>
C'wealth Comcare	<p>An employee's right to compensation is suspended for unreasonable refusal to:</p> <ul style="list-style-type: none"> • undergo (or for obstructing) a rehabilitation assessment examination — s36 Safety, Rehabilitation and Compensation Act 1988 • undertake a rehabilitation program — s37, or • undergo (or for obstructing) a medical examination — s57 <p>Note: for suspensions under s36 or s37, rights to compensation for medical expenses under s16 continue where the suspension commenced on or after 7 December 2011.</p> <ul style="list-style-type: none"> • An employee's right to compensation is suspended for failure to comply with any reasonable requirement of Comcare or the licensee where Comcare or the licensee takes over or initiates a 3rd party recovery action — s50 • Should an employee fail to comply with a notice to give information or a copy of a document, Comcare or the licensee may refuse to deal with the claim — s58. • Suspension of incapacity payments for periods of imprisonment for conviction of an offence — s23(2).

Criteria for suspension of compensation payments

<p>C'wealth Seacare</p>	<p>An employee's right to compensation is suspended for unreasonable refusal to:</p> <ul style="list-style-type: none"> • undergo (or for obstructing) a rehabilitation assessment examination — s49 Seafarers Rehabilitation and Compensation Act 1992 • undertake a rehabilitation program — s50, or • undergo (or for obstructing) a medical examination — s66 <p>An employee's right to compensation is suspended for failure to comply with any reasonable requirement of the employer where the employer takes over or initiates a third party recovery action — s59. The employer may refuse to deal with the claim if an employee fails to comply with a notice to give information or a copy of a document — s67.</p>
<p>C'wealth DVA</p>	<p><i>Military Rehabilitation and Compensation Act 2004</i> (MRCA)</p> <ul style="list-style-type: none"> • Failure to undertake a rehabilitation assessment or program or a medical examination where required, or to comply in relation to third party proceedings, compensation (other than treatment) may be suspended — ss50, 52, 329 and 397. • Suspension of incapacity payments for periods of imprisonment for conviction of an offence — s122. • Failure to provide certain information may result in refusal to deal with claim — s330. <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA)</p> <ul style="list-style-type: none"> • An employee's right to compensation is suspended for unreasonable refusal to: undergo (or for obstructing) a rehabilitation assessment examination — s36, undertake a rehabilitation program — s37, undergo (or for obstructing) a medical examination — s57, or comply with a notice to provide information — s58. • For common law claims against third parties, an employee's right to compensation is suspended for failure to comply with any reasonable requirement of Comcare or the licensee where Comcare or the licensee takes over or initiates a 3rd party recovery action — s50. <p>Suspension of incapacity payments for periods of imprisonment for conviction of an offence — s23(2).</p> <p>Note: for suspensions under s36 or s37, rights to compensation for medical expenses under s16 continue where the suspension commenced on or after 7 December 2011.</p>
<p>New Zealand</p>	<p>The Corporation may decline to provide any entitlement for as long as the claimant unreasonably refuses or unreasonably fails to:</p> <ol style="list-style-type: none"> 1. comply with any requirement of the Act relating to the claimant's claim; or 2. undergo medical or surgical treatment for their personal injury, being treatment that the claimant is entitled to receive; or 3. agree to, or comply with, an individual rehabilitation plan — s 117(3), Accident Compensation Act 2001 <p>Corporation may suspend, cancel, or decline entitlements:</p> <ol style="list-style-type: none"> 1. The Corporation may suspend or cancel an entitlement if it is not satisfied, on the basis of the information in its possession, that a claimant is entitled to continue to receive the entitlement. 2. The Corporation must give the claimant written notice of the proposed suspension or cancellation within a reasonable period before the proposed starting date. 3. The Corporation may decline to provide any entitlement for as long as the claimant unreasonably refuses or unreasonably fails to: <ol style="list-style-type: none"> a. comply with any requirement of this Act relating to the claimant's claim; or b. undergo medical or surgical treatment for their personal injury, being treatment that the claimant is entitled to receive; or c. agree to, or comply with, an individual rehabilitation plan. <p>(3A) If the Corporation declines, under subsection (3), to provide an entitlement for any period, the Corporation must start providing the entitlement again if satisfied that:</p> <ol style="list-style-type: none"> 1. subsection (3) no longer applies to the claimant; and 2. the claimant is eligible to the entitlement. <p>(3B) The Corporation is not required to make any payment of the entitlement for the period during which it was declined under subsection (3), even though it may have started providing the entitlement again under subsection (3A). However, the Corporation may make such payment if the Corporation believes that —</p> <ol style="list-style-type: none"> 1. exceptional circumstances exist; and

Criteria for suspension of compensation payments

2. it would be inequitable to refuse to do so.

(3C) An entitlement that has been declined for any period under subsection (3) must be provided by the Corporation, with effect from the beginning of that period, if:

1. the Corporation's decision to decline to provide the entitlement for that period is:
 - a. revised under section [65](#); or
 - b. quashed on review or appeal; and
2. the claimant was otherwise entitled to receive the entitlement for that period.

Table 5.8: Incapacity benefits settlements

Coverage	
NSW	Yes, some restrictions. Refer Part 3 Division 9 Workers Compensation Act 1987
Vic	Yes, some restrictions — Division 9 of Part 5 Workplace Injury Rehabilitation and Compensation Act 2013
Qld	Yes, as calculated under s174 of Workers' Compensation and Rehabilitation Act 2003
WA	Yes, some restrictions — s67 Workers' Compensation and Injury Management Act 1981
SA	Yes, some restrictions — s53 Return to Work Act 2014
Tas	Yes, some restrictions — s132A Workers Rehabilitation and Compensation Act 1988
NT	Yes, some restrictions — s78A Return to Work Act 1986 Preclusion of settlement of amounts payable to a person who has suffered a catastrophic injury – s78A(1A)
ACT	Yes under s137 of Workers Compensation Act 1951. Settlement may include pay out of one or more of the following: <ul style="list-style-type: none"> • weekly incapacity benefits • lump sum compensation for permanent injuries • medical treatment, damage and other costs under pt 4.5 of the Act, or • any other amount — s137(2) A payout of weekly compensation may not be assigned, charged or attached, pass to anyone else by operation of the law or have a claim offset against it — s138
C'wealth Comcare	Yes, some restrictions — s30 and s137 of the Safety, Rehabilitation and Compensation Act 1988
C'wealth Seacare	Yes, some restrictions — s44 Seafarers Rehabilitation and Compensation Act 1992
C'wealth DVA	<i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) — Yes, some restrictions — s138 <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) — Yes, some restrictions — s30
New Zealand	From 1 April 2002, the spouse of person killed can apply to have weekly compensation commuted. The independence allowance can be capitalised for periods of 5 years. Cover and other entitlements cannot be commuted or settled.



Chapter 6:

Return to work



Return to work

Return to work refers to assisting injured workers in staying at or getting back to work. The aim of the return to work and rehabilitation provisions in legislation is to assist workers in returning to work in a safe, durable and timely manner.

The return to work process involves the injured worker and their employer. Depending on the legislation in each jurisdiction and the injury's severity, it may also involve workplace rehabilitation coordinators, workplace rehabilitation providers, medical and other health professionals, and the insurer.

Some workers' compensation authorities operate injured worker placement incentive schemes to encourage employers to employ workers who have had an injury and are not able to return to work with their pre-injury employer.

A successful return to work is usually the result of 4 main factors: early intervention, an effective workplace-based rehabilitation program, effective claims management and cooperation, collaboration and consultation between stakeholders.

Tables contained in this section cover the following topics:

- 6.1 Guidance material and sections of the Acts or regulations referring to return to work or rehabilitation
- 6.2a Requirement to have a return to work/workplace rehabilitation program or policy
- 6.2b Return to work plans – individual return to work plans
- 6.2c Suitable duties
- 6.2d Other requirements of employers
- 6.3 Responsibilities of workers in relation to return to work
- 6.4 Injured worker placements incentive schemes operated by jurisdictional workers' compensation authorities
- 6.5 Responsibilities of the workers' compensation authorities or insurers
- 6.6 Functions and training of workplace rehabilitation coordinators
- 6.7a Responsibilities of workplace rehabilitation provider
- 6.7b Rehabilitation provider qualifications and fee structure
- 6.8 Prescribed time periods to establish a return to work plan

Table 6.1: Sections of workers' compensation Acts and guidance material relating to return to work

	Sections of the Act or regulations referring to return to work	Names and links to guidance material on return to work
NSW	<p>s57- Worker to notify return to work etc with other employer Workers Compensation Act 1987 ('the 1987 Act').</p> <p>Chapter 3, Workplace injury management Workplace Injury Management and Workers Compensation Act 1998 ('the 1998 Act'), Workers' Compensation Regulation 2016</p> <p>Part 5- Return to work assistance</p> <p>Part 6- Return-to-work programs under the 1998 Act</p> <p>Part 7- Approval of workplace rehabilitation providers</p>	<p>The Guidelines for workplace return to work programs (guidelines) outline employer obligations for handling work related injury and illness. These guidelines took effect on the 1st of March 2021. All employers in NSW must comply with these guidelines, which are issued and enforced by the NSW State Insurance Regulatory Authority (SIRA), under s 52 of the 1998 Act. SIRA also provides guidance material, information and resources on return to work including:</p> <p>return to work coordination eLearning</p> <p>workplace rehabilitation</p> <p>vocational rehabilitation programs funded by SIRA for workers and employers</p> <p>Have you been injured at work tool</p> <p>Small business assist tool</p> <p>When a worker is injured: a workers compensation guide for employer</p> <p>Benefits of working while you recover</p>
Vic	<p><i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p> <p>s17 — Employer to keep register of injuries.</p> <p>Part 4 — Return to Work</p> <p>Division 1 — Preliminary</p> <p>s96 — Definitions</p> <p>s97 — Purpose</p> <p>s98 — Application of Part</p> <p>s99 — Obligations of employers and workers</p> <p>s100 — Part does not derogate from other provisions in Act</p> <p>s101 — Application of part</p> <p>Division 2 — Obligations of employers</p> <p>s102 — Flow chart 4 — return to work obligations of employers</p> <p>s103 — Provide employment</p> <p>s104 — Plan Return to Work</p> <p>s105 — Consult about Return to Work</p> <p>s106 — Return to Work Coordinator to be nominated</p> <p>s107 — Make return to work information available</p> <p>s108 — Employer to notify Authority of return to work of worker</p>	<p>Labour hire and return to work — information for employers</p> <p>Return to work coordination the basics you need to know</p> <p>Returning to work guide for injured workers</p> <p>Steps to resolving return to work issues</p> <p>What to do if a worker is injured — a guide for employer</p> <p>Suitable employment for injured workers — a step by step guide to assessing suitable employment options</p> <p>Information for employers — compliance codes</p> <p>Information for employers — Return to Work Coordinator fact sheet</p> <p>Return to Work Compliance codes 1</p> <p>Return to Work Compliance codes 2</p> <p>Return to Work Compliance codes 3</p> <p>Return to Work Compliance codes 4</p> <p>Return to work: The sooner, the better</p> <p>Return to Work Obligations: Information for Employers</p>

	Sections of the Act or regulations referring to return to work	Names and links to guidance material on return to work
	<p>s109 — Host to cooperate with labour hire employer</p> <p>Division 3 — Obligation for workers</p> <p>s110 — Flow chart 5 — return to work obligations of workers</p> <p>s111 — Participate in planning for return to work</p> <p>s112 — Use occupational rehabilitation services</p> <p>s113 — Participate in assessments</p> <p>s114 — Return to work</p> <p>s115 — Participate in an interview</p> <p>Division 4 — Termination of compensation</p> <p>s116 — Failure to comply with Division 3</p> <p>s117 — Notification of return to work</p> <p>Division 5 — General Provisions</p> <p>s118 — Resolution of return to work issues</p> <p>s119 — Information about the employer obligation period</p> <p>s120 — Authority may be given</p> <p>s121 — Compliance Codes</p> <p>s122 — Disallowance of certain compliance code orders</p> <p>s123 — Effect of Compliance Code</p> <p>s124 — Effect of compliance with compliance codes</p> <p>s125 — Functions of Authority in respect of compliance codes</p> <p>Division 6 — Return to Work Inspectorate (s126 and s127)</p> <p>Division 7 — Functions and powers of inspectors (s128 to s145)</p> <p>Division 8 — Offences (s146 to s148)</p> <p>Division 9 — Review of decisions (s149 to s151)</p> <p>s222 — Commission or self-insurer may pay for rehabilitation services</p> <p>s224 — Compensation for medical and like services</p> <p>s575 — Offence to engage in discriminatory conduct</p> <p>s609 — Directions issued by the Minister</p> <p>s610 — Directions given for the purposes of Part 4</p>	
Qld	<p><i>Workers' Compensation and Rehabilitation Act 2003</i> s220 — Insurer's responsibility for rehabilitation</p>	<p>Guidelines for Standard for Rehabilitation</p> <p>Benefits of early return to work</p>

	Sections of the Act or regulations referring to return to work	Names and links to guidance material on return to work
	<p>s228 — Employer's obligation to assist or provide rehabilitation.</p> <p>Reg s116 Standard for rehabilitation</p>	<p>Roles and responsibilities</p> <p>Rehabilitation and return to work plan</p> <p>Suitable duties</p> <p>Return to work barriers</p> <p>Recover at Work program</p> <p>Finding an alternative role</p> <p>Template Workplace Rehabilitation Policy and Procedures</p>
<p>WA</p>	<p><i>Workers' Compensation Code of Practice (Injury Management) 2005:</i> cl1–9; Act — s3, s5(1), s64, s65, s72B, s84AA(1), s84AB, Part IX, Part IXA</p>	<p>Publications:</p> <p>Injury Management: A Guide for Employers</p> <p>Workers' Compensation Code of Practice (Injury Management) 2005</p> <p>Template Return to Work Program</p> <p>WorkCover WA Workplace Rehabilitation Providers Principles and Standards of Practice</p> <p>HWCA Principles of Practice for Workplace Rehabilitation Providers</p> <p>Website info:</p> <p>Returning to work: Workers</p> <p>Returning to work: Employers</p> <p>List of approved workplace rehabilitation provider</p>
<p>SA</p>	<p><i>Return to Work Act 2014</i></p> <p>s3 — Objects of the Act</p> <p>s13(2)(a) — The Corporation</p> <p>s15(3) — Workers</p> <p>s17(2) — Employers</p> <p>s18 — Employer's duty to provide work</p> <p>ss 23 and 24 — Early intervention, recovery and return to work services</p> <p>s25 — Recovery/return to work plans</p> <p>s26 — Return to work co-ordinators</p> <p>s43 — Return to work obligations of worker</p> <p>s52 — Reports of return to work etc</p> <p>Return to Work Regulations 2015</p> <p>Part 3 — Recovery and Return to Work</p>	<p>Recovery/return to work plan</p> <p>Return to work coordinators</p>

	Sections of the Act or regulations referring to return to work	Names and links to guidance material on return to work
Tas	Part XI of the <i>Workers' Rehabilitation and Compensation Act 1988</i> deals with injury management	Getting back to work after an injury Getting your worker back to work The benefits of returning to work Injury Management: Making it work Preparing Return to Work Plans Preparing Injury Management Plans Guideline for preparing return to work plans and injury management plans The Role of the Primary Treating Medical Practitioner See also workers compensation forms and guides.
NT	s2 — Objects of the Act s3 — rehabilitation, in relation to an injured worker, means a process designed to ensure the worker's return to work as soon as practicable s50 — Accredited vocational rehabilitation providers s75A — Employer to assist injured worker to find suitable employment s75B — Worker to undertake reasonable treatment and training, or assessment s76 — Rehabilitation training and workplace modification s78B — Lump sum agreement for particular period s90 — Return to work	Publications: Employers guide to workers compensation Workers guide to workers compensation Videos: Returning to work – guide for workers – video Returning to work – guide for employers – video Role of a rehabilitation provider - video Website info: Returning to work: Employers Returning to work: Workers Return to work plan
ACT	Chapter 5 of the Workers' Compensation Act 1951	Injured Worker Entitlements Injury management and rehabilitation Rehabilitation provider approval Return to work coordinators Who is an employer, and the employer's obligations
C'wealth Comcare	<i>Safety, Rehabilitation and Compensation Act 1988</i> — Part III <ul style="list-style-type: none"> • s34A–34S — Approved rehabilitation program providers • Division 3: <ul style="list-style-type: none"> ○ s36 Assessment of capability of undertaking rehabilitation program ○ s37 Provision of rehabilitation programs ○ s38 Review of certain determinations by Comcare 	Rehabilitation case manager core capabilities Guidelines for Rehabilitation Authorities (2019) Rehabilitation case manager handbook Rehabilitation Case Management – First Steps Getting you back to work

Sections of the Act or regulations referring to return to work		Names and links to guidance material on return to work
	<ul style="list-style-type: none"> o s39 Compensation payable in respect of certain alterations etc. o s40 Duty to provide suitable employment o s41 Rehabilitation authorities to comply with guidelines o s41A Delegation by rehabilitation authority 	
C'wealth Seacare	<p><i>Seafarers Rehabilitation and Compensation Act 1992</i> —Part 3</p> <ul style="list-style-type: none"> • s48 Approved rehabilitation program providers • s49 Assessment of capability of undertaking rehabilitation programs • s50 Provision of rehabilitation programs • s51 Compensation payable in respect to certain alterations, etc • s52 Duty to provide suitable employment 	A best practice guide Seafarers Rehabilitation and Return to Work
C'wealth DVA	<p><i>Military Rehabilitation and Compensation Act 2004</i> — Chapter 3</p> <p><i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> — Part III</p>	Rehabilitation services in DVA
New Zealand	<i>Accident Compensation Act 2001</i> — ss70–113	N/A

Table 6.2a: Requirement to have a return to work/workplace rehabilitation program or policy

	Are employers required to have a return to work program or policies?	Do requirements differ for different categories of employers?	Are there exemptions from return to work programs or policies?	Requirements for development of programs/policies	Requirements for display and availability to workers	Return to work program should include	Further information
NSW	<p>Yes</p> <p>An employer must establish a return-to-work program with respect to policies and procedures for the rehabilitation of any injured workers of the employer. An employer's return-to-work program must align with the injury management program of the employer's insurer.</p> <p>s52(1), <i>Workplace Injury Management and Workers Compensation Act 1998</i></p> <p>All employers in NSW must have a return-to-work program in place within 12 months of starting a business, Clause 11 of the <i>Workers Compensation Regulation 2016</i></p>	<p>Yes</p> <p>SIRA's Guidelines for workplace return to work programs outlines the different requirements for Category 1 and Category 2</p> <p>Category 1 employer must appoint a return-to-work coordinator, develop and implement a tailored return-to-work program and consult with workers and unions.</p> <p>A Category 2 employer is required to nominate a person responsible for recovery at work, develop and implement a return-to-work program. A category 2 employer may adopt or customise the standard RTW program.</p>	<p>Yes</p> <p>The following exceptions apply to employers who</p> <p>(a) employ domestic or similar workers otherwise than for the purposes of the employer's trade or business,</p> <p>(b) hold owner-builder permits under the Home Building Act 1989,</p> <p>(c) are corporations that only employ workers who are directors of the corporation,</p> <p>(d) only employ workers who are members of the employer's family,</p> <p>(e) only employ workers who perform work while outside NSW,</p> <p>(f) have a written exemption from the Authority Clause 21, <i>Workers Compensation Regulation 2016</i></p>	<p>Yes, the development of the return to work program must be done in consultation with workers and their unions</p> <p>s52(2)(b), <i>Workplace Injury Management and Workers Compensation Act 1998</i></p>	<p>Yes, an employer who fails to display or notify a return-to-work program in accordance with s 52(2)(c) and (d) of the 1998 Act is guilty of an offence</p> <p>Clause 17 <i>Workers' Compensation Regulation 2016</i></p>	<p>Return to Work Programs for a Category 1 employer must cover:</p> <ul style="list-style-type: none"> workplace leadership and commitment workplace arrangements including details of RTW coordinators, rehabilitation providers. rights and obligations support for the worker recovery at work dispute prevention and resolution administration. <p>Category 2 employers must adopt or customise the standard RTW program template</p>	<p>Guidelines for workplace return to work programs March 2021</p> <p>SIRA standard return to work program for category 2 employers</p> <p>SIRA Return to Work Coordinator Training eLearning modules RTW program and Tailoring a RTW program</p>
Vic	<p>Yes</p> <p>s103 to s107 required to plan return to work for injured worker and consult on this; to have a return to work coordinator for duration of return to work obligations or at all times if employer has a total rateable</p>	<p>No</p> <p>Except in relation to return to work coordinator being required at all times or for duration of individual claim based on remuneration (s106)</p>	<p>No</p>	<p>Yes</p> <p>Employer must consult with workers as to how return to work information is to be made available</p>	<p>Yes</p> <p>An employer must make the return to work information available to workers but the Act does not specify how, only that the workers must be consulted about how</p>	<p>The return to work information that employers must make available to their workers should contain the following elements:</p> <ul style="list-style-type: none"> the employer's obligations under the return to work part of the <i>Workplace Injury Rehabilitation and</i> 	<p>Return to Work Compliance Code 3 – Return to Work Information</p> <p>Return to Work Information Template</p>

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	remuneration of \$2,518,510 or more and to make return to work information available to all workers regardless of organisation size					<p><i>Compensation Act 2013</i> and how the employer is meeting the obligations, and</p> <ul style="list-style-type: none"> the worker's rights and obligations under the return to work part of the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> and how workers can obtain further information about the rights and obligations, and the name and contact details of the authorised agent selected by the employer, and the name and contact details of the return to work coordinator, if applicable, and the procedure for resolving return to work issues as specified in s118. 	
Qld	Yes An employer must have a workplace rehabilitation policy and procedures if they meet the criteria specified under a regulation. They must also review the policy and procedures every 3 years <i>Workers' Compensation and Rehabilitation Act 2003</i> , s227	Yes If the employer is in a high risk industry there is a lower wage threshold to meet the criteria for needing policy and procedures and a <i>Rehabilitation and Return to Work Coordinator Act</i> s226	Yes Employers in a high risk industry with declared wages less than 2,600 times QOTE and all other employers with declared wages of less than 5,200 times QOTE do not need a workplace rehabilitation policy and procedure. (The threshold amount varies each year by movements in QOTE: Qld Ordinary Time Earnings)	No	No	Workplace rehabilitation policies and procedures which outline the employer's commitment to assist injured workers to access necessary treatment and rehabilitation and specific steps employer will take to achieve safe, timely and durable return to work.	Workplace Rehabilitation Policy and Procedures

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WA	Yes s155B and Workers' Compensation Code of Practice (Injury Management) 2005. Employers must establish and implement an Injury Management System	No s155B and Workers' Compensation Code of Practice (Injury Management) 2005	No s155B and Workers' Compensation Code of Practice (Injury Management) 2005	No	Yes Code, cl6	Code, cl6 states that the document describing the injury management system must include: <ul style="list-style-type: none"> a description of the steps the employer will take when an injury occurs at the employer's workplace details of the person who has the day to day responsibility for the injury management system, and how to contact that person. 	Workers' Compensation Code of Practice (Injury Management) 2005
SA	An employer is required to appoint a Return to Work Coordinator — s26 , Return to Work Act 2014. The duties of the Coordinator includes a requirement to comply with training or operational guidelines published by RTWSA [s26(5)(c)] Under s147 , an employer can be the subject of an imposed supplementary payment (in addition to their premium) for failing to provide satisfactory recovery/return to work facilities or services	Employers with less than 30 employees are exempt from a requirement to appoint a Return to Work Co-ordinator (Reg 18)	A recovery/return to work plan is not mandatory where the period of incapacity is less than 4 weeks — s25(1)	s 25(5)	s 25(7)	s 25(6) and regulation 15	Return to Work Coordinator Functions
Tas	Yes Insurers and employers must ensure that there is an approved Injury Management Program in place in respect of each	No	No	The WorkCover Tasmania Board can issue Guidelines setting out the matters to be included in an Injury Management Program — s142(1)	The Guidelines indicate that an Injury Management Program should be readily available in the employer's workplace	Key elements include: <ul style="list-style-type: none"> Injury Management Policy Policy for the Management of Employer Injury 	Injury Management Programs Guideline for preparing return to work plans and

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	<p>employer and to comply with it — s142, Workers Rehabilitation and Compensation Act 1988</p> <p>The approval process for Injury Management Programs is provided in s143</p>			<p>The Guidelines state that an Injury Management Program should be developed in consultation with all parties</p>	<p>where the workers can readily refer to it</p>	<p>Management Programs (Licensed Insurers Only)</p> <ul style="list-style-type: none"> • Information Management • Communication Management • Role of the Injury Management Coordinator • Role of Workplace Rehabilitation Provider • Role of the Return to Work Coordinator (Self-Insurers Only) • Mechanisms to Facilitate Early Reporting and Intervention of Injuries/Claims • Medical Management • Return to Work • Management of Alternative Duties • Management of Psychological Claims (primary and secondary) • Management of Complex Claims 	<p>injury management plans</p> <p>Preparing return to work plans</p> <p>Preparing injury management plans</p>
NT	<p>No</p> <p>Where worker likely to be incapacitated for more than 28 days, the employer must give the worker a proposal in writing for a return to work plan — s75A(1)(c), <i>Return to Work Act 1986</i></p>	No	No	No	N/A	N/A	<p>Return to Work Plans</p>
ACT	<p>Yes</p> <p>s109, <i>Workers' Compensation Act 1951</i></p>	No	No	<p>The return to work program must be developed in consultation with: workers to whom it relates, unions representing the workers and approved rehabilitation</p>	<p>Yes</p> <p>s 109(2)</p>	<p>s 109(3) provides that the return to work program must provide policies and procedures for rehabilitation and be consistent with</p>	<p>Workers' Compensation Act 1951</p>

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				providers. — s109, Workers' Compensation Act 1951		insurer's injury management program, be established in accordance with any guidelines issued by the Minister.	
C'wealth Comcare	The SRC Act does not require employers to have a return to work program or policies in place Comcare however recommends that employers have a rehabilitation management system in place.	Yes. Self-insured licensees need to demonstrate that an appropriate rehabilitation management system is in place. This is checked as part of a regular monitoring system.	No	Yes. The Guidelines require consultation with employees regarding individual rehabilitation programs (return to work plans). Consultation throughout the rehabilitation process is also promoted in better practice guidance.	No	Guidance on what a return to work policy should include is provided in Comcare's guidance and audit tools. This includes commitment by Senior Executive, measurement and monitoring.	Guidelines for Rehabilitation Authorities (2019) Audit tools and templates
C'wealth Seacare	No	N/A	No	In consultation with the employee, employer, rehabilitation provider and medical practitioner	N/A	N/A	A best practice guide: Seafarers Rehabilitation and Return to Work
C'wealth DVA	N/A	N/A	N/A	N/A	N/A	N/A	N/A
New Zealand	N/A	No	No	N/A	No	N/A	N/A

Table 6.2b: Return to work plans — individual return to work plans

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
NSW	<p>Employers must provide suitable work, where reasonably practicable, even when there is a dispute about liability.</p> <p>Employers must detail in their RTW program the employer's policies and procedures for how they will develop a recover at work plan in consultation with the worker to manage recovery at work.</p>	<p>If a worker sustains a significant injury and is unable to return to their pre-injury role a Recover at Work Plan is required to be developed by the employer.</p> <p>An insurer must commence an injury management plan upon receipt of initial notification of injury and if the injury is identified as likely to be significant which is being unable to perform the pre-injury role for more than 7 days.</p> <p>s42 Workplace Injury Management and Workers Compensation Act 1998</p>	<p>The Recover at Work Plan is a statement of goals and objectives for a worker undergoing recovery at work. It details the suitable work activities identified aligned with the worker's capacity. The plan should include the worker's details, work location, worker's capacity, treatment arrangements, duties to be performed, monitoring arrangements and review and planning arrangements. The Recover at Work Plan is developed in consultation with all stakeholders including the worker, supervisor and treatment providers.</p> <p>The injury management plan should be developed in consultation with the worker, be specific, consider medical and treatment information, be tailored to deliver the goal, detailing stakeholder obligations and have review dates.</p>	<p>An employer is to develop a Recover at Work Plan for each worker who returns to suitable work. For details refer to SIRAs Guidelines for workplace return to work programs.</p> <p>Recover at work planning tool and template is to assist employers in the development of a recover at work plan.</p> <p>I'm an employer helping my worker recover</p> <p>SIRA RTW coordinator eLearning:</p> <p>Recover at work planning</p> <p>Developing a recover at work plan</p>	<p>Yes, An insurer must commence an injury management plan upon receipt of initial notification of injury and if the injury is identified as likely to be significant which is being unable to perform the pre injury role for more than 7 days. s42 Workplace Injury Management and Workers Compensation Act 1998 the insurer is responsible for the development of an injury management plan s45 of the Workplace Injury Management and Workers Compensation Act 1998.</p>
Vic	<p>Employer — s103 (provide employment) and s104 (plan return to work)</p>	<p>Employer must plan a worker's return to work from the date on which the employer knows or ought reasonably to have known of worker's incapacity, whichever is the earlier date. s96 — Defines this start date as the earliest of the following dates:</p> <ul style="list-style-type: none"> the date the employer receives the worker's medical certificate (issued in accordance with s25(1), or the date the employer receives a claim for compensation from the worker in the form of weekly payments, or the date the employer is notified by the Authority that the worker has made a claim for compensation in the form of weekly payments, or the date the employer is notified by the Authority that the worker has provided the 	<p>Once suitable or pre-injury employment has been confirmed, employers must provide the worker with details of the return to work arrangements. The details of the return to work arrangements must be clear, accurate and up to date. Employers should include (but not limit themselves to including) details about:</p> <ul style="list-style-type: none"> the suitable employment being provided including modified or alternative duties that accommodate restrictions identified in medical information available such as Certificates of Capacity commencement time and date details of any tasks or duties the worker needs to avoid the hours of work and the place of work work breaks, rotations or exercise breaks 	<p>Compliance code 1 of 4: Providing employment, planning and consultation about return to work</p>	<p>No</p>

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
		Authority with a medical certificate issued in accordance with s25(1) .	<ul style="list-style-type: none"> support, aids or modifications to the workplace to assist the worker's return to work the Return to Work Coordinator contact details details of the worker's supervisor or manager when returning to work, and the review date (reviews may occur earlier than this date as appropriate). <p>An employer must communicate the details of the return to work arrangements to the worker or other relevant parties in a way that is most appropriate for the worker and the other parties. Providing the worker with this information in writing is one way to comply, but it is not mandatory to do so. However, this may not always be adequate and other approaches may be required such as talking through the return to work arrangements with the worker.</p>		
Qld	Workers' Compensation and Rehabilitation Act 2003 s220 — The insurer	Act s220 — An insurer must take the steps it considers practicable to coordinate the development and maintenance of a rehabilitation and return to work plan in consultation with the injured worker, the worker's employer and treating registered persons	A written plan outlining the rehabilitation objectives and the steps required to achieve the objectives	Guidelines for Standard for Rehabilitation	No
WA	The Employer — Workers' Compensation and Injury Management Act 1981 s155C ; Code — cl7	s155C — As soon as practicable after <ul style="list-style-type: none"> the treating doctor indicates the need for a return to work program, or the worker's doctor signs a medical certificate to the effect that the worker has partial capacity for work or has total capacity but is unable to return to their pre-injury position for some reason. 	cl8(1)(a) — (d): <ol style="list-style-type: none"> Names of the injured worker and the employer, and any other details needed to identify them, Description of the goal of the program, List of the action to be taken to enable return to work, identifying who has to take each action, and A statement as to whether the worker agrees with the content of the program. 	Injury Management: A Guide for Employers	No A return to work program is an individualised program. An Injury Management System is developed by the employer for all workers describing the steps to be taken if an injury occurs.
SA	The insurer/self-insured employer are responsible for ensuring that a recovery/return to work plan is in place for the worker — <i>Return to Work Act 2014</i> s25	A recovery/return to work plan must be prepared where it appears that a worker is (or is likely) to be incapacitated for work by a work injury for more than 4 weeks — s25(2)(a) . A plan must not impose any obligation on a seriously injured worker (more than 35% WPI	Under Regulation 15 , the plan must specify: <ul style="list-style-type: none"> worker name date of birth claim number employer name 	Regulation 15 Return to Work Regulations 2015	No

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
		Physical Injury and 30% Psychiatric Injury) to return to work — s25(11) .	<ul style="list-style-type: none"> • nature of injury • date of injury • must be appropriate to the circumstances of the worker • must have specific employment objectives • must promote communication and cooperation between parties • must contain recovery/return to work services provided to worker • commencement and completion period • review times • prescribed notices for employers and workers regarding failure to comply. 		
Tas	The employer — Workers Rehabilitation and Compensation Act 1988 s143E	If a worker suffers a significant injury, the employer must ensure that any return-to-work plan, or injury management plan, that is required under the employer's approved injury management program to be prepared in relation to a worker who has suffered a significant injury, is prepared within the period specified in that program.- s143E Significant injury means a workplace injury suffered by the worker that is likely to result in the worker being totally or partially incapacitated for more than 5 working days – s141	<ul style="list-style-type: none"> • Return to work goals setting out milestones for the injured worker to achieve until they reach the goal of returning to pre-injury employment. • Worker's diagnosis, capacity and restrictions • Treatment and/ or rehabilitation arrangements • Suitable duties, workplace modifications and hours of work • Supervisory arrangements • Contact details • Review date • Workers Consent • Supplementary information such as roles and responsibilities of parties involved in the injury management, the process for handling disputes, and the process for disclosing information. 	Preparing Return to Work Plans Preparing Injury Management Plans Guideline for preparing return to work plans and injury management plans Injury Management Programs	s143E If the injury management plan is not incorporated in the return to work plan the program should also specify the time frame in which an injury management plan will be developed and implemented.
NT	The employer — Return to Work Act 1986 s75A	When worker is likely to be incapacitated for more than 28 days	N/A	Return to Work Plans	N/A
ACT	The insurer carries the primary responsibility under s97 Workers' Compensation Act 1951	s97 Workers' Compensation Act 1951 — all significant compensable injuries (incapacity for 7 days or more) must have a personal injury plan. s99A If the worker is not back at work in pre-injury duties at pre-injury hours by 4 weeks post injury notification, a rehabilitation provider must be appointed	The plan is for coordinating and managing the aspects of injury management that relate to medical treatment and rehabilitation services for the worker to achieve a timely, safe and durable return to work. The content of the plan is not prescribed	Workers' Compensation Act 1951	The return to work plan and the injury management plan are integrated into the personal injury plan

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
C'wealth Comcare	The employer (defined in s4 as the rehabilitation authority) — s37(1) Safety, Rehabilitation and Compensation Act 1988	<p>A rehabilitation authority may make a determination that an employee who has suffered an injury resulting in an incapacity for work or an impairment should undertake a rehabilitation program s 37(1) SRC Act.</p> <p>The Guidelines specify:</p> <ul style="list-style-type: none"> If making a determination under subsection s 37(1) of the Act, the rehabilitation authority must have regard to all matters in s 37(3) of the SRC Act [s 9(1)] and must refer to the relevant matters to which it had regard in the determination [s 9(2)]. <p>The Guidelines specify the rehabilitation authority may consider providing or altering a rehabilitation program if there are changes in:</p> <p>(a) the employee's work capacity, injury or circumstances; or</p> <p>(b) the availability of suitable employment [s 9(9)].</p>	<p>The Guidelines [s 9(5)] state the rehabilitation program must include:</p> <p>(a) details of the rehabilitation case manager, and where applicable, the details of the supervisor and the workplace rehabilitation provider;</p> <p>(b) the review dates; and</p> <p>(c) if applicable, the reasonable steps being undertaken by the relevant employer to provide to the employee, or to assist the employee to find, suitable employment under s 40 of the Act.</p> <p>A rehabilitation program is individualised to the employee and it is better practice to include:</p> <ul style="list-style-type: none"> Recovery and return to work goals (SMART goals) The employee's work duties Timelines for the delivery of the activities and overall goal Roles and responsibilities of all stakeholders Employee rights <p>[see Rehabilitation case manager handbook]</p>	<p>Guidelines for Rehabilitation Authorities (2019)</p> <p>Rehabilitation case manager handbook</p>	No
C'wealth Seacare	The employer and approved program provider — s50(1) Seafarers Rehabilitation and Compensation Act 1992	s49(1) — If the injury lasts, or is expected to last 28 days or more	<p>Where practical:</p> <ul style="list-style-type: none"> suitable employment an outline of steps by the employer or on the employers behalf, and a start and review date. 	A best practice guide: Seafarers Rehabilitation and Return to Work	No
C'wealth DVA	<p>MRCA s39 — The rehabilitation authority for a person at a time is:</p> <p>a) subject to paragraph (aa), the Chief of the Defence Force for a time when the person:</p> <ol style="list-style-type: none"> is a Permanent Forces member, a continuous full-time Reservist or a part-time Reservist; and has not been identified by or on behalf of the Chief of the Defence Force as 	<p>MRCA s51 — Rehabilitation authority may determine that the person is to undertake a rehabilitation program if an assessment has been made of the person's capacity for rehabilitation</p> <p>DRCA s37 — A rehabilitation authority may make a determination that an employee who has suffered an injury resulting in an incapacity for work or an impairment should undertake a rehabilitation program.</p>	<p>MRCA s5 — A program that consists of or includes any one or more of the following:</p> <ol style="list-style-type: none"> medical, dental, psychiatric and hospital services, physical training and exercise, physiotherapy, occupational therapy, vocational assessment and rehabilitation, counselling, and psycho-social training. 	Rehabilitation services in DVA	No

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
	<p>being likely to be discharged from the Defence Force for medical reasons; or</p> <p>b) if the Commission, after considering advice from the Chief of the Defence Force, determines, in writing, that the Commission is to be the rehabilitation authority for a specified person at a specified time — the Commission for that time; or</p> <p>c) the Commission for any other time.</p> <p>DRCA s41A — Delegation by a Rehabilitation Authority</p> <p>A rehabilitation authority who is:</p> <p>a) the principal officer of an Entity; or</p> <p>b) the principal officer of a Commonwealth authority in respect of which a licence is not in force under Part VIII of the SRC Act; or the principal officer of a licensee;</p> <p>c) may in writing, delegate to an officer of, or a person employed by that Entity, authority or licensee all or any of the powers and functions of the rehabilitation authority under this Part.</p> <p>A rehabilitation authority who is the Chief of the Defence Force may, in writing, delegate to an officer or employee of the Commonwealth all or any of the powers and functions of the rehabilitation authority under this Part.</p>		<p>MRCA s5 — Vocational assessment and rehabilitation consists of or includes any one or more of the following:</p> <ol style="list-style-type: none"> 1. assessment of transferable skills, 2. functional capacity assessment, 3. workplace assessment, 4. vocational counselling and training, 5. review of medical factors, 6. training in resume preparation, job-seeker skills and job placement, and 7. provision of workplace aids and equipment. <p>DRCA s4 — rehabilitation program includes medical, dental, psychiatric and hospital services (whether on an in-patient or out-patient basis), physical training and exercise, physiotherapy, occupational therapy and vocational training.</p>		

	Responsibility for ensuring that a return to work plan is in place	When is a return to work plan or injury management required?	Contents of the plan	Further information	Requirement to have a separate injury management plan
New Zealand	<p>The Injured Employee — s70 Accident Compensation Act 2001</p> <p>Claimant's and Corporation's obligations in relation to rehabilitation</p> <p>A claimant who has suffered personal injury for which they have cover:</p> <ul style="list-style-type: none"> a) is entitled to be provided with rehabilitation, to the extent provided by this Act, to assist in restoring health, independence, and participation to the maximum extent practicable, but b) is responsible for their own rehabilitation to the extent practicable having regard to the consequences of their injury. <p>Accident Compensation Act 2001 s75 Corporation to determine need for rehabilitation plan. Within 13 weeks after the Corporation accepts the claimant's claim for cover, the Corporation</p> <ul style="list-style-type: none"> a) must— <ul style="list-style-type: none"> i. determine whether the claimant is likely to need social or vocational rehabilitation after the 12 weeks have ended; and ii. if so, prepare an individual rehabilitation plan in consultation with the claimant; and b) may include the plan provision for treatment. 	<p>s86 — After an assessment has been done and the corporation decides that it is reasonably practicable to return the injured employee to the same employment in which they were engaged</p>	<p>Various forms of Rehabilitation based on type of injury, severity, duties normally performed</p>	N/A	N/A

Table 6.2c: Suitable duties

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? ow long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
NSW	<p>Employers with workers who have been injured must provide the worker with the opportunity to recover at work by providing Suitable Work. Suitable work needs to be provided when a worker is unable to immediately return to their normal duties after a work-related injury or illness.</p> <p>s49(1) <i>Workplace Injury Management and Workers Compensation Act 1998</i></p>	<p>No</p> <p>The requirements of Chapter 3 of the 1998 Act apply even when there is a dispute as to liability.</p> <p>s41A Workplace Injury Management and Workers Compensation Act 1998</p> <p>Employers must provide suitable work unless it is not reasonably practicable to do so.</p> <p>s49(3)(a) <i>Workplace Injury Management and Workers Compensation Act 1998</i></p>	<p>An employer is unable to dismiss a worker because the worker is not fit for employment because of the workplace injury, within the first 6 months of a worker becoming unfit</p> <p>S248 Workers Compensation Act 1987</p> <p>If a worker is dismissed and is replaced within 2 years of the dismissal, the employer is required to inform the replacement worker that the dismissed worker may be entitled to be reinstated.</p> <p>s247 Workers Compensation Act 1987</p>	<p>Yes</p> <p>s248(3) Workers Compensation Act 1987</p>	<p>The employer is not obligated to notify the authority before dismissing a worker. The employer cannot dismiss a worker within 6 months of becoming unfit for employment. S248 Workers Compensation Act 1987</p>
Vic	<p>Suitable employment means work that is suited to the worker's current abilities taking into account their capacity for work and, amongst other things, their medical condition, age, skills, work experience, place of residence and pre-injury employment.</p> <p>Pre-injury employment means employment that is the same as, or equivalent to, the job that a worker was employed in before they sustained their injury or illness (see definitions in s3 and s96, Workplace Injury Rehabilitation and Compensation Act 2013)</p>	<p>52 weeks of the worker's incapacity</p>	<p>52 weeks of the worker's incapacity. For the duration of the employment obligation period the employer has to provide suitable employment if the worker has a current work capacity and pre-injury if the worker no longer has an incapacity for work.</p>	<p>Yes</p> <p>s101 of the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p>	<p>No</p>
Qld	<p><i>Workers' Compensation and Rehabilitation Act 2003</i> s42 — Suitable duties are work duties for which the worker is suited, having regard to:</p> <ol style="list-style-type: none"> nature of the worker's incapacity and pre-injury employment relevant medical information 	<p>No</p> <p>The employer has an obligation to provide rehabilitation, which includes suitable duties, while the worker is receiving workers' compensation —s228</p>	<p>Yes</p> <p>The employer must hold the worker's former position open for 12 months (the employer must not dismiss the worker solely or mainly because the worker is not fit for employment in a position because of the injury within</p>	<p>No</p>	<p>No</p>

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? How long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
	<ul style="list-style-type: none"> 3. rehabilitation and return to work plan for the worker provisions of the employer's workplace rehabilitation policy and procedures 4. worker's age, education, skills and work experience; 5. if duties are available at a location other than the location in which the worker was injured — whether it is reasonable to expect the worker to attend the other location, and 6. any other relevant matters. 	Weekly payments stop when the worker's incapacity stops, or after the worker has received compensation for 5 years, or when the maximum compensation payment is reached — Act s144).	12 months of the worker sustaining the injury) — Act s232B .		
WA	<p>Employer required to provide pre-injury position to injured worker if worker attains total or partial capacity within 12 months. If that job is no longer available, or worker can no longer perform, employer must offer a similar position for which worker is qualified, and capable of doing — s84AA(1) Workers' Compensation and Injury Management Act 1981</p> <p>Employers must notify worker and WorkCover WA of any intention to dismiss the worker 28 days before the dismissal is due to take place — s84AB.</p>	Previous position offered if reasonably practicable to do so.	Yes 12 months	Yes, If the employer proves that the worker was dismissed on the grounds of serious or wilful misconduct — s84AA(2)	Yes s84AB
SA	<p>Suitable employment is defined in s4 of the Return to Work Act 2014 as follows:</p> <p>In relation to a worker, means employment in work for which the worker is currently suited, whether or not the work is available, having regard to the following:</p> <ul style="list-style-type: none"> 1. the nature of the worker's incapacity and previous employment, 2. the worker's age, education, skills and work experience, 3. the worker's place of residence, 4. medical information relating to the worker that is reasonably available, including in any medical certificate or report, 	No	No, however, under s 18 an employer must provide suitable employment for the worker (the employment being employment for which the worker is fit and, subject to that qualification and this section, so far as reasonably practicable the same as, or equivalent to, the employment in which the worker was working immediately before the incapacity).	<p>The requirement to provide suitable employment does not apply in the following circumstances:</p> <ul style="list-style-type: none"> 1. it is not reasonably practicable to provide employment (with the onus of establishing that on the employer); or 2. the worker left the employment of that employer before the commencement of the incapacity for work; or 3. the worker terminated the employment after the commencement of the incapacity for work; or 4. new or other employment options have been agreed between the worker, the employer and the Corporation under s 25(10); or 	<p>Pursuant to s 20(1) the employer must provide 28 days notice to the Corporation.</p> <p>Notice to the Corporation is not required if termination has occurred on grounds of serious and wilful misconduct or the worker is not participating in a recover/return to work plan, nor receiving compensation for the work injury or the worker's rights to compensation for the injury have been exhausted or the time for making a claim for compensation has expired.</p>

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? ow long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
	5. if any recovery/return to work services are being provided to or for the worker, and 6. the worker's recovery/return to work plan, if any.			5. the worker has otherwise returned to work with the pre-injury employer or another employer. — s18(2) .	
Tas	Suitable alternative duties, in relation to a worker, are those duties for which the worker is suited, having regard to the following: <ol style="list-style-type: none"> nature of the worker's incapacity and pre-injury employment; worker's age, education, skills and work experience; worker's place of residence; any suitable duties for which worker has received rehabilitation training; and any other relevant circumstances. Suitable alternative duties specifically exclude: <ol style="list-style-type: none"> duties that are merely of a token nature or do not involve useful work having regard to the employer's trade or business; or duties that are demeaning in nature having regard to (1) and (2) above and to the worker's other employment prospects — s143M(5). 	No	Yes For a period of 12 months commencing on the day on which the worker becomes totally or partially incapacitated by a workplace injury. — s143L(1) .	Yes The employer does not have to hold the worker's position open if: there is medical evidence indicating that it is highly improbable that the worker will be able to perform the employment in respect of which the worker was engaged immediately before becoming incapacitated; or the work for which the worker was employed is no longer required to be performed — s143L(2) .	No
NT	s75A(6) Return to Work Act 1986 — Employment is suitable for a worker if it requires the worker to perform work for which the worker is fit as specified in the worker's statement of fitness for work, taking the following matters into account: <ul style="list-style-type: none"> their age their experience, training and other existing skills their potential for rehabilitation training their language skills the impairments suffered by the worker; and 	No	No But must not dismiss worker, if incapacitated, for 6 months after the injury — s65C	Yes If employer can show worker was dismissed on grounds of serious misconduct — s65C(3)	No

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? ow long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
ACT	<ul style="list-style-type: none"> the provision of suitable employment includes the referral of the worker to the alternative employer incentive scheme developed by the Authority if the employer does not have other suitable employment available. <p>Suitable duties are not defined</p>	s105 Workers Compensation Act 1951 — within 6 months after the day the worker became entitled to weekly compensation	The employer has an obligation to provide duties for up to 6 months (s105 Workers' Compensation Act 1951)	<p>The employer does not have an obligation to provide duties if — s106(4) Workers' Compensation Act 1951:</p> <ul style="list-style-type: none"> worker leaves voluntarily after the injury employer ends worker's employment after the injury for a reason other than because the worker was not fit for employment because of the injury the employer is a non business employer, and the employer cannot provide suitable employment. 	Insurer must notify Minister prior to ceasing compensation payment for non-compliance with personal injury plan (s113 Workers' Compensation Act 1951). Employer should notify insurer prior to dismissing worker. Employers can be penalised for failure to provide suitable employment (s106 Workers' Compensation Act 1951).
C'wealth Comcare	<p>Suitable employment, in relation to an employee who has suffered an injury in respect of which compensation is payable under s4 of the SRC Act, means:</p> <p>a) in the case of an employee who was a permanent employee of the Commonwealth or a licensee on the day on which he or she was injured and who continues to be so employed — employment by the Commonwealth or the licensed corporation, in work for which the employee is suited having regard to:</p> <p>(i) the employee's age, experience, training, language and other skills</p> <p>(ii) the employee's suitability for rehabilitation or vocational retraining</p> <p>(iii) whether it is reasonable to expect the employee to change their place of residence, and</p> <p>(iv) any other relevant matter.</p>	N/A	N/A	N/A	No requirements

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? How long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
	<p>b) in any other case — any employment (including self-employment), having regard to the matters specified in subparagraphs (a)(i-iv).</p> <p>Under s40(1) — Where an employee is undertaking, or has completed, a rehabilitation program, the relevant employer shall take all reasonable steps to provide the employee with suitable employment or to assist the employee to find such employment.</p>				
C'wealth Seacare	<p>Suitable employment, in relation to an employee who has suffered an injury in respect of which compensation is payable under this — s3 of the Seafarers Rehabilitation and Compensation Act 1992, means any employment (including self employment) for which the employee is suited having regard to:</p> <ul style="list-style-type: none"> a) the employee's age, experience, training, language and other skills; and b) the employee's suitability for rehabilitation or vocational retraining; and c) if the employment is available in a place that would require the employee to change their place of residence— whether it is reasonable to expect the employee to change their place of residence; and d) any other relevant matter. e) Under s52 — If an employee is undertaking, or has completed, a rehabilitation program, their employer must take all reasonable steps to provide the employee with suitable employment, or to assist the employee to find such employment. 	N/A	N/A	No	No

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? ow long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
C'wealth DVA	<p>Military Rehabilitation and Compensation Act 2004 (MRCA) s5 — Work for which the person is suited having regard to the following:</p> <ul style="list-style-type: none"> the person's age, experience, training, language and other skills, the person's suitability for rehabilitation or vocational retraining, if work is available in a place that would require the person to change their place of residence — whether it is reasonable to expect the person to change their place of residence, and any other relevant matter. <p>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) s4 — Suitable employment, in relation to an employee who has suffered an injury in respect of which compensation is payable under this Act, means:</p> <ol style="list-style-type: none"> 1. in the case of an employee who was a permanent employee of the Commonwealth on the day on which he or she was injured and who continues to be so employed — employment by the Commonwealth in work for which the employee is suited having regard to: <ul style="list-style-type: none"> a. the employee's age, experience, training, language and other skills; b. the employee's suitability for rehabilitation or vocational retraining; c. where employment is available in a place that would require the employee to change their place or residence — whether it is reasonable to expect the employee to change their place of residence; and d. any other relevant matter; and 	No	No	No	No

	What are suitable duties	Any time limits on the provision of suitable employment?	Is the employer obligated to hold the worker's former position open? How long?	Exemptions	Is the employer required to notify the authority before dismissing the worker?
	2. in any other case — any employment (including self-employment), having regard to the matters specified in subparagraphs (a)(i), (ii), (iii) and (iv).				
New Zealand	Providing the injured employee with a working environment in which they can perform duties that will not further injure or prohibit recovery of the original injury.	Must be in agreement with the employee, work as a partnership toward full return to work	No requirements for an employer to keep a position open for an injured worker	N/A	N/A

Table 6.2d: Other requirements of employers

Other requirements of employers	
NSW	<p>Every employer must provide information for workers that outlines how they notify an injury and how they can make a workers compensation claim. The "If you get injured at work poster" summarises the requirements of the Workplace Injury Management and Workers Compensation Act 1998 with regard to notifying of injuries and making claims. s231, 1998 Act and reg 39 of the Workers Compensation Regulation 2016.</p> <p>Obligation to participate and cooperate in the establishment of, and comply with obligations imposed by the injury management plan (excludes self-insured) s46 1998 Act.</p> <p>Employer to provide suitable work — s49 1998 Act.</p> <p>Category 1 employer must have return to work coordinator reg 19, 2016 Regulation</p> <p>The employer of an injured worker must notify the insurer or the Authority within 48 hours after becoming aware that a worker has received a workplace injury in the manner prescribed by the regulations. Chapter 3 s44(2), 1998 Act.</p> <p>Forward any documents related to the claim to the insurer within 7 days (excludes self-insured) s261(1) 1998 Act.</p> <p>The employer must maintain a register of injuries in which workers record details of work-related injuries, (s256, 1998 Act, reg 40 of the Workers Compensation Regulation 2016)</p> <p>The employer must keep a record of wages for at least the previous 5 years (s174 of the Workers Compensation Act 1987).</p> <p>Pass on any monies owed to a worker as soon as is practicable in line with usual pay cycle s264(3) 1998 Act.</p>
Vic	<p>s105, Workplace Injury Rehabilitation and Compensation Act 2013 — Consult about the return to work of a worker</p> <p>s106 2013 Act — Return to Work Coordinator to be appointed — must have sufficient seniority and be competent to perform the role</p> <p>s109 2013 Act — Host to cooperate with labour hire employer</p> <p>s118 2013 Act — Resolution of return to work issues</p>
Qld	Employers must appoint a Rehabilitation and Return to Work Coordinator if they meet a wages threshold. The Rehabilitation and Return to Work Coordinator must also be located in Queensland (Workers' Compensation and Rehabilitation Act 2003 s226)
WA	No
SA	<p>An employer must appoint a Return to Work Coordinator if they have 30 or more employees. The Rehabilitation and Return to Work Coordinator must be located in South Australia. — Return to Work Act 2014 s26</p> <p>An employer must notify the Corporation when:</p> <ul style="list-style-type: none"> • a worker who has been receiving weekly payments for total incapacity returns to work; or • there is a change in the weekly earnings of a worker who is receiving weekly payments for partial incapacity; or • there is a change in the type of work performed by a worker who is receiving weekly payments for partial incapacity — s52
Tas	<p>An employer must notify its insurer within 3 working days of becoming aware that one of the employer's workers has suffered a workplace injury that results in or is likely to result in the worker being totally or partially incapacitated for work; or is required to be reported under the worker's approved injury management program. — Workers Rehabilitation and Compensation Act 1988 s143A</p> <p>If the employer is a self-insurer and/or submitted its own injury management program to the Board, the employer must appoint an injury management coordinator. — s143B(3) and (4)</p> <p>An employer who employs more than 100 workers must appoint a suitably qualified return-to-work co-ordinator. — s143D</p>

Other requirements of employers	
	<p>An employer must take all reasonable steps to comply with the requirements of a return to work plan or injury management plan. — s143E(7)</p> <p>As soon as practicable after making a significant decision in relation to the injury management of a worker, the employer is to notify the worker of the decision and the reason/s for the decision. A worker's employer is to inform the worker's injury management co-ordinator as soon as practicable after a dispute arises in relation to injury management in respect of the worker. — s143P(1)(2)</p>
NT	No
ACT	No
C'wealth Comcare	<p>Safety, Rehabilitation and Compensation Act 1988</p> <p>s36 — Assessment of capability of undertaking rehabilitation program. Where an employee suffers an injury resulting in an incapacity for work or an impairment, the rehabilitation authority may at any time, and shall on the written request of the employee, arrange for the assessment of the employee's capability of undertaking a rehabilitation program</p> <p>s36(4) — Decide whether an employee had a reasonable excuse for failing to attend or co-operate in an examination</p> <p>s37 — If the rehabilitation authority makes a determination that an employee should undertake a rehabilitation program, the rehabilitation authority must provide a rehabilitation program for the employee itself; or make arrangements with an approved program provider for that provider to provide a rehabilitation program for the employee</p> <p>s37(7) — Decide whether the employee had a reasonable excuse for failing to undertake a rehabilitation program</p>
C'wealth Seacare	<p>Seafarers Rehabilitation and Compensation Act 1992</p> <p>s49 — Assessment of capability of undertaking rehabilitation program. If an employee suffers an injury that lasts, or is expected to last, 28 days, which results in an impairment or an incapacity for work, the employer must arrange for the assessment of the employee's capability of undertaking a rehabilitation program</p> <p>s49(4) — Decide whether an employee had a reasonable excuse for failing to co-operate in an examination</p> <p>s50 — If an employee is assessed capable of undertaking a rehabilitation program, the employer must make arrangements with an approved program provider for the provision of an appropriate rehabilitation program.</p> <p>s50(5) — Decide whether the employee had a reasonable excuse for failing to undertake a rehabilitation program</p>
C'wealth DVA	No
New Zealand	The employer must take all practicable steps to assist the claimant with the claimant's vocational rehabilitation under their individual rehabilitation plan — Accident Compensation Act 2001 s71

Table 6.3: Responsibilities of workers

	Workers' responsibilities in the return to work/injury management plan	Obligations to participate in medical treatment and/or rehabilitation	Obligations to participate in assessment	Obligations in making efforts to return to work	Obligations in relation to notifying about a return to work	Other obligations
NSW	s47 Workplace Injury Management and Workers Compensation Act 1998 — Must participate and cooperate in the establishment of an injury management plan. Must comply with obligations under an injury management plan. Must nominate treating doctor when requested by the insurer. Must authorise treating doctor to provide information for the purposes of injury management.	s47 1998 Act — Must participate and co-operate in the establishment of an injury management plan. Must comply with obligations imposed by or under the injury management plan. Nominate a treating doctor who is prepared to participate in the development and implementation of an injury management plan (s47(3) of the 1998 Act). s48 1998 Act make reasonable efforts to return to work in suitable employment or pre-injury employment	s119 1998 Act — A worker who has given notice of an injury or receiving weekly payments of compensation, must if so required by the employer, submit himself or herself for examination by a medical practitioner, provided and paid by the employer.	s48 1998 Act — Must make all reasonable efforts to return to work in suitable employment with their pre-injury employer at the same place of employment or another place of employment.	s57 Workers Compensation Act 1987 — If in receipt of weekly compensation, must notify of return to work or commencement of own business or any change in employment.	Notify the employer as soon as possible after a work-related injury occurs (s44(1) 1998 Act). From the Guidelines for workplace return to work programs, worker obligations include cooperating with the employer to meet their return to work obligations, and advising of any difficulties with return to work as soon as practical to prevent delays in addressing any problems.
Vic	Part 4, Division 3, Workplace Injury Rehabilitation and Compensation Act 2013—Obligations of workers: <ul style="list-style-type: none"> s111 — Participate in planning for return to work. s114 — Return to work. s115 — Participate in an interview 	s112 — Use occupational rehabilitation services	s113 — Participate in assessments	s114 — Make reasonable efforts to return to work	s117	N/A
Qld	Workers' Compensation and Rehabilitation Act 2003 ss231–232 — The worker must participate in rehabilitation (including suitable duties programs), while they are entitled to compensation. The worker must also mitigate their loss (for the purposes of common law claims) by participating in rehabilitation, return to work program or suitable duties programs.	Act s232 — The worker must participate in rehabilitation while they are entitled to compensation. If they do not, the insurer may suspend the worker's compensation payments.	Act s135 — an insurer may require a worker to be examined by a person registered to provide medical treatment. A worker's compensation may be suspended if they fail to attend or refuse examination. Act s500 — an insurer may also refer a matter relating to an injury to a Medical Assessment Tribunal for decision. A worker must attend a Medical Assessment Tribunal if	Act s232 — A worker must satisfactorily participate in rehabilitation and a worker must mitigate their loss by participating (Act s231) in any return to work program or suitable duties Act s220 – an insurer must refer a worker who has stopped receiving compensation for an injury under s 144A, 168 or 190(2) , and has not returned to work because of the injury,	Act s136 — A worker receiving compensation for an injury must notify the insurer within 10 business days of returning to work.	N/A

	Workers' responsibilities in the return to work/injury management plan	Obligations to participate in medical treatment and/or rehabilitation	Obligations to participate in assessment	Obligations in making efforts to return to work	Obligations in relation to notifying about a return to work	Other obligations
			<p>requested by the insurer, and must submit to examination by the tribunal.</p> <p>Act s510 — if a worker does not attend or refuses to be examined, their compensation may be suspended. An insurer must request the examination in the way specified by Workers' Compensation and Rehabilitation Regulation 2014 s106</p>	to an accredited rehabilitation and return to work program of the insurer.		
WA	<p>Workers' Compensation and Injury Management Act 1981 s72B participate in return to work program.</p> <p>To the best of ability carry out agreed actions as outlined in the return to work program.</p> <p>Immediately inform Injury Management Coordinator and manager of any difficulties carrying out the return to work program.</p>	<p>Workers should:</p> <ul style="list-style-type: none"> Attend medical examinations (s64 and s65) provide medical certificates in timely fashion attend medical and other treatment appointments arranged by treating doctor, or arranged by the employer if referred to a workplace rehabilitation service, participate in all aspects of the service and work cooperatively with the service provider, and advise of any changes to treating doctor or other treatment providers. <p>Returning to work: Workers Returning to work: Employers</p>	N/A	N/A	s59 — notify employer within 7 days if returning to employment	<p>Communicate with parties in open and honest manner and reply to reasonable levels of communication.</p> <p>Advise of any changes in contact details.</p>
SA	<p>s25(4) Return to Work Act 2014 — The Return to Work Plan may impose obligations on the worker and in case of dispute will continue to bind the worker subject to the outcome of the dispute.</p> <p>s48(3) — A worker's income maintenance can be discontinued if</p>	Under s48(3)(a) a worker's income maintenance can be discontinued if a worker fails to submit to an examination by a recognised medical expert nominated by the Corporation, and if a worker refuses or fails to submit to proper medical	See s31(3)(b) — a claim may be rejected if a worker refuses to submit to an examination.	<p>A worker may be discontinued if they refuse to cooperate in establishing a return to work plan or fail to comply with an obligation under the plan — s48(3)(d).</p> <p>A worker may be discontinued if they refuse to undertake work that has been offered that the worker is</p>	Not defined in the Act	<p>s16 — Upon injury the worker must give notice to the employer within 24 hours after the injury occurred or as soon as practicable.</p> <p>s51 — If the worker will be absent from Australia in</p>

	Workers' responsibilities in the return to work/injury management plan	Obligations to participate in medical treatment and/or rehabilitation	Obligations to participate in assessment	Obligations in making efforts to return to work	Obligations in relation to notifying about a return to work	Other obligations
	the worker 'breaches mutuality,' including if a worker fails to comply with a return to work obligation [s48(3)(e)(iii)] .	treatment for the worker's condition [s48(3)(c)] s48(4) states that a worker has not breached mutuality if they reasonably refuse surgery or the administration of a drug or if they choose one form of treatment over another.		capable of performing — s48(3)(e) — or if they fail to take reasonable steps to find or obtain suitable employment — s48(3)(e) .		excess of 28 days must notify the Corporation the prescribed details of the proposed absence at least 28 days before leaving.
Tas	Worker to notify employer as soon as practicable after a workplace injury of the primary treating medical practitioner. — Workers Rehabilitation and Compensation Act 1988 s143G(1) Worker is to take all reasonable steps to comply with requirements of the return to work plan or injury management plan and to perform any actions that the worker is required to perform under the plan. — s143E(7) and s143N(1) .	Worker to take all reasonable steps to comply with requirements of the return to work or injury management plan. — s143E(7) If a medical practitioner conducting an independent medical review reports that any medical or surgical treatment will terminate or shorten the period of incapacity, the worker must submit to treatment or, if the worker is dissatisfied with the report, the worker must submit to an examination by another medical practitioner. If the medical practitioners are in agreement, the worker must submit to the treatment specified. — (s90A(7)) If worker fails to submit to treatment (with the exception of surgical treatment) the worker's right to compensation and to take any proceedings under the Workers Rehabilitation and Compensation Act 1988 can be suspended. — s90C .	In relation to medical reviews, a worker is to submit to an independent medical review at a reasonable time provided the worker has been given reasonable notice. If the worker objects to the review, he/she can refer it to the Tribunal for consideration. — s90A and s90C .	If worker is unable to perform an action, they are to seek medical advice and if appropriate undergo treatment that may enable the action, and advise the employer and injury management coordinator of the worker's inability and of any medical advice or treatment sought or undergone. A worker who is assigned reduced hours in accordance with an approved plan must take all reasonable steps to ensure attending a medical practitioner does not interfere with worker's employment during those hours. — s143N .	N/A	A worker must not wilfully fail to disclose to any treating medical practitioner any information that the worker knows or ought reasonably be expected to know is relevant to the diagnosis or treatment of the worker's workplace injury. — s143J .
NT	Return to Work Act 1986 s75B — worker must cooperate with reasonable return to work process.	s75B — Worker must cooperate with reasonable medical, surgical and rehabilitation treatment and participate in rehabilitation training or a workplace based return to work program.	s75B — Must present at reasonable intervals for assessment of employment prospects.	Obligation is on employer to provide or arrange. Worker must then cooperate.	s90 — Worker must notify employer if returns to work with another employer or circumstances change in a way likely to affect entitlement.	N/A

	Workers' responsibilities in the return to work/injury management plan	Obligations to participate in medical treatment and/or rehabilitation	Obligations to participate in assessment	Obligations in making efforts to return to work	Obligations in relation to notifying about a return to work	Other obligations
ACT	Workers Compensation Act 1951 s113 — The worker must: <ul style="list-style-type: none"> s101 — Participate in development of personal injury plan s102 — Nominate treating doctor, and s113 — Participate in vocational rehabilitation or a return to work program. 	s101(2) — The injured worker must comply with reasonable obligations under the plan, including any obligation to receive medical treatment or rehabilitation services.	s113 — Attend assessments of the worker's employment prospects. s113 — Attend a medical assessment of the worker's injury.	s104 — an injured worker must make all reasonable efforts to return to work with the workers pre-incapacity employer. s113 — Undertake suitable alternative duties provided. s113 — Take up an offer of suitable work for which worker is qualified and worker can perform.	No	No
C'wealth Comcare	The employee is responsible for undertaking a determined rehabilitation program [refer s37 of SRC Act].	Where an employee refuses or fails, without reasonable excuse, to undertake a rehabilitation assessment or program, the employee's rights to compensation are suspended until the assessment takes place or the employee begins to undertake the program.	Unless the employee has a reasonable excuse, they must participate in, and not obstruct, a rehabilitation assessment [refer to s36(3) and s36(4) of SRC Act and s.11(1) of Rehabilitation Guidelines].	An employee is required to participate in a rehabilitation program as determined by the rehabilitation authority refer s37 of SRC Act], unless they have a reasonable excuse not to participate.	N/A	No
C'wealth Seacare	The employee is responsible for undertaking a rehabilitation program provided under s50(1) Seafarers Rehabilitation and Compensation Act 1992.	s50(5) — If the employee, without reasonable excuse, does not undertake a rehabilitation program provided for them, compensation can be suspended.	s49(3) — The employer may require the employee to undergo an examination in relation to an assessment. s49(4) — If the employee does not attend, without reasonable excuse, or obstructs the examination, compensation can be suspended.	s32 — Employee has a responsibility to actively seek or participate in suitable employment where that employee has a capacity to return to work.	N/A	No
C'wealth DVA	Military Rehabilitation and Compensation Act 2004 (MRCA) s52 If the rehabilitation authority requires a person to undertake a rehabilitation program and the person refuses or fails to undertake the program, the authority may determine that the person's right to compensation (but not the person's right to treatment or compensation for treatment) is suspended until	As adjacent	MRCA s50 If the rehabilitation authority requires the person to undergo an examination and the person: (a) refuses or fails to undergo the examination; or (b) in any way obstructs the examination; the authority may determine that the person's right to compensation (but not the person's right to treatment or	As adjacent	N/A	N/A

Comparison report

	Workers' responsibilities in the return to work/injury management plan	Obligations to participate in medical treatment and/or rehabilitation	Obligations to participate in assessment	Obligations in making efforts to return to work	Obligations in relation to notifying about a return to work	Other obligations
	<p>person undertakes the rehabilitation program.</p> <p>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA)</p> <p>The employee is responsible for undertaking a determined rehabilitation program [refer to ss37(1) and 37(7)]</p> <p>Actively participate in any rehabilitation program developed by the case manager or approved workplace rehabilitation provider.</p>		<p>compensation for treatment) is suspended until the examination takes place.</p> <p>DRCA</p> <p>The employee is responsible for attending and co-operating at a required examination to assess the employee's capability of undertaking a rehabilitation program.</p> <p>[refer to s36(1), s36(3) and s36(4)]</p> <p>Employee shall cooperate in the assessment of the capacity to undertake a rehabilitation program:</p> <p>S36(3) — Employee shall undergo a required examination.</p> <p>S36(4) — All rights and proceedings under the Act are suspended if an employee fails, without reasonable excuse, to undergo a rehabilitation examination.</p>			
New Zealand	Yes — s72 Accident Compensation Act 2001	Yes — s72	Yes — s72	Yes — s72		A claimant who receives any entitlement must, when reasonably required to do so by the Corporation: authorise the Corporation to obtain medical and other records that are or may be relevant to the claim.

Table 6.4: Injured worker placement incentives

	Scheme name	Includes wage/ salary subsidy?	Premium exemption	Second injury costs from aggravation or recurrence of existing injury	Funding for equipment used for workplace modifications	Training costs	Work trials	Further information
NSW	JobCover Placement Program	Yes Up to \$27,400 over a 52 week period paid as an incentive payment to the employer.	Yes Injured workers wages not included in wages for premium calculation purposes for 2 years.	Yes Changes to the existing injury are managed against the original claim for a period of 2 years.	Yes No limit to amount — justify against the principles for funding of equipment and workplace modification.	Yes No limit to amount — justify against the principles of retraining.	Yes Work trial - Work experience with a host employer for up to 12 weeks. Connect2work also provides an incentive payment to a host employer who offers work experience for 15 hours per week or more.	JobCover placement program
	Recover at Work Assist for Small Business	The program provides the employer with an assistance payment of up to \$400 per week for a combined total of up to 6 weeks after date of injury. It is for very small employers — only 19 FTE or less and basic tariff premium of \$30,000 or less.	N/A	No	Yes No upper limit to amount — funding approved against the principles for funding of equipment and workplace modification.	No	No	Recover at work assist for small business – guidance material
	Workplace modifications	No	No	No	Yes No limits to amount justify against the principles for funding or equipment and workplace modification.	No	Can be linked to a work trial	Equipment and workplace modification
	New employment assistance benefit	No	No	No	Yes	Yes		New employment assistance benefit. Cost up to \$1,000 to support return to work with a new employer.

	Scheme name	Includes wage/ salary subsidy?	Premium exemption	Second injury costs from aggravation or recurrence of existing injury	Funding for equipment used for workplace modifications	Training costs	Work trials	Further information
Vic	Workplace Incentive Scheme for Employers (WISE)	WISE is a 6 month financial incentive of up to \$26,000 payable to employers who offer ongoing employment of 15 hours + to workers with an accepted claim who cannot return to work with their pre-injury employer	Employers are offered WorkSafe Victoria Injury Insurance protection if the worker ceases work because of a new injury. Additionally, the cost of that claim is excluded from the employer's injury insurance premium calculation, though the employer is still liable to pay an excess of the first 10 days' of weekly payments and indexed medical expenses.	If a worker on a WISE placement has a further injury during their placement, the WISE employer's Agent will determine whether this is a new injury or part of the original claim. Where the decision is that the injury is a continuation of the original injury, then any weekly payments, medical and like expenses will be paid against the original employer's policy.	Not part of WISE but may be provided to the worker as an occupational rehabilitation service based on the claim circumstances.	Not part of WISE but may be provided to the worker as an occupational rehabilitation service based on the claim circumstances.	No	WorkSafe Incentive Scheme for Employers WISE Information for employers
Qld	Recover at Work program, run by WorkCover Queensland.	WorkCover continues to pay the workers' compensation entitlements while they participate in the program.	Nil	Any injuries sustained during the host program are covered by WorkCover Queensland and do not affect the host employer's premium. At the end of the program, any aggravation to existing injury is covered by WorkCover Queensland for 6 months following the commencement of employment.	Is considered on a case by case basis. Reasonable costs will be paid by WorkCover.	WorkCover will pay for training/additional skills required to secure employment with the host employer.	The work trial will run for 6 to 8 weeks	Recover at Work
WA	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SA	RISE (Re-employment Incentive Scheme for Employers)	Reimbursement of 40% of gross wages for up to 52 weeks of employment	No	N/A	Cost associated with minor site modifications, equipment	Considered as part of return to work service based on the claim circumstances	No	RISE information and approval form available from ReturnToWorkSA website
Tas	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

	Scheme name	Includes wage/salary subsidy?	Premium exemption	Second injury costs from aggravation or recurrence of existing injury	Funding for equipment used for workplace modifications	Training costs	Work trials	Further information
NT	Alternative Employer Incentive Scheme — s75A , Return to Work Act 1986	Yes	N/A	12 months	Yes reasonable and necessary costs — s76	Yes reasonable and necessary costs — s76	Alternative Employer Incentive Scheme provides for 12 week work trial	Alternative Employer Incentive Scheme
ACT	Second Injury arrangements Scheme (s108 Workers Compensation Act 1951). The scheme provides for private arrangements between insurers and employers.	The legislation provides for a wage subsidy and indemnity from injuries. Commercial arrangements can be made between insurers and employers.	Yes	Yes Private arrangement between insurers and employers.	Not expressly provided for but can be negotiated between insurers and employers.	Not expressly provided for but can be negotiated between insurers and employers.	Not expressly provided for but can be negotiated between insurers and employers.	No guidance material has been published.
C'wealth Comcare	Work trial placement	During the work trial the employee is paid for the hours they work by the Rehabilitation Authority. If the employee is working less than their pre-injury hours, incapacity payments are paid by the relevant authority under the SRC Act.	N/A	During the course of the work trial if there is a new injury/illness or aggravation of pre-existing injury/illness, the employee should submit a new claim through their rehabilitation authority.	Additional or specialised equipment may be included in a rehabilitation program.	Retraining costs may form part of a rehabilitation program.	Yes	Work trials: a guide for rehabilitation case managers (Pub 83)
C'wealth Seacare	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C'wealth DVA	Employer Incentive Scheme	Offered as an incentive to employers of current DVA rehabilitation clients	N/A	New injuries – submit claim via employer Aggravation of existing injury outside workplace – submit to DVA	Costs associated with minor site modifications, equipment, if not provided by employer	Yes	No	Rehabilitation Policy Library 9.10
	DVA Rehabilitation	Incapacity payments maintained during participation	N/A	DVA	Additional or specialised equipment may be included in rehabilitation program	Retraining costs may be included in rehabilitation program	Yes	Rehabilitation Policy Library

	Scheme name	Includes wage/ salary subsidy?	Premium exemption	Second injury costs from aggravation or recurrence of existing injury	Funding for equipment used for workplace modifications	Training costs	Work trials	Further information
							Work experience with host employer for up to 12 weeks.	
New Zealand	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table 6.5: Responsibilities of authority/insurer

Responsibilities of authority/insurer	
NSW	<p>The State Insurance Regulatory Authority (SIRA) is the NSW regulator for workers' compensation insurance and administers the NSW workers compensation legislation. The insurer must:</p> <ul style="list-style-type: none"> • establish and maintain an injury management program and must revise the injury management program from time to time and when directed by SIRA s43(1) <i>Workplace Injury Management and Workers Compensation Act 1998</i> • ensure employers are made aware of their injury management obligations under the legislation and under the insurer's injury management program s43(3) 1998 Act. • contact the employer, worker and (if necessary) the nominated treating doctor within 3 working days of being notified that a worker has sustained a significant injury, s43(3) 1998 Act. • develop an injury management plan in line with timeframes in the insurer's injury management program, s45 1998 Act. • consult with the injured worker, employer and nominated treating doctor in the development of an injury management plan. • commence provisional payment of weekly payments and medical expenses within 7 days of being notified of an injury, unless they have a reasonable excuse for not commencing those weekly payments, s267(1) 1998 Act. • inform the worker that entitlement to weekly payments can be suspended if the worker does not reasonably comply with the injury management plan s45(4) 1998 Act. • ensure vocational retraining and/or assistance to obtain employment is provided or arranged for a worker that may reasonably lead to a real prospect of employment, s45(6) 1998 Act.
Vic	<p>Agents do not have return to work obligations under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>. Employers and workers do. While Agents can assist employers and workers to meet their return to work obligations, such as return to work planning, they cannot meet these obligations on their behalf. Agents can assist employers in developing arrangements. This could involve assistance in the writing of return to work arrangements provided the employer has ownership of the arrangements. Ownership includes the employer agreeing with and understanding the details of the return to work arrangements and ensuring that the worker and other people (e.g., worker's supervisor) are aware of the arrangements.</p> <p>The Authority is responsible for approval of occupational rehabilitation providers and providing this approved provider list to workers. The Authority may direct an employer to use the services and an approved occupational rehabilitation provider - s120</p> <p>The Authority appoints return to work Inspectors to exercise the powers set out in Division 7, Part 4.</p>
Qld	<p><i>Workers' Compensation and Rehabilitation Act 2003</i> s220 — an insurer must:</p> <ul style="list-style-type: none"> • take the steps it considers practicable to secure the rehabilitation and early return to suitable duties of workers who have an entitlement to compensation, • refer a worker who has lodged a notice of claim to an accredited return to work program of the insurer, unless the insurer is satisfied that, as a result of the injury, the worker will not be able to participate in the program, and • take the steps it considers practicable to coordinate the development and maintenance of a rehabilitation and return to work plan in consultation with the injured worker, the worker's employer and treating registered persons. <p>An accredited return to work program, of an insurer, means a return to work program managed by the insurer that is accredited by the Workers' Compensation Regulator.</p>
WA	<p>Insurers' Responsibilities</p> <ul style="list-style-type: none"> • <i>Workers' Compensation and Injury Management Act 1981</i> s155D — Injury management: insurers' obligations: To make employers aware of their obligations in relation to return to work programs and injury management systems. If requested by the employer either: <ul style="list-style-type: none"> ○ assist the employer comply with their obligations in relation to return to work programs and injury management systems, or ○ discharge the employer's obligations on behalf of the employer. <p>WorkCover WA Responsibilities</p> <ul style="list-style-type: none"> • s157 — WorkCover WA is to: <ul style="list-style-type: none"> ○ provide information and advice on injury management generally ○ make available, upon request, to employers, workers and other persons such information or other assistance as it considers appropriate to facilitate the arranging of injury management

Responsibilities of authority/insurer	
	<ul style="list-style-type: none"> ○ make arrangements with other persons or authorities for the use of facilities for providing information about injury management and related matters, and ○ provide information on injury management or related matters to an arbitrator.
SA	<p>Under the <i>Return to Work Corporation of South Australia Act 1994</i>, the Return to Work Corporation of South Australia is responsible for the administration of the Return to Work scheme as a regulator and a service focused insurer, minimising employer's costs while providing fair compensation for work-related injuries and ensuring the scheme is fully funded.</p> <p>ReturnToWorkSA appoints agents who are responsible for the management of work injury claims specified in legislated contractual arrangements.</p>
Tas	<p>An insurer must ensure that there is an injury management program in place in respect of each of its employers (note — the insurer can submit an injury management program to the Board for approval that applies to a group of employers or to all of its employers), must comply with each injury management program — Workers Rehabilitation and Compensation Act 1988 s142</p> <p>An insurer must appoint an injury management coordinator in respect of its employers. As soon as practicable after becoming aware that a worker (employed by one of its employers) has suffered a significant injury, the insurer must assign that worker to the injury management coordinator. — s143B</p> <p>As soon as practicable after making a significant decision in relation to the injury management of a worker, the insurer is to notify the worker of the decision and the reason/s for the decision. — s143P(1).</p>
NT	<p>Return to Work Act 1986 s75A provides for responsibilities on employers and the return to work process. The insurer will assist the employer to manage this process.</p>
ACT	<p>Chapter 8 of the Workers' Compensation Act 1951 — insurer obligations</p> <p>Chapter 5 — injury management obligations</p> <p>s88 establish and review injury management program — reviewed every 2 years.</p>
C'wealth Comcare	<p>Comcare approves rehabilitation providers. This includes determining criteria for approval and operational standards of rehabilitation providers and approving, renewing and revoking approval of rehabilitation providers. Comcare reviews rehabilitation determinations issued by premium paying entities and Commonwealth authorities (s38 Safety, Rehabilitation and Compensation Act 1988). Comcare prepares and issues guidelines in relation to the performance and exercise by rehabilitation authorities of their rehabilitation functions and powers (s41).</p>
C'wealth Seacare	<p>s50(1) of the <i>Seafarers Rehabilitation and Compensation Act 1992</i> requires the employer to make arrangements with an approved program provider for the provision of appropriate rehabilitation programs.</p>
C'wealth DVA	<p>See Rehabilitation Authority in Table 6.2b</p>
New Zealand	<p><i>Accident Compensation Act 2001 s70</i> Claimant's and Corporation's obligations in relation to rehabilitation</p> <p>A claimant who has suffered personal injury for which they have cover is entitled to be provided by the Corporation with rehabilitation, to the extent provided by this Act, to assist in restoring the claimant's health, independence, and participation to the maximum extent practicable but is responsible for their own rehabilitation to the extent practicable having regard to the consequences of their personal injury.</p>

Functions and training of workplace rehabilitation coordinators

Some jurisdictions require employers of a certain size to employ an officer in an organisation on a full-time or ad hoc basis to coordinate the return to work of injured workers. Jurisdictions that are not required by their Act to recruit a workplace rehabilitation coordinator are Western Australia, Northern Territory and New Zealand.

Workplace rehabilitation coordinators have similar functions in the jurisdictions that require their employment. These functions include:

- developing a return to work plan in consultation with the injured worker and the employer
- assisting with the planning and implementation of a return to work program
- identifying suitable duties for the injured worker to enable return to work as soon as possible
- managing the return to work process by liaising with treating doctors, rehabilitation providers and the employer, and
- monitoring the injured workers' progress towards successful return to work.

Jurisdictions that require the employment of a workplace rehabilitation coordinator can have specific training requirements. Most commonly, a short course is undertaken to gain a qualification as a workplace rehabilitation coordinator. Normally self-insurers case-manage their own employees but some jurisdictions allow them to outsource this function. Table 6.7 shows the outsourcing of case management arrangements in Australia.

Table 6.6: Functions and training of workplace rehabilitation coordinators

	Workplace rehabilitation coordinator requirements and threshold	Training and accreditation
NSW	<p>Clause 19 Workers compensation Regulation 2016: A category 1 employer must have a dedicated return to work coordinator who has the required training and skills to assist injured Employees return to work. The Guidelines for workplace return to work programs outlines the functions of Return-to-Work Coordinators.</p> <p>An employer should appoint a RTW coordinator who has well established relationship with workers and a good understanding of all aspects of the workplace. If an employer chooses to outsource this role or engage a RTW coordinator under a work arrangement or contract, they must ensure:</p> <ul style="list-style-type: none"> • The appointed person has the required training, skills and experience • The arrangement will not disadvantage workers • Consult the workforce before proceeding with the arrangement • There is no perceived or actual conflict of interest for the person being engaged • The RTW program details the arrangements, including the person's name, qualifications and experience • The suitability of these arrangements is reviewed every 2 years as part of the RTW program review. <p>Category 2 employers must nominate person responsible for recovery at work, develop and implement a return-to-work program.</p>	<p>Return to work coordinators must have the training, skills and experience to perform the role and functions of the return-to-work coordinator for an employer. SIRA's online training is available to assist return to work coordinators to meet this requirement. Category 1 employers must appoint or engage a RTW coordinator who has relevant training, skills and experience to perform the role and functions of a RTW Coordinator.</p> <p>The guidelines outline competencies which are required of a RTW coordinator. These include:</p> <ul style="list-style-type: none"> • effective communication skills • the ability to consult with and influence stakeholders • negotiation and conflict resolution • being organised and skilled in time management • the ability to think and solve problems • a knowledge of NSW workers compensation legislation, and • the roles and responsibilities of stakeholders in the system <p>SIRA has developed online training for return-to-work coordinators to understand their role, the importance of recovery at work and how employers can meet their workers compensation obligations.</p>
Vic	<p>Workplace Injury Rehabilitation and Compensation Act 2013 s106 — An employer's obligation to have a Return to Work Coordinator depends on their rateable remuneration:</p> <ul style="list-style-type: none"> • an employer with a rateable remuneration of \$2,518,510 or more must have a Return to Work Coordinator appointed at all times, and • an employer with a rateable remuneration of less than \$2,518,510 must appoint a Return to Work Coordinator for the duration of the employer's return to work obligations to an injured worker. <p>An employer must appoint a person to be a Return to Work Coordinator who has an appropriate level of seniority and is competent to assist the employer to meet the employer's obligations under Part 4 of the Act.</p> <p>A person is competent to assist the employer to meet its obligations under Part 4 of the Act if the person has knowledge, skills or experience relevant to planning for return, including: (a) knowledge of the obligations of employers and workers under Part 4 of the Act (b) knowledge of the compensation scheme provided for under the Act and the Accident Compensation Act 1985 and the functions of WorkSafe Victoria and, if relevant, self-insurers under Part 4 of the Act.</p> <p>View the Return to Work Coordinator guidance and the Return to Work Coordinators Compliance code for further information.</p>	<p>Completing the Return to Work Coordinator training is not mandated by WorkSafe Victoria (WSV). However WSV strongly encourages Return to Work Coordinators to complete the WSV endorsed 2 day Return to Work Coordinator training course developed by WSV in consultation with external stakeholders.</p> <p>To become a provider of WorkSafe Victoria endorsed Return to Work Coordinator training interested parties must complete a Provider Application for Approval to Conduct Role of a Return to Work Coordinator Training Program application form and satisfy the necessary requirements to gain approval.</p> <p>WSV strongly encourages all Return to Work Coordinators to stay up to date with the latest return to work news, information and events, and in doing so build upon and maintain their competence as a coordinator.</p>
Qld	<p>Workers' Compensation and Rehabilitation Act 2003 s41</p> <p>A rehabilitation and return to work coordinator is a person who is appropriately qualified to perform the functions of a rehabilitation and return to work coordinator and has the functions prescribed under a</p>	<p>s41 Meaning of rehabilitation and return to work coordinator</p> <p>A person is taken to be appropriately qualified to perform the functions of a rehabilitation and return to work coordinator if the person has completed a training course approved by the Regulator.</p>

Workplace rehabilitation coordinator requirements and threshold		Training and accreditation
	<p>regulation. (Workers' Compensation and Rehabilitation Regulation 2014 s114 — Functions of Rehabilitation and Return to Work Coordinator). These include:</p> <ul style="list-style-type: none"> • initiate early communication with an injured worker in order to clarify the nature and severity of the worker's injury; • provide overall coordination of the worker's return to work; • if a rehabilitation and return to work plan is required— <ul style="list-style-type: none"> ○ consult with the worker and the worker's employer to develop the suitable duties program component of the plan; and ○ ensure the program is consistent with the current medical certificate or report for the worker's injury; • liaise with <ul style="list-style-type: none"> ○ any person engaged by the employer to help in the worker's rehabilitation and return to work; and ○ the insurer about the worker's progress and indicate, as early as possible, if there is a need for the insurer to assist or intervene. <p>s226 — Employer's obligation to appoint rehabilitation and Return to Work Coordinators</p> <p>An employer must appoint a Rehabilitation and Return to Work Coordinator if they meet the prescribed criteria. That is, the employer employs workers at a workplace in a high-risk industry and the wages of the employer in Queensland for the preceding financial year were more than 2,600 times QOTE. If not in a high-risk industry, the employer's wages in Queensland for the preceding financial year were more than 5,200 times QOTE.</p> <p>The Rehabilitation and Return to Work Coordinator must be in Queensland and be employed by the employer under a contract (regardless of whether the contract is a contract of service). The employer must appoint the Rehabilitation and Return to Work Coordinator within 6 months after workplace is established or workers are employed at a workplace. Later period can be granted.</p> <p>A Rehabilitation and Return to Work Coordinator is not civilly liable for an act done, or an omission made, in giving effect to the workplace rehabilitation policy and procedures of an employer. The civil liability may attach to the employer.</p>	
WA	N/A	N/A
SA	<p>Return to work coordinator – under s26 Return to Work Act 2014 - an employer must appoint (and retain) a return to work coordinator who is based in South Australia.</p> <p>The employer must appoint a coordinator:</p> <ul style="list-style-type: none"> • within 6 months after the requirement to be registered as an employer under the Return to Work Act 2014 (or within a later period approved by the Return to Work Corporation) and • within 3 months after a vacancy occurs in the office of a coordinator. <p>A coordinator has the following functions:</p> <ul style="list-style-type: none"> • to assist workers suffering from work injuries, where prudent and practicable, to remain at or return to work as soon as possible after the occurrence of the injury: 	<p>Businesses that employ more than 30 workers must appoint a certified return to work coordinator.</p> <p>Return to Work Coordinator certificate training provides participants with an understanding of the role, functions and responsibilities of a return to work coordinator.</p> <p>Training is provided on-line or by a registered training provider. Details are provided on the ReturnToWorkSA website.</p>

Workplace rehabilitation coordinator requirements and threshold		Training and accreditation
	<ul style="list-style-type: none"> to assist in the preparation and implementation of any recovery/return to work plan for an injured worker to liaise with any persons involved in the provision of medical and other relevant services to workers to monitor the progress of an injured worker's capacity to return to work to as far as practicable, prevent the occurrence of an aggravation, acceleration, exacerbation, deterioration or recurrence of an injury where a worker returns to work. <p>The regulations may exempt an employer, or employers of a prescribed class, from the requirement to appoint a Return to Work Co-ordinator (see s26 and reg 18 of the Return to Work Regulations 2015).</p>	
Tas	<p>Workers Rehabilitation and Compensation Act 1988 s143B</p> <p>The licensed insurer of an employer of a worker must appoint an injury management coordinator in respect of the employer.</p> <p>The licensed insurer of an employer of a worker, as soon as practicable after becoming aware that the worker has suffered a significant injury, must assign the worker to the injury management coordinator in respect of the employer.</p> <p>If a worker's approved injury management program was submitted by the worker's employer to the employer's insurer under s143(4):</p> <ul style="list-style-type: none"> subsections (1) and (2) do not apply to the employer's insurer; and the employer must appoint an injury management coordinator in respect of the employer and assign a worker to the injury management coordinator, as soon as practicable after becoming aware the worker has suffered an injury. <p>If a worker's approved injury management program was submitted by the worker's employer to the Board under s143(5) or (6) the employer must:</p> <ul style="list-style-type: none"> appoint an injury management coordinator in respect of the employer; and assign a worker to the injury management coordinator, as soon as practicable after becoming aware that the worker has suffered a significant injury. <p>The employer or insurer who appointed a person to be an injury management coordinator may appoint another person to be the injury management coordinator in the place of the person first appointed.</p> <p>Return to Work Coordinator may be required to be appointed (s143D):</p> <ul style="list-style-type: none"> An employer who employs more than 100 workers must appoint a return to work coordinator. A worker's employer may only assign a worker to a return to work coordinator if the coordinator is familiar with the workplace, and the management and staff of the workplace, in which the worker is employed. 	<p>Injury Management Coordinator — s143B(5)</p> <p>A person may only be appointed to be an injury management coordinator if, where the Board approves a course of training:</p> <ul style="list-style-type: none"> the person has successfully completed the course of training; or the Board is satisfied that the person has obtained a qualification or completed a course of training that is at least equivalent to the course of training approved by the Board. <p>The approved course of training for an injury management coordinator, as of 1 March 2021 is a Certificate IV in Personal Injury Management. Elective units in return to work are encouraged.</p> <p>Return to Work Coordinator — s143D</p> <p>A person may only be appointed under ss(1) to be a return to work coordinator if, where the Board has approved a course of training:</p> <ul style="list-style-type: none"> the person has successfully completed the course of training; or the Board is satisfied that the person has obtained a qualification or completed a course of training that is at least equivalent to the course of training approved by the Board. <p>While the WorkCover Tasmania Board has not approved a course of training for return to work coordinators, it is recognised that this role requires certain knowledge and skills to enable the appointed person to effectively perform the role. For this reason, it is highly recommended that a return to work coordinator completes 4 units of competencies recognised within the Australian Qualifications Framework, refer to WorkSafe Tasmania's website.</p>
NT	N/A	N/A
ACT	<p>An employer that pays an annual premium of \$200,000 or more, or is a self-insurer must appoint a return to work coordinator – s103B</p> <p>An employer must:</p>	<p>The SafeWork NSW approved training course Introduction to return to work coordination or its equivalent as named from time to time. Workers Compensation (Return-to-Work Coordinator Training) Determination 2016 (No 1)</p>

Workplace rehabilitation coordinator requirements and threshold		Training and accreditation
	<ul style="list-style-type: none"> provide the facilities and assistance that are reasonably necessary to enable a return-to-work coordinator to exercise the coordinator's functions; and not appoint a person as a return-to-work coordinator unless the person <ul style="list-style-type: none"> has completed training determined by the Minister as prerequisite training for a return-to-work coordinator for this Act; or has experience of the kind determined by the Minister as prerequisite experience for a return-to-work coordinator for this Act; and comply with the Minister's guidelines about an employer's responsibilities in relation to return-to-work coordinators; and notify the Minister in writing about the contact details for each of the employer's return-to-work coordinators not later than 30 days after the day the coordinator is appointed. – s103E 	<p>Knowledge of the ACT workers' compensation scheme and demonstrated work experience in the field of injury or case management or workplace rehabilitation, including experience undertaking the functions set out at s103D of the Act. Workers Compensation (Return-to-Work Coordinator Experience) Determination 2016 (No 1)</p>
C'wealth Comcare	<p>The Guidelines specify the requirements for the rehabilitation delegate. These include:</p> <p>Having appropriate skills and capabilities to exercise their powers and perform the functions under Part III of the SRC Act; and being supported with appropriate resources and training for the exercise or performance of their powers and functions [see s 7(1)].</p>	<p>Comcare does not have an accreditation process. Comcare does provide Rehabilitation case manager core capabilities. These capabilities define the requirements of an effective rehabilitation case manager in the Comcare scheme. The core capabilities can be used to establish a scheme standard and support training needs of the rehabilitation case manager.</p> <p>Comcare also offers face-to-face and virtual training, delivers regular rehabilitation case manager forums and produces better practice guidance and research.</p>
C'wealth Seacare	N/A	N/A
C'wealth DVA	<p>Qualification requirements are incorporated into the Statement of Requirements.</p> <p>Rehabilitation service providers are contracted by DVA to:</p> <ul style="list-style-type: none"> identify and coordinate access to relevant services and supports to meet client needs organise assessments for rehabilitation services and support required by the client work with the client to develop a tailored rehabilitation plan manage and coordinate the client's plan liaise with the client's treating practitioners to optimise rehabilitation outcomes liaise with DVA delegates about progress towards rehabilitation goals 	<p>Rehabilitation provider organisations need to satisfy several DVA-specific requirements. This process is independent of the Comcare accreditation process. To work with DVA clients, provider organisations need to be both an approved Comcare provider and meet the specific DVA requirements.</p> <p>The DVA requirements are distinct from Comcare's revised approval criteria and operational standards and have been agreed to by the Military Rehabilitation and Compensation Commission (MRCC). Industry input at several consultation meetings in 2015 helped shape the DVA requirements.</p> <p><u>Summary of Requirements</u></p> <p>The DVA registration requirements have 3 components: Profession, experience and training. All 3 components must be met for the consultant to deliver services for DVA.</p> <p>The consultant must hold one of the applicable professions as per the Operational Standards for Workplace Rehabilitation Providers 2020. The consultant must have the following experience, or be mentored until this experience is obtained:</p> <ul style="list-style-type: none"> Minimum of 3 years' hands on experience delivering occupational rehabilitation services Minimum of 1 year experience providing clinical services to DVA clients or other workers from a similar environment such as police or emergency services personnel Minimum 1 year experience in providing clinical support to clients with complex medical conditions Minimum 1 year experience with long term case management including the mentoring and coaching of clients towards successful completion of identified goals, and the completion of timely and meaningful reports

Workplace rehabilitation coordinator requirements and threshold		Training and accreditation
		<ul style="list-style-type: none"> For consultants delivering vocational support - Minimum 1 year experience in translating specific skills and qualifications to other industries and assisting clients to move to a new job with a new employer, to change careers and/or move into a new industry <p>The consultant must complete the required training which includes:</p> <ul style="list-style-type: none"> DVA e-learning courses available via DVAttrain on the DVA website. <ul style="list-style-type: none"> Understanding DVA's Rehabilitation Program Understanding DVA's Rehabilitation Program knowledge check Mental Health First Aid training Rehabilitation Provider Training series: Consultant Registration
New Zealand	N/A	N/A

Workplace rehabilitation providers

Workplace rehabilitation is a managed process involving timely intervention with appropriate and adequate services based on assessed need. It is also aimed at maintaining injured or ill employees in, or returning them to suitable employment.

Responsibilities

Workplace rehabilitation providers are engaged to provide specialised expertise in addition to what is generally available within the employer's and insurer's operations. Depending on the jurisdiction, workplace rehabilitation providers can undertake a range of services from functional and workplace assessments and advice concerning job modification, to vocational retraining and assistance with job seeking. Table 6.7a provides information on the responsibilities of workplace rehabilitation providers in each jurisdiction.

Nationally consistent approval framework for workplace rehabilitation providers

The Heads of Workers' Compensation Authorities (HWCA) have endorsed a [principles-based framework](#) for the delivery of workplace rehabilitation provider services. The Principles for Practice for Workplace Rehabilitation Providers recognise the importance of work in recovery and are intended to:

- guide Workplace Rehabilitation Providers in delivering workplace rehabilitation services to a worker
- inform the Workplace Rehabilitation Provider approval and management frameworks of workers' compensation authorities
- support the vision of the National Return to Work Strategy 2020-2030
- complement the Clinical Framework for the delivery of treatment services.

Qualifications and fees structure

The National Framework outlines the minimum qualifications for rehabilitation providers. Some jurisdictions have additional requirements. These are outlined in Table 6.7b as is information on the fees structure in each jurisdiction.

Prescribed time period to establish a return to work plan

Table 6.8 shows the 3-point contact and the return to work plan development as specified by legislation in various jurisdictions.

Table 6.7a: Responsibilities of workplace rehabilitation provider

Responsibilities of rehabilitation provider	
NSW	<p>A workplace rehabilitation service is defined under s 59 of the 1987 Act as "any service provided as a workplace rehabilitation service by or on behalf of a provider or rehabilitation services approved under s 52 of the 1998 Act".</p> <p>Part 7 of the Workers compensation regulation 2016 sets out the requirements for providers to seek SIRA approval to deliver workplace rehabilitation services in the NSW workers compensation scheme. The Workers compensation workplace rehabilitation provider approval framework sets out the requirements for organisations delivering or seeking to deliver workplace rehabilitation services within the NSW workers compensation scheme.</p> <p>Workplace rehabilitation providers help people recover at work. Workplace rehabilitation services are usually delivered at the workplace, in consultation with all parties and may involve:</p> <ul style="list-style-type: none"> • workplace facilitated discussion - to resolve a workplace relationship conflict and assist a worker with their recovery at work. • assessing the activities a worker can currently perform • assessing available suitable work option • advising about modifications for the work environment or work practices to reduce work demands, for example providing equipment to make the worker's job easier • working with the worker, their employer and doctor to design a plan to help the worker recover at work • advising about work options when the worker is unable to recover at work with their pre-injury employer
Vic	<p>Workplace Injury Rehabilitation and Compensation Act 2013 s3 of the legislation defines the meaning of the term occupational rehabilitation services. For injured workers, there are a number of specific return to work services known as occupational rehabilitation (OR) services to assist them return to work which can only be delivered by OR providers approved by WorkSafe Victoria. Approved occupational rehabilitation providers must comply with conditions of approval and the Nationally Consistent Approval Framework for Workplace Rehabilitation Providers.</p> <p>The type of OR services approved by an Agent for an injured worker depends on whether the return to work focus is to help them back to work with the injury employer (Original Employer Services — OES) or with a new employer (New employer services — NES).</p> <p>A request for OR services can be made by the worker or the worker's treating health care provider or their employer however, the Agent responsible for managing the injured worker's claim must approve the OR service before it is offered or provided to a worker.</p> <p>View OES & NES provider service item codes and descriptions —Occupational rehabilitation fee schedule (expanded).</p>
Qld	N/A
WA	<p>To provide vocational rehabilitation services as prescribed in reg 44 of the Workers' Compensation and Injury Management Regulations 1982 such as:</p> <ul style="list-style-type: none"> • support counselling • vocational counselling • purchase of aids and appliances • case management • retraining criteria assistance • specialised retraining program assistance • training and education • workplace activities • placement activities • assessments (functional capacity, vocational, ergonomic, job demands, workplace, aids and appliances) • travel • medical, and

Responsibilities of rehabilitation provider	
	<ul style="list-style-type: none"> • general reports. <p>Workplace rehabilitation providers must comply with the conditions of approval and code of conduct for workplace rehabilitation providers. These requirements are contained in:</p> <ul style="list-style-type: none"> • WorkCover WA's Application for Approval as a Workplace Rehabilitation Provider Application for Approval as a Workplace Rehabilitation Provider Form, • WorkCover WA Workplace Rehabilitation Providers Principles and Standards of Practice • HWCA Principles of Practice for Workplace Rehabilitation Providers
SA	<p>Return to work services comprises the following 6 service categories:</p> <ul style="list-style-type: none"> • Pre-injury employer services • Fit for work services • Restoration to the community services • Job placement services • Return to work assessment services • Mediation services <p>Each of these 6 service categories is described in the Return to Work Services Fee Schedule.</p>
Tas	<p>Workplace rehabilitation providers provide the following workplace rehabilitation services:</p> <ul style="list-style-type: none"> • initial workplace rehabilitation assessment • assessment of a worker's functional capacity • workplace assessment • job analysis • advice about job modification • rehabilitation counselling • vocational assessment — s3 Workers Rehabilitation and Compensation Act 1988 • workplace rehabilitation services may only be provided by a person who meets requirements set out in s77A
NT	<p>Vocational rehabilitation providers must be approved by NT WorkSafe – s50. NT WorkSafe has adopted the National Principles of Practice for rehabilitation providers. Vocational providers must comply with the national framework.</p> <p>Rehabilitation providers</p> <p>Role of a rehabilitation provider - video</p>
ACT	<ul style="list-style-type: none"> • Public sector scheme: as per SRC Act 1988 • Private scheme — s99A Workers Compensation Act 1951 • The insurer must appoint an approved rehabilitation provider for the injured worker as part of the personal injury plan if the worker has not returned to the worker's pre-injury duties and pre-injury working hours, within 4 weeks after the day the worker gave notice of the injury. • Procedure for approval of rehabilitation provider: • Providers are assessed and approved in line with the Guide: Nationally Consistent Framework for Workplace Rehabilitation Providers as enforced from time to time. The requirements for the role and responsibilities of providers are outlined in the above guide. ACT provides mutual recognition or approval following direct application to WorkSafe.
C'wealth Comcare	<p>Comcare has a Performance Monitoring Framework (the framework) to support the management of rehabilitation providers. The framework describes Comcare's compliance and performance requirements and approach to monitoring approved providers. The framework took effect from 1 July 2020.</p> <p>The Workplace Rehabilitation Provider is engaged to provide specialised services when the employer is seeking additional assistance to support the worker's return to work. These services include:</p>

Responsibilities of rehabilitation provider	
	<ul style="list-style-type: none"> facilitating an early recovery at or return to work of the worker identifying and designing suitable duties for the injured worker to assist employers to meet their obligations in providing suitable employment to workers identifying and coordinating rehabilitation strategies that ensure workers are able to safely perform their duties forging the link between the case manager (return to work coordinator), employer and treatment providers to ensure a focus on recovery at or return to work, and arranging appropriate retraining and placement in alternative employment when the worker is unable to return to pre-injury duties.
C'wealth Seacare	<i>Seafarers Rehabilitation and Compensation Act 1992</i> s48 — states that approved rehabilitation program providers under Part 3 of the 1992 Act has the same meaning as in the Safety, Rehabilitation and Compensation Act 1988. Therefore, the responsibilities of rehabilitation providers are the same as Comcare.
C'wealth DVA	<p>DVA Rehabilitation Providers are engaged by DVA to undertake a range of activities including:</p> <ul style="list-style-type: none"> assessment of client capacity and need for rehabilitation, development of rehabilitation plan tailored to the client's needs facilitate and monitor the goals and activities created with the client to return them to a level of functioning, consistent with medical advice in accordance with the relevant legislation, policies and procedures which apply to that individual's circumstances. <p>The Rehabilitation Provider is the link between the client, treating medical practitioners, allied health workers, service providers, training organisations and the managing agency (DVA)</p> <p>Responsibility for the approval of rehabilitation activities recommended by the service provider lies with DVA Rehabilitation Coordinators.</p>
New Zealand	N/A

Table 6.7b: Rehabilitation provider qualifications and fee structure

	Minimum qualifications	Fee structure
NSW	Condition 2 of the workers compensation workplace rehabilitation provider approval framework sets out the requirements	N/A
Vic	WorkSafe has adopted the Heads of Workers' Compensation Authorities (HWCA) Principles of Practice for Workplace Rehabilitation Providers in so far as qualifications along with the Conditions of approval for occupational rehabilitation providers, both are publicly available.	WorkSafe's expanded fee structure for occupational rehabilitation providers outlines information about incentive payments, service payments and policy, and invoicing that all approved providers in Victoria must follow.
Qld	no legislative minimum requirements for Workplace Rehabilitation Providers. The Regulator outlines Guidelines for standard for rehabilitation	Allied Health Fees
WA	To provide vocational rehabilitation services as prescribed in regulation 44: WorkCover WA Workplace Rehabilitation Providers Principles and Standards of Practice HWCA Principles of Practice for Workplace Rehabilitation Providers	Fees info for Workplace Rehabilitation Providers
SA	Providers must meet requirements in the Return to Work Services Fee Schedule	As outlined in Fee Schedule .
Tas	How to become an accredited WRP Tasmania introduced a new framework for accrediting workplace rehabilitation providers (WRPs) in July 2023. WorkCover Tasmania adopted the Heads of Workers Compensation Authorities (HWCA) Principles of Practice for WRPs subject to any amendments stipulated in the Accreditation Requirements for Workplace Rehabilitation Providers in Tasmania . Minimum qualifications are incorporated into the Approval Criteria.	No fee structure. Under Workers Rehabilitation and Compensation Act 1988 s75(2A) — a person who provides any services in respect of a claim for compensation must not charge a fee that is in excess of the prescribed fee or if no fee is prescribed, the fee the person would normally charge (taking into account any discount that would normally be applicable) for that service if that service were to be provided for a matter not connected with a claim for compensation
NT	Approved vocational rehabilitation providers must meet the Principles of Practice for Workplace Rehabilitation Providers requirements NT WorkSafe have developed a guide based on the Principles of Practice for rehabilitation providers for new and renewal applications. NT guidelines for approval as an accredited vocational rehabilitation provider.	N/A
ACT	ACT is compliant with Guide to the Nationally Consistent Approval Framework for Workplace Rehabilitation Providers— s17 Workers Compensation Regulation 2002	N/A
C'wealth Comcare	Minimum qualifications are incorporated into the Criteria for Approval	Fees are not prescribed by Comcare. WRPs are engaged by the rehabilitation authority (the injured worker's employer) under service level agreements or contracts. However, Comcare has released guidance to support rehabilitation authorities in determining appropriate fees for service – Fee Guidance for Workplace Rehabilitation Provider services .
C'wealth Seacare	Requirements the same as Comcare's	Providers are approved by Comcare
C'wealth DVA	Approved program provider means:	Rehabilitation providers are engaged by DVA under legal contracts including fee structures.

	Minimum qualifications	Fee structure
	<ol style="list-style-type: none"> 1. a person or body that is an approved program provider for the purposes of the <i>Safety, Rehabilitation and Compensation (Defence-related Claims Act 1988)</i>; or 2. a person nominated in writing by a rehabilitation authority, being a person the rehabilitation authority is satisfied has appropriate skills and expertise to design and provide rehabilitation programs. <p>Additionally, rehabilitation providers must meet mandatory training and accreditation requirements and be contracted to DVA</p>	
New Zealand	<p>Accident Compensation Act 2001 s90 vocational rehabilitation occupational assessor</p> <p>An occupational assessment must be undertaken by an assessor whom the Corporation considers has the appropriate qualifications and experience to do the assessment required in the particular case</p>	N/A

Table 6.8: Prescribed time periods to establish a return to work plan

	3-point contact	Time to develop a return to work plan/personal injury plan
NSW	<p>The insurer must initiate action under the insurer's injury management program within 3 working days and must contact the worker, employer and worker's treating doctor.</p> <p>Employers must comply with their obligations under the insurer's injury management program. (Does not apply if the employer is a self-insurer)</p>	<p>Insurer: 3 working days for workers with a significant injury. 20 days if an injury is identified as likely to be a significant injury <i>Workplace Injury Management and Workers Compensation Act 1998</i> s43(4)</p> <p>Employer: A return to work plan is developed for each injured worker returning to work. Guidelines for workplace return to work programs.</p>
Vic	N/A	<p><i>Workplace Injury Rehabilitation and Compensation Act 2013</i> s104 — Plan return to work — see more details under 'Return to Work Plans':</p> <ul style="list-style-type: none"> An employer must, to the extent that it is reasonable to do so, plan the return to work of a worker from the date on which the employer knows or ought reasonably to have known of the worker's incapacity for work, whichever is the earlier date. Under s104(4), an employer knows or ought reasonably to have known of the incapacity for work from the beginning of the employment obligation period under s103 — either the date a medical certificate or claim for compensation for weekly payments is received by the employer or the employer is notified of receipt of these documents by the insurer, whichever is the earliest.
Qld	N/A	No time specified — <i>Workers' Compensation and Rehabilitation Act 2003</i> s220(2)
WA	N/A	As soon as practicable after doctor makes recommendation — <i>Workers' Compensation and Injury Management Act 1981</i> s155C(1)
SA	N/A	Where it appears that a worker is (or is likely) to be incapacitated for work by a work injury for more than 4 weeks, a recovery/return to work plan must be prepared — <i>Return to Work Act 2014</i> s25 . A plan can also be prepared under other circumstances [see s25(2)].
Tas	An injury management coordinator to ensure that contact is made with the worker, the employer and the primary treating medical practitioner as soon as practicable after a worker (suffering a significant injury) is assigned to the injury management coordinator — <i>Workers Rehabilitation and Compensation Act 1988</i> s143C(2)(a) .	If a worker suffers a significant injury, the employer must ensure that any return-to-work plan, or injury management plan, that is required under the employer's approved injury management program to be prepared in relation to a worker who has suffered a significant injury, is prepared within the period specified in that program— s143E(1) .
NT	N/A	No time specified for plan but employer has 7 days after becoming aware that the worker's total or partial incapacity will exceed 28 days to give a proposal in writing to the worker for a return to work plan — <i>Return to Work Act 1986</i> s75A(1)(c)
ACT	N/A	3 business days for significant injury — <i>Workers Compensation Act 1951</i> s96 . When suspected that injury is significant (7 days) — s97 .
C'wealth Comcare	N/A	N/A
C'wealth Seacare	N/A	N/A
C'wealth DVA	N/A	N/A

3-point contact		Time to develop a return to work plan/personal injury plan
New Zealand	N/A	<i>Accident Compensation Act 2001</i> s75 Within 13 weeks after the Corporation accepts the claimant's claim, the Corporation must determine whether the claimant is likely to need social or vocational rehabilitation after the 13 weeks have ended. If so, the Corporation must prepare an individual rehabilitation plan in consultation with the claimant.



Chapter 7:

Self-insurer arrangements



Self-insurers

All jurisdictions, except Seacare and the Department of Veterans' Affairs, allow employers to self-insure for workers' compensation if they meet certain requirements. Regulatory authorities in each jurisdiction must be satisfied that self-insuring employers have adequate work health and safety, injury management and return to work arrangements, as well as the capacity to effectively manage workers' compensation. Self-insured companies must conform to each jurisdiction's specific legislative requirements, such as the level of benefits payable to injured employees.

Self-insurance allows employers to manage and pay for their employees' claims for work-related fatality, injury and illness, rather than paying premiums to insurers to take on those responsibilities. Once employers self-insure, they no longer pay workers' compensation premiums. However, they are still required to pay a levy that is a fair contribution towards the overheads of administering the scheme.

Self-insuring employers manage their injured workers' claims and rehabilitation and are responsible for meeting their claim liabilities. Self-insurers must reapply to self-insure after a period of time.

The tables contained in this chapter outline:

- 7.1 Workers' compensation and self-insurance coverage
- 7.2 Criteria for becoming a self-insurer
- 7.3 Application and approval process, ongoing costs and duration of license
- 7.4 Work health and safety requirements and auditing
- 7.5 Bank guarantees, prudential margins and excess of loss requirements
- 7.6 Restraints on company structure
- 7.7 Outsourcing of case management
- 7.8 Other ongoing license requirements
- 7.9 Reporting requirements, and
- 7.10 Requirements for surrendering a self-insurance licence and penalties for exiting the scheme.

The laws and regulations that must be satisfied to become a self-insurer vary significantly between jurisdictions. If an employer operates in more than one jurisdiction, it must apply separately for self-insurance in each of the jurisdictions in which it operates, except for the Comcare Scheme, which is a national scheme.

As at 31 December 2023 there was no mutual recognition between the jurisdictions. Therefore, if an employer qualifies for self-insurance in one jurisdiction it does not automatically qualify for recognition in another jurisdiction.

All jurisdictions impose several requirements that must be satisfied in order for organisations to be eligible to self-insure. In addition, all jurisdictions apply financial/prudential requirements to establish the long term financial viability of the organisation.

Table 7.1: Workers' compensation and self-insurance coverage

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
Employees covered by workers' compensation¹	4.7 million workers (approx.)	3,220,000 (approx) ²	2,897,730	1,570,000	613,000 (approx)	255,000 (approx)	121,053	131,952 (private sector approx.) ³	451,965 ⁴ (Scheme FTE inc. ACT Gov as at 30 June 2023).	2,919,000 (includes part-time) ⁵
Employees covered by self-insurance	374,260 (approx.)	120,400 (approx.)	158,055	107,248	291,000 (approx.)	10,202	5,255 (excludes government employees)	5,517 (approx) ⁶	257,295 (FTE as at 30 June 2023)	Approximately 410,000 (FTE)
Employees covered by self-insurance (%)	8 (approx.)	6.56 by remuneration for 2022/23year	5.5	N/A	31	4	2.36	<1	57 (as at 30 June 2023)	21 (FTE)
Number of self-insurer licences	70 made up of 36 single self-insurers and 34 group self-insurers	34	28	23	71 self-insured employer groups	19	4	5	40 (as at 30 June 2023)	149 Contracts
Number of self-insured employers¹	448 Employers (includes 378 subsidiaries of group self-insurers)	161	294	23	71 private and 54 Crown	9	4 self-insurers and the NT Government self-insures for public sector employees	6	40 (as at 30 June 2023)	489
Employers covered by self-insurance (%)	0.14 (approx.)	0.84 ⁷	0.2	N/A	N/A	N/A	N/A	<1	19 (of employers as at 30 June 2023)	<1

¹ Table figures in this table aim to give the reader an indication of the number of self-insurers in each scheme. For exact details on self-insurance statistics, readers should contact the relevant jurisdictional authority.

² For Victoria this figure does not include the self-insured employee numbers. The figure provided is the total FTEs of all self-insurers as at 31 December 2023.

³ ACT Employees covered by workers' compensation figure is an estimate based on the actual number of workers reported for any coverage; if the actual number of workers is not available, then the estimated number of workers is considered; if neither is available, an estimate based on reported wages is considered.

⁴ Contractors working for the Commonwealth will be recorded against their State of usual residence and hence all employed persons are recorded as being covered by workers' compensation, again in these figures there is an inherent potential degree of inaccuracy.

⁵ For New Zealand this figure includes self-insurers and self-employed persons who are covered by the Scheme.

⁶ ACT Employees covered by self-insurance figure is an estimate based on the actual number of workers as reported by self-insurers.

⁷ Self-insurers represent 6.56% of the Victorian scheme by remuneration. Although there are a relatively small number of self-insured bodies corporate, they represent some of the largest companies in Victoria. The 2 biggest self-insurers, in terms of employee numbers, are Wesfarmers Limited and Woolworths Group Limited.

Comparison report

Table 7.2: Criteria for becoming a self-insurer

	Number of employees	Financial/prudential requirements
NSW	<p>500 employees in NSW, employees means permanent staff whether full-time or part-time</p> <p>SIRA may use its discretion to grant a licence to an employer which does not meet this requirement if such an employer can demonstrate its ability to meet the application requirements.</p> <p>The requirement to have 500 employees is not applicable for licence renewals as SIRA will continue to assess a self-insurer's legislative compliance and performance under its licensing framework to determine licence renewal.</p>	<p>Workers Compensation Act 1987, Part 7, Div 5</p> <p>Self-insurers must demonstrate ongoing financial viability and strength to undertake their obligations to comply with requirements of the workers compensation legislation. Self-insurers need to demonstrate that they have sufficient financial resources to cover their financial obligations, and be of sufficient size to provide the necessary security to mitigate the risk of insolvency and to properly invest in the infrastructure and resources required to best meet SIRA self-insurance requirements.</p>
Vic	N/A	<p>s379(4)(a) — <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (WIRC Act). Consideration given to both primary and secondary financial indicators and associated benchmarks dependent on industry sector, i.e. Manufacturing, Finance, Retail, Transport and Other (Public/Non-Public).</p> <p>Primary financial indicators and benchmarks: Balance Sheet Test (1.0–1.5), Current Liquidity (0.8–1.2), Claims Liability (4.0%), Interest Coverage (2.0–3.0), Gearing Ratio (55–60%), Cash Flow Margin (3.0–6.7%), Bad Debt Ratio (2.0%), Excess Capital (10.0%).</p> <p>Secondary financial indicators and benchmarks: Return on Investment (5.0–10.0%), Profit Margin (pre-tax) (1.4–4.9%), Quick Liquidity (0.5–0.8%), Stock Turnover (5.0–6.0), Debtor Turnover (46–50 days), Labour Costs (33%), Customer Loan Ratio (50), Net Interest Margin (1.5) and Operating Costs to Revenue (65%).</p>
Qld	<p>2,000 full time Queensland workers (s71 — Workers' Compensation and Rehabilitation Act 2003)</p>	<p><i>Workers' Compensation and Rehabilitation Act 2003</i> s71, s72, s75, s84, s86</p> <p>s71 — Employers must be considered fit and proper to be self-insurers. (s75) This includes a consideration of the long-term financial viability of the employer, evidenced by its level of capitalisation, profitability and liquidity.</p> <p>Self-insurers must:</p> <ul style="list-style-type: none"> • s84 — Lodge a security (unconditional bank guarantee, cash deposit, or financial guarantee given by an insurance company that is an approved security provider), for an amount equivalent to 150% of the self-insurer's estimated claims liability, and • s86 — have reinsurance cover, where the self-insurer's liability is an amount chosen by the self-insurer that is not less than \$300,000 or more than the set limit without approval. <p>NB. The Workers' Compensation Regulator has the discretion to issue or renew a self-insurance licence in circumstances where an employer does not meet one or more of the strict criteria for self-insurance, if satisfied that special circumstances exist that warrant the employer or group employer being issued a licence or having a licence renewed. The circumstances where an employer does not meet the criteria for self-insurance include, but are not limited to, instances where an employer or self-insurer does not have 2,000 full time workers.</p>
WA	N/A	<p>s164 and s165 — Self-insurers are to maintain adequate financial resources to comply with the requirements of the <i>Workers' Compensation and Injury Management Act 1981</i>.</p> <p>Self-insurers must provide audited financial statements, which include:</p> <ul style="list-style-type: none"> • Balance Sheet Test (i.e. total tangible assets/total liabilities) • quick liquidity (i.e. current assets less stock/current liabilities) • current liquidity (i.e. current assets/current liabilities)

Number of employees		Financial/prudential requirements
		<ul style="list-style-type: none"> interest coverage (net profit before tax/net interest expense) return on investment (net profit before tax/total equity) claims liability as a percentage of net assets (outstanding claims/net assets), and gearing ratio (loan capital/total capital employed). WorkCover WA, at its discretion, may apply further secondary financial indicators if there are doubts concerning the organisation's financial viability.
SA	There is no number specified in the legislation, but the Code of Conduct states a minimum of 200 employees	<p>ReturnToWorkSA will consider each of the following 4 primary indicators in all cases and the secondary indicator, where considered appropriate:</p> <p>Primary indicators</p> <ul style="list-style-type: none"> Balance sheet test, being total tangible assets divided by total liabilities Gearing ratio, being loan capital divided by total capital employed Liquidity ratio, being current assets divided by current liabilities Cash flow margin, being operating cash flow divided by net sales <p>Secondary indicator</p> <ul style="list-style-type: none"> Profitability ratio, being net profit before tax divided by total equity.
Tas	N/A	<p>Part IX, Div 2, s105 of Workers Rehabilitation and Compensation Act 1988.</p> <p>s105(2) — In granting a self-insurer permit, the Board is to take into consideration:</p> <ol style="list-style-type: none"> the employer's financial history; and the employer's ability to provide the statistical and other information required or likely to be required under the Act; and the employer's ability to satisfy such prudential standards as the Board determines; and the employer's capacity to comply with Part XI and any regulations or guidelines for the purposes of that Part; and the employer's commitment to occupational health and safety. <p>WorkCover must be provided with:</p> <ul style="list-style-type: none"> a completed Permit to Self-Insure Application form. a completed Financial Indicators form. a desktop review of financial information by an independent expert. printed or electronic copies of the last 3 annual reports evidence of a high standard of proven work health and safety management practices. evidence of a high standard of injury management practices. evidence of a high standard of claims management practices. evidence of ability to meet WorkCover's data reporting requirements. <p>For new entity employers (that is, a legal entity with no history of operating in Tasmania), you must satisfy additional financial criteria.</p> <ul style="list-style-type: none"> See How to apply for a permit to insure (self insurer) for more information.
NT	N/A	<p><i>Return to Work Act 1986</i> s120</p> <ul style="list-style-type: none"> Financial viability of the employer — s120(3), which is to be demonstrated through:

Number of employees		Financial/prudential requirements
		<ul style="list-style-type: none"> the provision of the company's 3 latest detailed annual balance sheets, including profit and loss statements, together with notes and their auditor's report following this an actuarial report on the company, which details its current NT workers' compensation liabilities and ability to meet both its current and expected liabilities under the Act reinsurance cover of an unlimited amount in excess of the company's liability of \$1 million (indexed) for any one event, and a 3 year history of the company's NT workers' compensation claims. financial security by way of a bank guarantee
ACT	N/A	<p><i>Workers Compensation Regulation 2002</i> Part 10.</p> <p>Evidence that the applicant has unlimited reinsurance for a single event to cover the applicant's existing and expected liability.</p> <p>Actuarial report containing an estimate of:</p> <ul style="list-style-type: none"> existing outstanding liability in relation to compensable injuries; the applicant's expected liability each year for the 2-year period beginning on the day the applicant applies for the licence; and the total of the expected payments in satisfaction of the applicant's liability for compensable injuries likely to be made each year for the 2-year period beginning on the day the applicant applies for the licence. <p>A guarantee from an authorised deposit-taking institution in favour of the DI fund for \$1,000,000 or the estimate of outstanding claims liability at the balance date, plus a prudential margin of 50% (whichever is greater).</p> <p>Evidence that the applicant has in place an occupational health and safety management system that complies with any Australian or New Zealand standards in relation to safety mentioned in a protocol relating to applying for a licence</p> <p>The regulator may, in writing, require further evidence that demonstrates the applicant is financially and prudentially sound or will be able to meet any obligations as an insurer under the Act for which the employer is, or is expected to be liable.</p>
C'wealth Comcare	N/A	<p><i>Safety, Rehabilitation and Compensation Act 1988</i>, Part VIII</p> <p>Financial:</p> <ul style="list-style-type: none"> provide previous 5 years' audited statements financial viability assessment conducted by independent financial consultant, and provide certification from the principal officer that they are not aware of any likely events which may materially impact on the suitability of the applicant for approval. <p>Prudential:</p> <ul style="list-style-type: none"> must have the actuary prepare a liability report to the Safety, Rehabilitation and Compensation Commission's (the Commission) requirements the liability report must: <ul style="list-style-type: none"> – include an estimate of the applicant's outstanding liability at the end of the first 12 and 24 months of the licence – advise the level of guarantee required (calculated by the actuary at the 95th percentile of projected outstanding claims liabilities in 24 months' time from the licence commencement date, and – the addition of one reinsurance policy retention amount must recommend appropriate reinsurance arrangements and comment on the suitability of arrangements, and assess the applicant's capacity to pay amounts up to the recommended reinsurance excess amount, and the applicant is required to obtain the bank or other guarantee in the form required by the Commission and appropriate reinsurance cover, before the commencement of the licence.

	Number of employees	Financial/prudential requirements
<p>New Zealand</p>	<p>No specific minimum employee number</p> <p>In practice, the pricing mechanism makes entry to the program not financially viable to employer whose standard levy is less than NZ\$250,000.</p>	<p><i>Accident Compensation Act 2001</i> s185</p> <p>Accident Compensation Corporation (ACC) is required to satisfy itself that an employer is able and will continue to be able to meet its expected financial and other obligations in relation to work-related injury claims because it is insolvent and financially sound.</p> <p>The Framework for the Accredited Employers Programme requires ACC must have regard to the degree that the employer can establish:</p> <ul style="list-style-type: none"> • it has substantial net worth • that its contingent liabilities are not excessive (details to be provided including an evaluation as to likely crystallisation of those liabilities) • it has an appropriate working capital ratio based on current assets divided by current liabilities • it has an appropriate equity to debt ratio, and • it has an appropriate return on equity. <p>These figures should, where possible, be provided for the 3 financial periods preceding the application and include best estimates for at least the then current financial period and the next financial period ('period' normally meaning a year).</p>

Table 7.3: Approval process, application and ongoing costs and duration of licence

	Applications process	Application and ongoing costs	Duration of licence
NSW	A Self Insurer is required to complete a self-insurer application form and provide the information outlined in the self-insurer information requirements document to selfspecialisedinsurers@sira.nsw.gov.au	One-off cost on application of \$40,000 for Single Self-Insurer licence, \$45,000 for Group Self-Insurer licence. Insurers must contribute to the Workers Compensation Operational Fund under <i>Workplace Injury Management and Workers Compensation Act 1998</i> , s 39 and to the Dust Diseases Fund under Workers' Compensation (Dust Diseases) Act 1942, s 6 on an annual basis.	A licence will be granted for a standard period of 3 years and be capable of renewal for further terms of up to 8 years. SIRA has discretion to grant licences for shorter terms if it believes circumstances are warranted.
Vic	s 375 — <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> — Assessment of organisation's eligibility to apply is undertaken: <ul style="list-style-type: none"> the body corporate must be the ultimate holding company in Australia, and must satisfy prescribed minimum requirements as to financial strength and viability. <p>If eligible, the organisation may apply for approval to WorkSafe Victoria. The application's assessment may include on-site audits, interviews and inspections. Pre-application eligibility fee must be paid as prescribed in the Schedule 6 of the Act. As at 1 July 2021 this is \$1,080 inclusive of GST.</p>	An application fee must be paid by the organisation as prescribed in Schedule 7 of the WIRC Act. The maximum fee payable is \$69,360 (as at 1 July 2021 and subject to indexation). A self-insurer must pay contributions into the WorkCover Authority Fund in accordance with s388 of the WIRC Act. Quarterly contributions payable by a self-insurer are determined by WorkSafe Victoria based on the rateable remuneration return submitted by a self-insurer pursuant to the Ministerial Order made under s380(3) of the WIRC Act. The amount of contributions payable by a self-insurer pursuant to s388 of the WIRC Act is determined by the formula given in Reg 14 of the Workplace Injury Rehabilitation and Compensation Regulations 2014.	s 382 WIRC Act Initial approval is for a period of 3 years and any subsequent approvals are for 4 years unless WorkSafe Victoria in its discretion determines that approval has effect for a period of 6 years.
Qld	s 70 <i>Workers' Compensation and Rehabilitation Act 2003</i> — The application must: <ul style="list-style-type: none"> be made to the Workers' Compensation Regulator in the approved form, and for a group employer be made by all the members of the group wanting to be licensed, and be accompanied by the fee prescribed under a regulation. <p>s 77 — Regulator must decide an application within 6 months of receiving it. s 71 — Regulator may issue or renew a licence to be a self-insurer to a single employer only if satisfied that certain criteria have been met. s75 — in deciding whether a single employer or group employer is fit and proper, the Regulator may consider any relevant matter and must consider certain matters.</p>	Initial application fee for setting up the licence: <ul style="list-style-type: none"> 15,000 fee units* for single employers, and 0,000 fee units* for group employers. <p>s 70 <i>Workers' Compensation and Rehabilitation Act 2003</i> s 16 <i>Workers' Compensation and Rehabilitation Regulation 2014</i></p> <ul style="list-style-type: none"> A self-insurer must also pay a levy to the Regulator each financial year under s 81 of the <i>Workers' Compensation and Rehabilitation Act 2003</i>. The amount a self-insurer must pay is calculated according to the formula in s 17 (<i>Workers' Compensation and Rehabilitation Regulation 2014</i>) and is dependent on their estimated claims liability, and the levy rate set by the Regulator. <p>* From 1 July 2023, 1 fee unit = \$1.060</p>	s 78 <i>Workers' Compensation and Rehabilitation Act 2003</i> — Original licence issued for a period of 2 years, on renewal, licence period can be up to 4 years.
WA	Employer submits application to WorkCover WA. WorkCover WA reviews and considers the application for self-insurer status and provides recommendation on the application to the Minister. The Governor, on the Minister's recommendation, may exempt an employer.	Self-insurers must contribute annually to the Authority's General Account. The contribution is a percentage (fixed by the Authority) of the total amount of the notional premium of the self-insurer. The minimum contribution is \$40,000.	No initial duration, however (s 165 <i>Workers' Compensation and Injury Management Act 1981</i>) requires that self-insurance arrangements be reviewed at least once a year or when so required by the Minister. The review of an exemption will be based on adherence to the

	Applications process	Application and ongoing costs	Duration of license
			conditions of approval set by WorkCover WA.
SA	An indicative time line for the process and requirements is outlined in the Code of Conduct for Self-Insured Employers .	<p>ss129-133 — <i>Return to Work Act 2014</i></p> <p>An application fee of \$10,000 (plus GST) plus \$15 (plus GST) for each worker employed by the employer, or group of employers at the time of the application is fixed as the fee that must accompany an application for registration as a self-insured employer, or group of self-insured employers.</p> <p>The maximum fee payable is \$40,000 (plus GST). <i>Return to Work Regulations 2015</i> — Reg 53.</p>	Registration as a self-insured employer (license) granted for an initial period (not exceeding 3 years). A self-insurer may apply to ReturnToWorkSA to renew its registration for further periods. Further periods may not exceed years (s129(5)(f)) and Code of Conduct for Self-Insured Employers .
Tas	<p>An employer must apply to WorkCover Tasmania Board with the approved self-insurer form (<i>Workers Rehabilitation and Compensation Act 1988</i>, s104) with:</p> <ul style="list-style-type: none"> • a completed financial indicators form • a desktop review of financial information by an independent expert • copies of the organisation's last 3 annual reports • evidence of high level safety management practices • evidence of high level injury management practices • evidence of high level claims management practices, and • evidence of the organisation's capacity to meet the necessary data reporting requirements. <p>Permit conditions</p> <p>How to apply for a permit to insure (self-insurer)</p>	<p>No application fee. However, the applicant is responsible for paying all expenses associated with applying for a self-insurer permit, including expenses associated with:</p> <ul style="list-style-type: none"> • providing required financial information • providing a National Audit Tool report by a certified auditor or evidence of JAZ-ANZ certification against AS/NZ 4801:2001 or the National Audit Tool, and • seeking approval of an Injury Management Program. <p>Once a permit is granted, there are ongoing expenses.</p> <ul style="list-style-type: none"> • Requirement to make annual contributions to the WorkCover Tasmania Board and the Nominal Insurer Fund. 	Duration ranges from one year to 3 years, depending on the self-insurer's ability to satisfy the criteria.
NT	Return to Work Act 1986 s120 — Employer to write to Authority for approval to self-insure	<p>No cost. The only fee for employers is for an actuarial assessment to be provided to NT WorkSafe's actuary. Once approved, a self-insurer will be required to pay an amount determined by the Authority as a contribution towards:</p> <ul style="list-style-type: none"> • administration costs of the Work Health Court • administration costs of the Supreme Court associated with proceedings under the Act • costs incurred by the Authority in providing a mediation service, and • costs incurred by the Territory in relation to the Authority's (NT WorkSafe) performance of its functions under the <i>Return to Work Act</i> or other Act and in relation to promoting health and safety. — s121A. <p>They are also subject to contribution to the Nominal Insurer based on notional market share if requested.</p>	3 years
ACT	Submit application to WorkSafe ACT, who is responsible for assessing licence applications. The process is outlined in the Workers Compensation (Self-Insurer Licence Application) Protocol 2022 .	The insurer must comply with and pay the costs of compliance or financial audits – s89 of the Workers Compensation Regulation 2002	Continues in force until licence is surrendered or cancelled. s145Q

	Applications process	Application and ongoing costs	Duration of license
C'wealth Comcare	<p>Process for applying for eligibility: By Ministerial declaration and provided that the Minister is satisfied that it would be desirable for the <i>Safety, Rehabilitation and Compensation Act 1988</i> to apply to employees of a corporation that:</p> <ul style="list-style-type: none"> • is, but is about to cease to be, a Commonwealth authority, or • was previously a Commonwealth authority, or • is carrying on business in competition with a Commonwealth authority or with another corporation that was previously a Commonwealth authority. <p>The Safety, Rehabilitation and Compensation Directions 2019 sets out further requirements for eligibility.</p> <p>If the corporation is so declared by the Minister, the corporation is then eligible to apply to the SRCC Commission for a licence.</p> <p>Commonwealth Authorities can also apply for a licence to self-insure. Commonwealth Authorities are not required to obtain a declaration from the Minister before applying to the Commission for a self-insurance licence. They must consult with the relevant portfolio Minister about their intention to apply for a licence. Evidence of this consultation must be supplied with the application.</p> <p>Process for applying to become a self-insurer is in s102 Safety, Rehabilitation and Compensation Act 1988: Once a corporation is declared eligible by the Minister, it may apply to the Commission for a licence. To grant a licence, the Commission will consider whether:</p> <ul style="list-style-type: none"> • it has sufficient resources to fulfil the responsibilities under the licence • it has the capacity to ensure claims will be managed in accordance with the Commission's standards for claims management • it has the capacity to meet the Commission's standards for the rehabilitation and work health and safety of its employees • granting the licence will not be contrary to the interests of the corporation's employees whose affairs fall within the licence's scope • because of the applicant's past conduct it is unlikely that the applicant would meet the standards set by the Commission for claims management, rehabilitation and prevention. 	<p>One off application fee based on size, complexity, costs of assessment process etc.</p> <p>Annual licence fee payable in accordance with the Cost Recovery Implementation Statement 2023-24. The fee represents the costs incurred by the Commission and Comcare in carrying out their respective functions under the SRC Act and WHS Act (for licensees with Commonwealth WHS coverage)</p>	Up to 8 years
New Zealand	<p>Employer completes an application form providing supporting financial, business and health and safety information. Employer notifies all staff in writing about their intention to join and consults with employee representatives about intention to join.</p> <p>The employer coordinates staff and documentation for the health and safety audit (completed by an ACC approved independent auditor) using the approved audit tool.</p> <p>The employer submits the application to ACC (the Manager). ACC undertakes the approval process. Once approval process has been undertaken ACC makes a decision and the applicant will be notified.</p>	<p>No application fee</p> <ul style="list-style-type: none"> • Pay a portion of the pre-entry audit costs. • Cost of the independent audit of health and safety. • Employers must also pay to ACC a discounted annual levy and the cost of the liability cap they have chosen. The amount is based on legislated formula and depends on the product options chosen. 	<p>Approval may be for one to 3 years.</p> <p>Annual reviews are undertaken to ensure entry (including prudential) requirements are being maintained.</p>

Ongoing requirements

Most jurisdictions require an applicant for a self-insurance licence to meet a minimum standard for work health and safety and rehabilitation. In determining the minimum standard required for work health and safety, most agencies require the employer to have a work health and safety management system or other similar arrangements (i.e. Victoria, Northern Territory, Australian Capital Territory and the Commonwealth). These are audited against a work health and safety audit tool (see Table 7.4).

Victoria, Tasmania and the Commonwealth measure the self-insurer's performance against the National Self-Insurers OHS Audit Tool and audits of rehabilitation and claims management systems. After 2 years in the scheme, the Commonwealth requires entities to demonstrate, on an ongoing basis, how they have maintained these management systems.

Queensland requires satisfactory work health and safety performance. Although no audit tool is stipulated in legislation, the administrative guidelines indicate that use of the national OHS Audit Tool is required. In South Australia, compliance is required with the Self-insurer Standards at Annexure A to the Code, with multi-jurisdictional self-insurers able to choose being audited against the national audit tool.

In addition to prudential requirements, employers must take out bank guarantees or similar guarantees to cover outstanding claims liabilities. Self-insurers must also have excess of loss insurance to cover catastrophic events. Table 7.5 shows the guarantee requirements for self-insurance eligibility requirements.

Jurisdictions vary in the extent of self-insurance licence coverage from single companies to fully owned subsidiaries. Table 7.6 details restraints on company structure.

Normally self-insurers manage their employees' claims, but some jurisdictions allow them to outsource this function. Table 7.7 shows the outsourcing of case management arrangements across Australia.

Self-insurer companies are obliged to comply with workers' compensation legislation to at least the same extent as premium-paying companies to maintain their self-insurer status. They may also have extra conditions imposed on them which also require compliance measures. Table 7.8 details other ongoing licence requirements.

Reporting requirements

Self-insurance lends itself to self-regulation, providing that adequate control measures are put in place from the outset and a continuous reporting program is followed. Periodic reporting can be used to monitor performance with the degree of auditing linked to a self-insurer's performance. Table 7.9 shows the reporting requirements across jurisdictions.

Requirements for surrendering license and penalties for exiting the scheme

Self-insurance is risky. The predominant risk for self-insurance is if self-insurers fail, governments may have to meet the costs of workers' compensation liabilities. Employers may wish to cease being a self-insurer. Some jurisdictions impose penalties on employers who choose to leave their scheme or surrender their self-insurance licence and move to the Comcare scheme. See Table 7.10 for a comparison of these requirements and penalties.

Table 7.4: Work health and safety requirements and auditing

Work Health and Safety Requirements		Auditing
NSW	SIRA will assess the applicant's commitment to safety, as well as its historical workplace safety record, by reviewing the compliance and safety history of the applicant as provided and regulated by SafeWork NSW over the last 4 years.	N/A
Vic	Safety Management Systems are audited against the National Self-Insurer OHS Management System Audit Tool for all new applicants and current self-insurers. Compliance with <i>Occupational Health and Safety Act 2004</i> — Inspectorate field interventions including enforcement activity, prosecutions and incident notifications.	Annual self-audit requirements for the duration of the licence period. The self-audits comprise of the following 2 components: <ul style="list-style-type: none"> occupational health and safety management system requirements, and claims management obligations of employers and other requirements. Audits undertaken by the regulator: <ul style="list-style-type: none"> at time of application for approval and renewal of approval against the National Self-Insurer OHS Management System Audit Tool; and claims management audit conducted once in a self-insurer's term of approval. other claims management 'health checks' as required. <p>* Currently in transition period to move away from auditing the self-insurers occupational health and safety management systems (OHSMS) against the National Audit Tool (NAT), and moving towards a broader OHSMS Assurance Program, which includes a Safety Partnership Oversight Program underpinned by AS/NZS ISO 45001:2018 Occupational Health and Safety Systems (ISO 45001) OR fully certified to ISO 45001 OR a combination of these 2.</p>
Qld	<i>Workers' Compensation and Rehabilitation Act 2003 s 71(4) and s 72(4)</i> — The Workers' Compensation Regulator must ask the chief executive of the department within which the <i>Work Health and Safety Act 2011</i> is administered to prepare a report about the employer's work health and safety performance.	The report provided in accordance with <i>s 71(4)</i> and <i>s 72(4)</i> includes a summary of prosecutions, enforceable undertakings and notices issued against the self-insurer and a summary of audit findings. The audit for self-insurance is conducted at the time of licence renewal or before an initial licence is granted.
WA	Work health and safety requirements are handled by WorkSafe WA . Occupational Safety and Health Act 1984	N/A
SA	Compliance with the Self-insurer Standards and the WHS and Injury Management Standards, which can be found in the Code of Conduct. See also s129 of the <i>Return to Work Act 2014</i> .	Evaluation (work health and safety and injury management/rehabilitation) against the standards will be carried out in preparation for each registration renewal, and at other times should something come to ReturnToWorkSA's attention that indicates a need for a further evaluation. See 2.5.2 'Performance standards' within the Code of Conduct for Self-insured Employers ReturnToWorkSA monitors self-insured employers throughout non-renewal years.
Tas	Must have an established work health and safety management system. Upon application to self-insure, a National Audit Tool (NAT) Audit Report by a certified independent auditor or JAS-ANZ certification demonstrating conformance to the National Audit Tool (based on AS/NZS 4801) or OHS Management Systems that are of equal to or of a higher standard.	Work health and safety management system to be self-audited annually, with the use of the National Audit Tool as the audit tool: Conducting and providing the annual WHS management systems report WorkCover surveillance audits are scheduled based on risk. Annual self-audits must be submitted: WorkCover surveillance audits

Work Health and Safety Requirements		Auditing
	Must provide the WorkCover Tasmania Board with a comprehensive work health and safety report annually.	
NT	Must have work health and safety management system in place and conduct regular audits to be approved as a self-insurer. Safety Management Systems must be audited using the National Self-Insurer OHS Management System Audit Tool or equivalent.	Annual self-audits are required against the Workers Compensation Best Practice Guidelines for Approved Insurers and Self-Insurers in the Northern Territory and Safety Management Systems must be audited using the National Self-Insurer OHS Management System Audit Tool or equivalent.
ACT	Compliance with applicant's duties under <i>Work Health and Safety Act 2011</i> – s84B of the Workers Compensation Regulation 2002 Maintain an occupational health and safety management system that complies with an Australian/New Zealand Standard on occupational health and safety – s84A Workers Compensation Regulation 2002 ; s91 Workers Compensation Regulation 2002	The self-insurer must agree to provide information, comply with reasonable requests of a person conducting a compliance or financial audit, and pay reasonable fees and expenses of a compliance audit or financial audit required by the regulator – s89 Workers Compensation Regulation 2002 .
C'wealth Comcare	The SRC Commission sets Performance Standards and Measures for licensees, which include performance targets for WHS. Licensees must demonstrate to the SRC Commission that they are continuing to meet the Commission's Performance Standards and Measures throughout the licence term. Licensees must comply with relevant work health and safety legislation. They must notify relevant incidents and are subject to inspectorate interventions including enforcement activity and prosecutions as and when required. The Commission is provided with regular updates on all aspects of each licensee's performance, taking into consideration audit and compliance performances to determine if the licensee is complying with the conditions of licence or if further action is required to address relevant concerns.	WHS systems evaluation occurs prior to the grant of licence. <ul style="list-style-type: none"> • In the first 2 years of a licence, licensees are considered 'Developing' and are subject to extensive annual reviews. • From year 3, licensees are considered to be established and must provide annual evidence they are maintaining their WHS management system and meeting the applicable Commission's Performance Standards and Measures. • This evidence can be supplied through internal or external audits, reviews or other means. Scheduled WHS management systems reviews in years 2 and 6 of the 8 year licence (if and as required)
New Zealand	An audit of an employer's health and safety, and claims and injury management, systems and practices is carried out as part of the entry and ongoing accreditation requirements. This is to ensure the employer meets the legislative requirements as set out in the <i>Accident Compensation Act 2001</i> and the Framework for the Accredited Employers Programme.	Monitoring and audit programme includes: <ul style="list-style-type: none"> • annual onsite health and safety audits using approved audit tool. • Annual onsite audits of claims management using approved audit tool. • a review of the reporting of claims details and expenditure to be utilised to provide regular comparative benchmarking reports for the Manager and the individual Accredited Employer • regular meetings between ACC and the Accredited Employer (the frequency of which will depend on the experience of the individual Accredited Employer) • in the discretion of the Manager and in conjunction with the annual audit programme, a claimant satisfaction survey to determine overall claimant satisfaction with the Accredited Employers Program • monitoring of the ongoing solvency of the Accredited Employer and its expected ability to meet its obligations under the Accreditation Agreement.

Table 7.5: Bank guarantees/prudential margins and excess of loss requirements

	Bank guarantees/prudential margins	Excess of loss requirements
NSW	<p>Initial security equivalent to tariff premium (WIC rate estimated wages) for the previous 12 months plus a prudential margin of 50%. This is subject to the minimum self-insurer security requirement.</p> <ul style="list-style-type: none"> • A minimum security of \$2.5 million applies except for government entities (local councils and public universities) and former self-insurers. Government employers are exempt from the security requirements. • SIRA has discretion to seek additional security if it believes circumstances are warranted. For subsequent reviews for self-insurers with a central estimate of outstanding claim liability <\$50 million — 150% of self-insurer liabilities including a prospective component for the 12 months post balance date. The prudential margin does not apply to government entities. • For self-insurers with a central estimate of outstanding claim liability ≥\$50 million the security is to be determined as at the 95th percentile to achieve a 95% probability of adequacy. • SIRA accepts cash, securities, or bank guarantees. 	<p>A self-insurer must obtain and maintain unlimited reinsurance cover during the currency of the licence so as to restrict its liabilities under the Workers Compensation Act 1987 and independently of the 1987 Act to a maximum amount approved by SIRA in respect of any one event. The reinsurance cover must be provided by an insurance company authorised by the Australian Prudential Regulation Authority.</p> <ul style="list-style-type: none"> • A retention amount under the above policy or policies, provided that it is within the range of \$500,000 to \$2,500,000 per event is acceptable to SIRA. • Retentions in excess of \$2,500,000 will require prior approval by SIRA. In such instances SIRA will require the self-insurer to undertake and provide an assessment of the likely cost of risk retention and the appropriateness of the level of retention sought as part of the approval process.
Vic	<p>s393 Workplace Injury Rehabilitation and Compensation Act 2013 (WIRC Act)</p> <p>A self-insurer must ensure that there is in force at all times a guarantee in respect of its assessed liability. The guarantee must:</p> <ul style="list-style-type: none"> • be given by an Authorised Deposit-Taking Institution (ADI); • be in a form approved by WorkSafe Victoria; and • guarantee payment of amounts not less than 150% of the assessed liability or \$3 million (whichever is greater). <p>The valuation of the self-insurer's assessed liability includes a prospective component which is included in the calculation of the quantum coverage of the guarantee.</p>	<p>s380(3) & s393(1)(b) WIRC Act</p> <ul style="list-style-type: none"> • A Ministerial Order sets out the terms and conditions to which the approval of an organisation as a self-insurer is subject. • The Ministerial Order covers the requirements that must be met for a contract of insurance in respect of contingent liabilities that a self-insurer must have in force at all times. • A self-insurer may select an excess for its contingent liability insurance policy of any amount not greater than \$5 million. There is no minimum excess amount.
Qld	<p>s84 Workers' Compensation and Rehabilitation Act 2003 — Provision of a security (an unconditional bank guarantee, cash deposit, or financial guarantee given by an insurance company that is an approved security provider), for an amount equivalent to 150% of the self-insurer's estimated claims liability.</p>	<p>s86 Workers' Compensation and Rehabilitation Act 2003 — Retention of reinsurance for an unlimited amount in excess of the self-insurer's liability for each event that may happen during the period of reinsurance. The self-insurer's liability must be not less than \$300,000 and not more than the limit set by the Regulator on application by the self-insurer.</p>
WA	<p>On 1 July 2013, changes to the minimum level of securities for self-insurers came into effect.</p> <p>For self-insurers approved prior to 1 July 2013:</p> <ul style="list-style-type: none"> • The minimum level of securities increased from \$1 million to \$1.5 million. • The level of outstanding claims liabilities plus the 50% prudential margins is rounded up to the next \$100,000. <p>For self-insurers approved after 1 July 2013:</p> <ul style="list-style-type: none"> • The minimum level of securities is set at \$2 million. • Thereafter, the level of securities is to be determined as above. <p>Actuarial assessments of outstanding claim liability are required on an annual basis and used to determine security amounts.</p>	<p>Common law and catastrophe insurance policy for a minimum of \$50 million for any one claim or series of claims arising out of one event.</p>

Bank guarantees/prudential margins		Excess of loss requirements
SA	<p>Outstanding liability multiplied by a prudential margin of 2. It is revised annually in accordance with an actuarial report the employer must submit within 3 months after the end of the financial year. Minimum guarantee applies 01/01/2018— \$870,000.</p> <p>Refer to Schedule 3 Return to Work Regulations 2015 and Code of Conduct for Self-insured Employers.</p>	<p>Self-insurers need to maintain an excess of loss insurance policy that must satisfy:</p> <ul style="list-style-type: none"> • \$100 million on the sum insured • a deductible of not less than \$500,000 per event or series of events, and • if the self-insured employer elects to include a stop loss excess or aggregate excess, such stop loss or aggregate excess must not be less than the higher of: <ul style="list-style-type: none"> ○ 3 times the individual incident excess, or ○ 10% above the average incurred claim cost for the prior 3 years. <p>Refer to Schedule 3 Return to Work Regulations 2015 and Code of Conduct for Self-insured Employers.</p>
Tas	<p>For self-insurers with less than 3 years' experience:</p> <ul style="list-style-type: none"> • Bank guarantee equal to: <ul style="list-style-type: none"> ○ Yr 1: Notional Premium x 100% ○ Yr 2: Notional Premium x 140% ○ Yr 3: Notional Premium x 180% • Plus the greater of: <ul style="list-style-type: none"> ○ 30% of the adjusted notional premium, or ○ the amount of excess to be paid (per event retention), or ○ \$500,000. <p>For self-insurers with more than 3 years experience:</p> <ul style="list-style-type: none"> • Minimum of 150% of central estimate of outstanding claims liabilities or \$1m whichever is greater. <p>Providing a financial undertaking How the Financial Undertaking is determined</p>	<p>Excess of loss policy for a minimum amount of \$50 million and an irrevocable power of attorney over the policy — Securing an Excess of Loss Policy.</p>
NT	<p>Minimum level of financial security to be by either \$1 million or 150% of self-insurers current central estimate of outstanding claims liability, whichever is greater.</p>	<p>Catastrophe Reinsurance of an unlimited amount excess of \$1 million</p>
ACT	<p>Guarantee from an authorised deposit-taking institution for the greater amount of:</p> <ul style="list-style-type: none"> • \$1,000,000 or • an amount calculated by an actuary to be the estimate of outstanding claims liability at the balance date, plus a prudential margin of 50%. – s84A of the Workers Compensation Regulation 2002 	<p>It is a condition of a self-insurer licence that the employer maintain unlimited reinsurance for a single event to cover the self-insurer's existing and expected liability under the Act. – s85 of the Workers Compensation Regulation 2002</p>
C'wealth Comcare	<p>Prudential conditions are outlined in the Licence Compliance and Performance Model.</p> <ul style="list-style-type: none"> • Deed between the Commission, Comcare and a bank or insurer for an amount that can be called upon by the Commission in the event a self-insurance licence is suspended or revoked. • The guarantee is usually provided annually and if required must be provided within 170 days of the start of the financial year to which the guarantee relates. • The guarantee must be for an amount calculated by the actuary as the greater of: 	<p>Licensee is required to maintain an appropriate level of reinsurance to limit its liability to pay compensation and other amounts under the SRC Act in accordance with the scope of the licence.</p>

Bank guarantees/prudential margins		Excess of loss requirements
	<ul style="list-style-type: none"> o the 95th percentile of Outstanding Claims Liabilities at the Balance Date and the addition of one reinsurance policy retention amount, or o the 95th percentile of projected Outstanding Claims Liabilities in 12/18/24* months' time from the Balance Date and the addition of one reinsurance policy retention. <p>NB: actual licence will specify: 12 months for licences in the 6th or more year of licence; 18 months for licences in the 4th — 5th year of licence; 24 months for licences in the 1st — 3rd year of licence</p>	
New Zealand	<p>No formal security is taken. Legislative prevents formal security arrangements like debentures over assets, bank bonds or guarantees or any other third-party guarantees. An employer must prove it can meet its program obligations completely in its own right in order to be accredited.</p>	<p>ACC provides 2 liability caps to Accredited Employers to manage the financial risk:</p> <ul style="list-style-type: none"> • Stop Loss Cover – Optional under Partnership Discount Plan, mandatory under Full Self Cover Plan. Accredited Employers can limit their liability for total claim costs incurred for injuries suffered during a cover year by choosing a range of 160% to 250% of the defined risk. • High Cost Claim Cover – Not available under Partnership Discount Plan, optional under Full Self Cover Plan. Accredited Employers can limit their claim liability due to a single catastrophic event that results in claim entitlement costs to an excess level of their choice (\$250,000, \$500,000, \$750,000, \$1 million, \$1.5 million, \$2 million or \$2.5 million). <p>Any reinsurance is prohibited under the legislation. The Accredited Employer is required to carry the risk of workplace injury with no ability to offload any of this risk.</p>

Table 7.6: Self-insurance restraints on company structure

Restraints on company structure	
NSW	<p>An application for a self-insurance licence can be made by 'any employer' (s 210, Workers Compensation Act 1987) in accordance with the requirements of SIRA's licensing policy for self-insurers. A self-insurer licence may be granted to an employer or a group self-insurer licence may be granted to a holding company and all wholly owned subsidiaries of the company that are employers in NSW.</p> <p>Under a group licence there is no provision for selective inclusion of subsidiaries by the applicant. The legislation specifies that only wholly owned subsidiary companies are to be included in the group licence. For group licences the applicant company would generally be the ultimate holding company in Australia.</p> <p>For group licences a cross guarantee or a holding company guarantee is required.</p>
Vic	Ultimate holding company in Australia and all wholly owned subsidiaries — s 376(1) Workplace Injury Rehabilitation and Compensation Act 2013
Qld	<p>Group licences are restricted to groups of employers that are made up as follows:</p> <ul style="list-style-type: none"> • employers who are in the same industry and have a pre-existing stable business relationship (classification group self-insurer), or • related bodies corporate as defined by the Corporations Act 2001 (related bodies corporate group self-insurer).
WA	N/A
SA	<p>Under s 129(2) of the <i>Return to Work Act 2014</i> an application as a self-insured employer or as a group of self-insured employers can only be made:</p> <ol style="list-style-type: none"> 1. in the case of an application by an individual employer— <ol style="list-style-type: none"> a. the employer is a body corporate; or b. the employer is an indemnified maritime employer; 2. in the case of an application by a group— <ol style="list-style-type: none"> a. the members of the group are related bodies corporate or local government corporations; and b. if the members of the group are related bodies corporate—no related body corporate of any member of the group that employs a worker or workers in employment to which this Act applies is not a member of the group.
Tas	N/A
NT	N/A
ACT	N/A
C'wealth Comcare	A licence is required for each separate legal entity even if multiple entities in a corporate group are self-insurers. There is no provision for group licensing in the Commonwealth scheme.
New Zealand	<p>Any 'employer' in New Zealand is eligible to become 'accredited' provided they are able to meet the eligibility requirements outlined in regulation. Eligibility is not confined by structure. Therefore any employer entity, including by way of example a company (including a consolidated group of companies), a partnership, an incorporated society, a government, state owned entities, local government authorities and incorporated societies.</p> <p>A group of employers may become accredited where each member of the group meets the definition of a subsidiary company of the same holding company, as determined by the <i>Financial Reporting Act</i>.</p>

Table 7.7: Outsourcing of case management

Outsourcing allowed	
NSW	Outsourcing claims management is permitted but does not remove the self-insurer's responsibility to meet SIRA expectations.
Vic	A self-insurer may appoint a person approved by WorkSafe Victoria to act as the agent to carry out claims management functions — s 392 , <i>Workplace Injury Rehabilitation and Compensation Act 2013</i>
Qld	Yes — s 92(4) , <i>Workers' Compensation and Rehabilitation Act 2003</i>
WA	Yes
SA	Decisions must be made by the self-insurer itself and this cannot be delegated — clause 2.4.3 b of the Code of Conduct.
Tas	Yes
NT	Outsourcing claims management is not covered in the legislation for self-insurers, however, would not remove the obligations place on the self-insurer as part of the conditions of their license. All persons managing Northern Territory claims must have completed the NT workers compensation online training program to ensure knowledge and consistency in managing claims.
ACT	Yes
C'wealth Comcare	s 108B of the <i>Safety, Rehabilitation and Compensation Act 1988</i> specifies that a licence may authorise a third party (acting on the licensee's behalf) to manage claims under the Act. s 108B(4) stipulates that, should a licensee enter into such a contract, it does not come into force unless, and until, the Commission has varied the licence to note the identity of the contracted claims manager. The licence does not cover claims with a date of injury which pre-dates the date of the licence and the licensee must continue to manage these claims as per State/Territory arrangements. However, if the licensee was a premium payer under the SRC Act prior to licence commencement, SRC Act tail claim arrangements may be included in the licence.
New Zealand	Accredited Employers may, with the consent of ACC, retain third party providers to assist in the management of workplace injuries; this is subject to them maintaining direct personal involvement with the claimant.

Table 7.8: Other ongoing licence requirements

	Compliance with legislation	Ongoing licence requirements	Other matters
NSW	Self-insurers must comply with the Workers Compensation Act 1987 , the Workplace Injury Management and Workers Compensation Act 1998 and the Workers Compensation Regulation 2016	Self-insurers must comply with all statutory requirements and conditions of licence for licence continuity. SIRA undertakes ongoing monitoring and review of self-insurers. Self-insurers provide specified information 4 months after their financial year end to enable an annual review (refer to Table 7.9 Reporting Requirements). Specialised insurers have a period of 3 months from financial year end to submit specified information. State government self-insurers must provide audited financial statements within 5 months of financial year end once they are tabled in parliament.	N/A
Vic	WorkSafe Victoria will monitor self-insurers' compliance with the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> , Ministerial Orders, the regulations, any terms and conditions of approval and other legislation (e.g. <i>the Occupational Health and Safety Act 2004</i>) throughout the licence period. An annual performance report is provided to each self-insurer with information on a range of indicators (where possible benchmarked against comparable employers/other self-insurers/or WorkSafe Victoria Agents). The report includes but is not limited to an assessment of performance in relation to self-audits, regulatory audits, financial indicators, incidence of injury and cost of claims, injured worker survey and administrative compliance.	Self-insurers must comply with the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> , Ministerial Orders, the regulations, any terms and conditions of approval and other legislation (e.g. <i>Occupational Health and Safety Act 2004</i>). Self-insurers are also required to provide specified information at specified times to WorkSafe Victoria. Refer to Tables 7.4, 7.5 and 7.9 for details.	A self-insurer must notify WorkSafe Victoria as soon as they become aware of any strategically significant matter.
Qld	s 83 Workers' Compensation and Rehabilitation Act 2003 — A licence may be subject to: 1. the conditions prescribed under a regulation, and 2. any conditions, not inconsistent with the Act, imposed by the Regulator: a. on the issue or renewal of a licence, or b. at any time during the period of the licence.	Ability to provide data in the format and at time intervals required by the Regulator. A self-insurer must supply the Regulator summary information about claims processed on their system. s 93 Workers' Compensation and Rehabilitation Act 2003 When requested, provide copies of: <ul style="list-style-type: none">• documents relating to all claims made• documents that may assist in assessing the quality and timeliness of claims and rehabilitation management• documents that may assist in assessing the self-insurers financial situation, and• any other documents required to be kept under the licence.	N/A
WA	WorkCover WA monitors self-insurer activities and performance and conducts periodic checks to ascertain if self-insurers maintain an acceptable level of compliance against requirements set out by WorkCover WA and the <i>Workers' Compensation and Injury Management Act 1981</i> . If a satisfactory performance is not indicated, a nominated person of the self-insurer may be called before WorkCover WA to show just cause why the	Self-insurers must meet their financial, reporting and claims management obligations as specified under the <i>Workers' Compensation and Injury Management Act 1981</i> .	Self-insurers must: <ul style="list-style-type: none">• demonstrate expertise to determine claims within the State in time limits specified• effect weekly payments within frequency specified• carry out responsibility with respect to injury management

	Compliance with legislation	Ongoing licence requirements	Other matters
	approval and exemption of the self-insurer should not be cancelled in accordance with s 165 and s 166 of the Act.		<ul style="list-style-type: none"> submit accurate and timely statistical returns/information provide and maintain a copy of their organisational chart demonstrate that an injury management programme is in place, and confirm that information management systems utilised by the self-insurer are able to meet the compliance standards as defined in the Q1 specifications including the provision of data and returns.
SA	<p>ReturnToWorkSA may revoke the registration of a self-insured employer or group of self-insured employers, or reduce the period of registration, if the employer, or a member of the group, (as the case requires) breaches or fails to comply with the Act or a term or condition of registration — s129(9) <i>Return to Work Act 2014</i></p> <p>Self-insurers must comply with all statutory requirements and conditions of registration for registration continuity. Failure to meet requirements may result in reduction, revocation or non-renewal of self-insured registration. Any proven systemic abuse of a delegation under the Act may result in the delegation being removed — Code of Conduct for Self-insured Employers</p>	Self-insurers must comply with all statutory requirements and conditions of registration for registration continuity.	N/A
Tas	<p>A permit is subject to such conditions as may be imposed by the Board. A self-insurer who fails to comply with, or contravenes, any condition to which the permit is subject is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units — s107 <i>Workers Rehabilitation and Compensation Act 1988</i></p> <p>The Board may at any time, in its absolute discretion, by notice in writing served on a licensed insurer or self-insurer, revoke or suspend a licence or permit if it is satisfied:</p> <ul style="list-style-type: none"> that the licensed insurer or self-insurer has failed to comply with any provision of this Act and the failure constitutes a substantial breach of the requirements of this Act, or that the licensed insurer or self-insurer has been convicted of an offence against this Act — s111(1)(b) and (c) 	<p>s107 — A permit is subject to such conditions as may be imposed by the Board on the granting of the permit, or at any time during the currency of the permit.</p> <p>The Board may, by notice served on a self-insurer, impose conditions (or further conditions) to which the permit is to be subject or vary any conditions imposed on the permit by the Board and any such conditions or variation shall, subject to s112(3), take effect on such date as the Board specifies in the notice, being a date not less than 14 days after the service of the notice on the self-insurer.</p> <p>A condition to which a permit is subject has effect whether or not the condition is endorsed on the permit.</p> <p>A self-insurer who fails to comply with, or contravenes, any condition to which the permit is subject is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.</p> <p>Permit Conditions</p>	Find more information for self-insurers on the WorkSafe Tasmania website under Self Insurers .
NT	s 124 <i>Return to Work Act 1986</i> — The Authority may at any time, in its absolute discretion, by notice in writing to an approved insurer or self-insurer, revoke or suspend approval	<p>Ongoing satisfactory demonstration of the employer's ability to:</p> <ul style="list-style-type: none"> provide statistical and other information within the timeframes required provide financial contributions as requested, and adequately provide for and manage the company's Northern Territory workers' compensation claims. 	Self-insurers must ensure that any claims manager who manages Northern Territory claims must complete the Northern Territory Workers Compensation Online Training Program

	Compliance with legislation	Ongoing licence requirements	Other matters
		Adherence to their 'Conditions of Approval', 'Best Practice Guidelines' and 'Insurer Guide to NT WorkSafe Data Requirements' meeting both legislative and best practice timelines — s 120 , s 120A and s 122 .	
ACT	<p>Part 10 of the <i>Workers Compensation Regulation 2002</i> outlines the conditions on self-insurers, and the actions the regulator may take in relation to these conditions. If the regulator decides to suspend or cancel a licence, they must give written notice of the decision, including when the suspension or cancellation takes effect. Licensed self-insurers must comply with the conditions to:</p> <ul style="list-style-type: none"> • Maintain unlimited reinsurance s85; • Provide information about workers compensation, vocational rehabilitation and occupational health and safety s86; • Keep records about policies, processes and decisions for the provision of an insurer service s87; • Arrange for another rehabilitation provider if rehabilitation provider's approval suspended or revoked s88; • Provide information and pay costs of audit s89; • Maintain a bank guarantee s90; • Maintain occupational health and safety management system s91. 	Self-insurers must comply with all statutory requirements and conditions of licence for licence continuity.	
C'wealth Comcare	<p>Licensee must comply with the requirements of:</p> <ul style="list-style-type: none"> • the <i>Safety, Rehabilitation and Compensation Act 1988</i>, <i>Safety Rehabilitation and Compensation Regulations</i>, the SRC Directions and any other applicable guidelines issued by the Commission under s73A of the SRC Act in respect to rehabilitation and compensation • Commonwealth WHS Act (where this applies to the licensee) and any applicable laws of the states or territories with respect to safety and health of employees • any guidelines dealing with covert surveillance of employees, and • conditions of licence and performance standards. 	<p>Comply with Commission's written directions. If claims are managed by a claims manager, provide a copy of the Commission's directions to the claims manager. Advise and provide a copy of the initiating process to Comcare as soon as possible of any court proceedings in relation to a matter arising in respect of a claim.</p> <p>The licensee must advise in writing as soon as practicable when it becomes aware:</p> <ul style="list-style-type: none"> • licensee has not complied with, or not likely to comply with, a condition of the licence • of any event that may materially impact upon its sustainability to hold a licence, including its capacity to meet its liabilities under the SRC Act or of any material change in financial position • of any material change to its legal structure, ownership or control • of any significant change in its employee numbers or significant change in the risk profile of the work undertaken by its employees. <p>The licensee must:</p> <ul style="list-style-type: none"> • provide upon request information relating to the licensee's operations. • ensure claims manager complies with the licence's conditions. 	Data quality audits may also be conducted including in years 2 and 6 of the 8 year licence (if and as required) to assess the accuracy of claims and rehabilitation data submitted.

	Compliance with legislation	Ongoing licence requirements	Other matters
		<ul style="list-style-type: none"> • be accountable for all claims management policies issued by the claims manager. • notify the Commission in writing as soon as possible after it becomes aware that the claims manager has done, or omitted to do, something which has the effect that the licensee is, or likely to be, in breach of a term or condition of the licence. • must enter into and maintain a written contract with the claims manager and provide a copy of the contract to the Commission. Obligations imposed by the licence must be written into the contract between the licensee and the claims manager. • meet the guarantee requirement annually. • maintain an appropriate level of reinsurance. • continue to meet the Commission's standards for prevention, rehabilitation and claims management. <p>A Licensee Compliance and Performance Improvement report, outlining the licensee's achievements for the past 12 months and objectives and targets for the coming year, must be provided annually.</p>	
New Zealand	<p>Accredited Employers must comply with the requirements of the:</p> <ul style="list-style-type: none"> • <i>Accident Compensation Act 2001</i>, Regulations (Framework for the Accredited Employers Programme), the Accreditation Agreement and ACC directives • <i>Privacy Act 2020</i> • Health Information Privacy Code 2020, and • The Code of ACC Claimants' Rights. 	<p>Accredited Employers must comply with all statutory requirements and the Accreditation Agreement.</p>	N/A

Table 7.9: Reporting requirements

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
Claims data										
Frequency	Monthly	Quarterly	Monthly	Monthly	14 days	Monthly Annually	Monthly	Monthly	Monthly or as per directed by the Commission	Monthly
Timing	By the 15th day of the following month	Each year by: 31 March 30 June 30 September 31 December	By the 8th day of the following month	Within 21 days from the end of the month	By fortnightly schedule agreed between ReturnToWorkSA and employer	By the 7th day of the following month	By the 7th day of the following month	Typically, by the 10th day of the following month	By the 5th working day of the following month	At the end of each month, and no later than 5 working days
Format	Electronic lodgment Specifications in accordance with Workers Compensation Insurer Data Reporting Requirements (WCIDRR).	Electronic data transfer and reporting: <ul style="list-style-type: none"> remuneration count of standardised claims count of > 10 day claims count of > 15 day claims (or >13 weeks over excess claims) total standardised payments on standardised claims total standardised payments on > 10 day claims number of companies in the comparator group. 	Electronic data interchange	Electronic Meets WorkCover WA specifications	Electronic Data Interchange Claim data as detailed in Schedule 3 to the Return to Work Regulations 2015.	Electronic data submission	Electronic data interchange	Electronic data transfer	Electronic data interchange/NDS 3 format	Electronic data submission as defined in the Accredited Employers Programme Monthly Claim File Specification

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
More information	N/A	N/A	Workers' Compensation Insurers' Interface Data Specification	Approved Self-Insurers Performance Indicators. Insurer/Self-insurer Electronic Data Specification Insurer and Self-Insurer Principles and Standards of Practice	Schedule 3 Return to Work Regulations 2015 Code of Conduct for Self-Insured Employers	Determination No. 1 of 2013	Workers Compensation Best Practice Guidelines for Approved Insurers and Self-Insurers in the Northern Territory	Contact WorkSafe ACT	Licence Compliance and Performance Model	Contact ACC
Annual financial information										
Annual report/ financial statements	Annual report including audited financial statements within 4 months of end financial year. Local government self-insurers must submit within 5 months of financial year end, once tabled in parliament.	Annual report / audited financial statements within 4 months of the self-insurer's balance date.	Audited financial statements within 20 business days of becoming publicly available Annual report within 20 business days of becoming publicly available Wages declaration for NDS purposes only by 31 August each year	Return on investment required for initial application and for annual review	Audited financial statements/Annual Report within 5 months of the end of the employer's financial year	To be made available following end of financial year	Audited financial statements by 31 August each year Annual report by 31 August each year	A copy of the applicant's audited financial statements (or, if it is not available, equivalent information) for each of the previous 3 years upon application.	Audited financial statements must be provided annually within 131 days of the end of the relevant financial year. Statements must show that provision has been made for meeting the workers' compensation liability as advised in the actuarial report.	Audited financial statements with notes for initial application and annual re-application Credit report for initial application
Actuarial report/ assessment of claims liabilities	Actuarial assessment of claims liabilities as at balance date provided within 4 months of end of financial year. Self-insurer s189 business	Actuarial assessment of claims liabilities submitted within 3 months of the self-insurer's balance date	Actuarial assessment on claims liabilities within 20 business days after the end of each year of the Licence or such other time as agreed between	Claims liability as a % of net assets required for initial application and for annual review Gearing ratio required for initial application and for annual review	Actuarial report on outstanding claim liability within 3 months of the end of the employer's financial year or at such other time as may be agreed between	Independent financial Audit Report by 31 August each year	Actuarial assessment of claims liabilities by 31 August each year	Upon application, actuarial report containing an estimate of the applicant's existing outstanding liability, the applicants expected liability	An annual actuarial assessment of claims liabilities is required within 131 days of the licensee's end of financial year.	The Accredited Employer may be required to provide estimates of future costs of claims in a format, to a methodology, and at intervals,

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
	information requirements		the Regulator and the licensee		ReturnToWorkSA and the employer.			each year for a 2-year period, and the total expected payments in satisfaction of the applicant's liability for compensable injuries likely to be made each year for the 2-year period.		not more frequently than monthly, prescribed by ACC
Guarantees/ audit certificates	Guarantee or security as required following annual assessment of actuarial report and determination of security required.	Audit certificate submitted within 6 months of the self-insurer's balance date. Self-insurer notified of guarantee coverage adjustment within 2 weeks of receipt of the actuarial assessment by the regulator Amended guarantee submitted by self-insurer within 4 weeks of regulator's notification	Self-insurer notified of bank guarantee amount following assessment of actuarial report	Balance sheet test, quick liquidity, current coverage, return required for initial application and for annual review	Update financial guarantee. As required in correspondence, normally within one month of submission of actuarial report Schedule 3 Return to Work Regulations 2015	Update guarantee as required following assessment of actuarial report and determination of quantum of guarantee required.	Update guarantee as required following assessment of actuarial report	It is a condition of a self-insurer licence that the employer maintain a bank guarantee.	Deed between the Commission, Comcare and a bank or insurer for an amount that can be called upon by the Commission if a self-insurance licence is suspended or revoked. The guarantee is usually provided annually. If required, it must be provided within 170 days of the start of the licensee's financial year to which the guarantee relates.	Financial eligibility check for initial application and annual re-application. Audit certificate needs to be submitted with the financial statements
Evidence of excess of loss insurance or reinsurance	Evidence of current Excess of Loss reinsurance to be provided to SIRA at all times.	Annual certificate of currency of the contract of insurance submitted within 21 days of expiry of the previous	Reinsurance policy/ Certificate of currency submitted annually	N/A	Evidence of existence of Excess of Loss Insurance policy within 3 months of the annual	Evidence of existence of Excess of Loss Insurance annually	Claims liabilities and evidence of Excess of Loss Insurance by 31 August each year	N/A	Required to maintain an appropriate level of reinsurance to limit its liability to pay compensation	ACC offers 2 liability caps to Accredited Employers as specified in table 7.5

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
		certificate of currency (seamless coverage). New/revised contract of insurance submitted within 21 days of the contract of insurance being altered or affected with a different insurer			renewal of the policy				and other amounts under the SRC Act in accordance with the scope of the licence. Provide a copy of the current certificate of currency for the reinsurance policy within 130 days of the start of the financial year to which the certificate of currency relates; provide a copy of the policy, if amended or from a new provider, within 130 days of the start of the financial year to which the policy relates.	Any reinsurance is prohibited under the legislation
Other company information										
Number of employees/FTE	Number of employees by 31 August each year	Number of FTEs by 31 August each year	Number of FTEs (Minimum 500 if licence issued pre-March 1999 and 2000 if licence after March 1999) annually and at licence renewal — reporting annually and varies by insurer	The number of full-time and part-time staff employed during the reporting period is to be provided in the annual self-insurer review	Number of FTEs, not specifically required to report on	Workers and wages report by 21 July each year	Number of employees by 31 August each year	Number of employees by end of financial year	FTE (estimated and actual) to be provided annually in July, and throughout the year if required.	Number of FTE for initial application and annual re-application
Remuneration or wages declaration	Remuneration by 31 August each year	Rateable remuneration return submitted	Remuneration by 31 August each year	N/A	Remuneration by 31 July each year	Workers and wages report by 21 July each year	Remuneration by 31 August each year	Wages by end of financial year.	Remuneration by 31 July each year	N/A

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
		by 31 August each year								
Other	Predominant industry/Workers Compensation Industry Classification by 31 August each year	<p>By 31 August each year:</p> <ul style="list-style-type: none"> opened/closed workplaces during the reporting period workplace location predominant industry / WorkCover Industry Classification <p>Self-audit results by 31 August each year:</p> <ul style="list-style-type: none"> OHS management system audit against the NAT claims management obligations of employers & other requirements 	<p>Rehabilitation policy and procedures (once per licence period — up to 4 years).</p> <p>The insurer's accredited return to work program is reviewed once per licence period — up to 4 years.</p> <p>Self-assessment required for self-insurers at the mid term of the licence period.</p>	<p>Internal dispute resolution services.</p> <p>Material resources (organisational chart).</p> <p>Security obligations (claims liabilities, etc).</p> <p>Insurance obligations (common law cover).</p> <p>Terrorism arrangements (contribution as a result of terrorism) — reporting annually for initial application and for annual review.</p>	Advice of any change in structure or financial relationships that may affect the consideration of the viability of the employer as soon as possible after a change has occurred.	N/A	Claims paid and occupation of workers by 31 August each year.	Insurer data specification reported monthly. Typically, by the 10th day of the following month.	N/A	Copy of the agreement between the Accredited Employer and Third Party Administrator (if used for workplace injury management)
Irregular reporting requirements										
Changes to Company structure ownership or control	Self-insurers must notify the Authority in writing within 10 business days of becoming aware of any change in the effective control of the self-insurer or any change in the ownership of the	<p>Notify within 28 days of the occurrence of any circumstance under s384 of the Workplace Injury Rehabilitation and Compensation Act 2013</p> <p>Notify within one week after</p>	Report within 5 business days of the proposed change: any event that could reasonably be expected to materially impact on the licensee's net tangible assets	N/A	Report financial and structural details as early as possible (or in advance) any action affecting the corporate structure of the group including disposal of subsidiary, acquisition of	Report as soon as practicable any changes in ownership, directors, structure or financial circumstances	Report as soon as practicable any material changes	N/A	Licensee must notify in writing as soon as practicable when it becomes aware of any changes to its legal structure, ownership or control.	The Accredited Employer must give written notice to ACC of any material changes in the circumstances under which the Accreditation Agreement was entered into as soon as

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
	<p>self-insurer exceeding 20% of its shareholding. In such an event the continuity of the licence will be subject to review by the Authority.</p> <p>Except with the Authority's prior written approval, the self-insurer must not transfer, or agree to transfer, the whole or any part of its self-insurer liabilities (as defined in the Workers Compensation Act 1987, s 213). The Authority may give or refuse to provide such approval as it sees fit, and any such approval may be given upon such terms as the Authority sees fit</p>	becoming aware of a strategically significant matter	<p>any event that could reasonably be expected to materially impact on the licensee's financial viability or ability to meet its liabilities for claims, and</p> <p>any intention of the licensee to withdraw or reduce the bank guarantee or cash deposit lodged with the Regulator</p>		<p>subsidiary, formation of new subsidiary, appointment of receivers, administrators or liquidators and takeover of the company etc</p>					<p>practicable, and where possible, before it occurs.</p> <p>Including, by way of example: Change in ownership, change to the composition of the Accredited Employer group, or change in the nature of the business</p>
Changes to key personnel responsible for OHS or injury management	Notify within 10 business days of any change or vacancy in the senior management position responsible for claims or injury management or the senior management	N/A	Any intention to change the manner in which any claims are administered or the manner in which the rehabilitation of workers is managed	Report one month prior to the commencement of any arrangement resulting in change in a self-insurer's outsourcing arrangement of	Changes of personnel should be reported to ReturnToWorkSA once they are known as required by the Code	N/A	Report any changes to personnel managing claims in the Northern Territory as they occur	N/A	N/A	Accredited Employer must notify ACC of changes in claim management arrangements and key personnel

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
	position with overall responsibility for workers' compensation			claims management						
Breaches or failures to comply with licence conditions or changes likely to result in same	Self-insurers must comply with the Significant Matter Notification Requirements	A self-insurer must immediately notify WorkSafe Victoria if they are unable to pay any debts as and when they fall due or they become aware of any event that may prevent them from meeting any other requirement for approval and operation as self-insurer in accordance with (i) the Act or the regulations; or (ii) any terms or conditions of its approval as a self-insurer; or (iii) a Ministerial Order; or (iv) any other subordinate instrument made under the Act or regulations	Report within 5 business days of the proposed change: any event that could reasonably be expected to materially impact on the licensee's financial viability or ability to meet its liabilities for claims	N/A	Immediately report any changes of the self-insurer that would impact the self-insurance registration	N/A	N/A	Immediately report any changes of the self-insurer that would impact the self-insurance licence	Licensee must notify in writing as soon as practicable when it becomes aware that it has not complied with, or is not likely to comply with, a condition of licence. Licensee must notify in writing as soon as practicable when it becomes aware of any event that may materially impact upon its suitability to hold a licence, including its capacity to meet its liabilities under the SRC Act or of any material change in its financial position.	If the Accreditation Agreement is breached, the non-defaulting Party may give written notice to the defaulting Party describing the breach and requesting that it be remedied within 5 working days or that a negotiated strategy for its remedy be reached within 5 working days.
Changes to predominant industry/ employee numbers / risk profile of work	N/A	N/A	Report within 5 business days of the proposed change: any event that could reasonably be expected to materially impact	N/A	Self-insurer must notify ReturnToWorkSA immediately when it becomes aware of any significant change in its	N/A	N/A	N/A	Licensee must notify in writing as soon as practicable when it becomes aware of any significant change in its employee	The Accredited Employer (AE) must promptly notify and fully report to ACC in writing on any change to the operations of

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
			on the number of fulltime workers employed in Queensland by the licensee; Any proposed changes to personnel responsible for managing and deciding claims		employee numbers or significant change in the risk profile or employment operations Self-insurer must notify ReturnToWorkSA in writing immediately of any group structure changes including acquisitions, sales etc				numbers or significant change in the risk profile of the work undertaken by its employees.	the AE that affects or may affect the levy classifications applicable to that AE.
Other	N/A	Notify WorkSafe Victoria within 28 days of wholly acquiring a scheme-insured or self-insured employer of its election to assume (or not) the tail claims liability of the entity that has been acquired	N/A	N/A	N/A	N/A	N/A	N/A	Licensees must inform Comcare as soon as practicable of court or tribunal proceedings in relation to a claim managed by a licensee under the SRC Act The licensee must not make any submission to a court or tribunal in relation to the interpretation of a provision of the SRC Act that Comcare or the Commission requests the licensee not to make The licence requires	The Accredited Employer (AE) must notify and report to ACC in writing on any: "serious ongoing claim" or claims where entitlements are likely to be payable for more than 12 months, as soon as practicable after becoming aware that a claim is or is likely to be of that kind, actual or anticipated event that would reasonably likely cause ACC to review the employer's AE Status;

NSW	Vic	Qld	WA	SA	Tas	NT	ACT	C'wealth Comcare	New Zealand
								licensees to report certain workers' compensation and other data to Comcare on a regular basis	actual or anticipated difficulty in complying with the AE's obligations to manage claims and any proposed action to address the situation; claims where the AE believes that ss 119, 120, 121 or 122 of the Accident Compensation Act may apply insolvency WorkSafe investigation or report event or issue that would result in public adverse comment about the AE Programme, or matters relating to Accreditation Agreement or any particular claim where a report is requested by ACC.

Table 7.10: Requirements for surrendering a self-insurance licence and penalties for exiting the scheme

	Requirements for surrendering a self-insurer licence	Penalties for exiting the scheme (and/ or moving to Comcare scheme)
<p>NSW</p>	<p>If a self-insurer wishes to exit the scheme it is still held responsible for the management of the tail of claims incurred whilst licensed unless SIRA assigns the tail of claims to an insurer Workers Compensation Act 1987, S 216A. If the former licensee remains responsible for the tail of claims, it will be expected to manage and administer run-off claims under the workers compensation legislation in a professional manner, and continue to provide claims data and other specified information as directed by SIRA. Run-off arrangements will be subject to SIRA's approval. Outsourcing the management of tail claims does not remove the primary responsibility of the entity to ensure claims are managed at the expected standard</p> <p>Security held or re-determined by SIRA (including any guarantee arrangements) will remain in force until SIRA is satisfied that all claims have been transferred, discharged or adequately provided for pursuant to Workers Compensation Act 1987, S 216</p>	<p>Workers Compensation Act 1987 — s208AA</p> <p>This is a provision that is not a penalty but is intended to ensure the protection of the Insurance Fund against deficiencies that may result from the insured liabilities of existing insurers.</p> <ul style="list-style-type: none"> SIRA may require contributions to the Insurance Fund from exiting employers which includes an employer moving to Comcare. As an alternative to the making of a contribution to the Insurance Fund, the self-insurer may enter into an agreement with SIRA to assume responsibility for the outstanding claim liabilities that would otherwise be payable by the licensed insurer who previously insured the employer.
<p>Vic</p>	<p>s403, s404, s405, s406, s407 and s408 — <i>Workplace Injury Rehabilitation and Compensation Act 2013</i></p> <p>Application:</p> <ul style="list-style-type: none"> At the request of the self-insurer or determined by WorkSafe Victoria (WSV), the self-insurer's approval may be revoked. <p>Tail claims liability:</p> <ul style="list-style-type: none"> Unless otherwise allowed by WSV, WSV assumes the liability for and responsibility for management of, the tail claims of the former self-insurer. A settlement payment covering the outstanding tail claims liability is payable by the former self-insurer to WSV. <p>Actuarial Assessment:</p> <ul style="list-style-type: none"> An annual actuarial assessment is undertaken for a period of 6 years following the self-insurer's approval being revoked. The actuarial assessment is undertaken by an actuary appointed by the WSV. An adjustment for the settlement payment is undertaken at the 3rd and 6th year following the date the self-insurer's approval is revoked. If the revised assessment at the end of the third year exceeds the initial assessment, the former self-insurer must pay the difference to WSV. If the revised assessment is less than the initial assessment, WSV must pay the difference to the former self-insurer. This process is repeated at the end of the 6 year liability period and if the revised assessment exceeds the assessment at the end of the third year, the former self-insurer must pay the difference to WSV. If the revised assessment is less, WSV must pay the difference to the former self-insurer. <p>Tail claims:</p> <ul style="list-style-type: none"> The former self-insurer must ensure all claims are given to WSV and all new claims are lodged with WSV. <p>Other charges:</p> <ul style="list-style-type: none"> The former self-insurer is liable to pay the cost of the actuarial assessments obtained by WSV and any extra assessment, if the former self-insurer disputes WSV's assessment. The former self-insurer must hold a guarantee against insolvency risk and claims deterioration until the final assessment of liability and if applicable, payment for the 6-year adjustment. 	<p>Part 9 — WIRC Act</p> <p>Application:</p> <ul style="list-style-type: none"> Victorian scheme-insured or self-insured employers that exit the scheme to become licensed under the Comcare scheme. Applies from 1 July 2005 onwards. <p>Tail claims liability:</p> <ul style="list-style-type: none"> WSV assumes the liability for and responsibility for management of, the tail claims of the exiting employer. A settlement payment covering the outstanding tail claims liability may be payable by the exiting employer to WSV. <p>Actuarial Assessment:</p> <ul style="list-style-type: none"> An annual actuarial assessment is undertaken for a period of 6 years following the employer's exit. The actuarial assessment is undertaken by an actuary appointed by WSV. An adjustment for the settlement payment is undertaken at the 3rd/6th year following the date the employer exited the Victorian scheme. If the revised assessment at the end of the third year exceeds the initial assessment, the exiting employer must pay the difference to WSV. If the revised assessment is less than the initial assessment, WSV must pay the difference to the exiting employer. This process is repeated at the end of the 6 year liability period and if the revised assessment exceeds the assessment at the end of the third year, the exiting employer must pay the difference to WSV. If the revised assessment is less, WSV must pay the difference to the exiting employer. <p>Other charges:</p> <ul style="list-style-type: none"> The exiting employer is liable to pay the cost of the actuarial assessments obtained by WSV and any extra assessment, if the employer disputes WSV's assessment. The exiting employer must hold a guarantee against insolvency risk and claims deterioration until the final assessment of liability and if applicable, payment for the 6-year adjustment.

Requirements for surrendering a self-insurer licence		Penalties for exiting the scheme (and/ or moving to Comcare scheme)	
	<p>Time for settlement payment:</p> <ul style="list-style-type: none"> Payment for the tail claims liability and the 3rd/6th year adjustments (if applicable) is payable within 28 days of the assessment or determination from WSV or for a further period as may be agreed between WSV and the employer. <p>Specific review provisions:</p> <ul style="list-style-type: none"> The former self-insurer may appoint its own actuary to review WSV's final assessment of liability. Ability to seek judicial review at common law and actions under the Administrative Law Act 1978 are excluded. <p>Outstanding payment:</p> <ul style="list-style-type: none"> Failure to pay any outstanding liability amount may be recovered by WSV under the guarantee in force. 		<p>Time for settlement payment:</p> <ul style="list-style-type: none"> Payment for the tail claims liability and the 3rd/6th year adjustments (if applicable) is payable within 28 days of the assessment or determination from WSV or for a further period as may be agreed between WSV and the exiting employer. <p>Specific review provisions:</p> <ul style="list-style-type: none"> The exiting employer may appoint its own actuary to review WSV's final assessment of liability. Ability to seek judicial review at common law and actions under the Administrative Law Act 1978 are excluded. <p>Outstanding payment:</p> <ul style="list-style-type: none"> Failure to pay any outstanding liability amount may be recovered by WSV under the guarantee in force. <p>Penalties applied for failure to comply with a provision under Part 9 of the WIRC Act are:</p> <ul style="list-style-type: none"> in the case of a natural person, 240 penalty units; in the case of a body corporate, 1,200 penalty units.
Qld	<p><i>Workers' Compensation and Rehabilitation Act 2003</i> (s97) If the self-insurer does not intend to renew the licence, the self-insurer must advise the Regulator of that fact at least 20 business days before the current licence period ends. If a self-insurer's licence is cancelled, the premium payable by the former self-insurer is to be calculated in the way prescribed under a regulation. The self-insurer must forward on to WorkCover all claims and related documentation for compensation and any claims that would have been lodged with the self-insurer are to be lodged with WorkCover (s99).</p> <p>Recovery of ongoing costs from former self-insurer (s101 Workers' Compensation and Rehabilitation Act 2003)</p> <p>If after the cancellation of a licence, WorkCover pays compensation or damages, or incurs management costs in managing claims for which a self-insurer is liable, this is a debt due to WorkCover by the self-insurer.</p> <p>Assessing liability after cancellation (s102 Workers' Compensation and Rehabilitation Act 2003)</p> <p>WorkCover must appoint an actuary to assess the former self-insurer's liability. The amount of liability assessed and management costs are a debt due to WorkCover.</p> <p>Return of bank guarantee or cash deposit after cancellation (s103 Workers' Compensation and Rehabilitation Act 2003)</p> <p>When a self-insurer's licence is cancelled and they consider that all accrued, continuing, future and contingent liabilities have been discharged or adequately provided for, the self-insurer may, by written notice, ask the Regulator to return the balance of the bank guarantee or cash deposit.</p>		<p><i>Workers' Compensation and Rehabilitation Act 2003</i> — s105B.</p> <ul style="list-style-type: none"> Application: Solely to former self-insurers who join the Comcare scheme. Tail claims: The employer's State licence continues for 12 months after exit and they retain liability for tail claims. After 12 months, WorkCover takes over responsibility for pre-exit tail claims and seeks contribution from employer or authorises the employer to continue to manage and pay for these claims. Extra charges: Levy fee for 12 months, share of actuary charges, and share of any arbiter costs. Time for payment: Interim payment 12 months after exit date needs to be made within 20 business days of receiving written assessment from WorkCover (s105I). 4 years following licence cancellation, WorkCover and the employer must each appoint an actuary to recalculate the amount of liability. The employer must pay WorkCover the difference between the interim payment and the recalculation amount, plus interest on the difference from the day the whole of the interim payment was made. Specific review provisions: If WorkCover and the employer cannot agree on the recalculated amount they may refer to an arbiter. Penalties: No penalties specified for late payment.
WA	<p>An employer or group of employers that cease to be exempt is required to insure in accordance with s160 of the Workers' Compensation and Injury Management Act 1981. Where cancellation occurs, the bond will be held until all claims relevant to the period of self-insurance are satisfied.</p>		<p>No specific provisions</p>
SA	<p>Assumption of liabilities</p>		<p>ReturnToWorkSA does not impose a discontinuance fee or exit fee</p>

Requirements for surrendering a self-insurer licence	Penalties for exiting the scheme (and/ or moving to Comcare scheme)
<p>Pursuant to s167 of the <i>Return to Work Act 2014</i>, ReturnToWorkSA is the insurer of last resort and must undertake the liabilities of any self-insured employer that ceases to be registered as a self-insured employer. ReturnToWorkSA may at its sole discretion delay the undertaking of liabilities for such period as it deems appropriate.</p> <p>Where ReturnToWorkSA assumes the liabilities of a self-insured employer, either in whole or part, it is entitled to receive a payment from the employer equal to the capitalised value of all outstanding liabilities multiplied by that same prudential margin applied on calculating financial guarantees. ReturnToWorkSA may recover the amount of liabilities undertaken by ReturnToWorkSA either as a debt due to ReturnToWorkSA or as a claim — s167(3), reg 62 and 8.6 Code of conduct for self-insured employers</p> <p>Payment</p> <p>ReturnToWorkSA may, at its discretion, give a self-insured employer whose registration is ceasing a choice as to whether to pay the capitalised sum from its own resources, or to have the financial guarantee provided during the period of self-insured employer registration paid to ReturnToWorkSA. Any shortfall in the financial guarantee relative to the assessed value of the liabilities will be payable by the employer to ReturnToWorkSA as a debt.</p> <p>Run off of claims</p> <p>Where ReturnToWorkSA deems a run off to be appropriate or necessary in the circumstances, ReturnToWorkSA may also determine that the former self-insured employer continues to exercise some or all of its delegated powers and discretions. Without limitation, ReturnToWorkSA will ordinarily consider the following circumstances as being suitable circumstances in which to allow the former self-insured employer to run off its claims:</p> <ol style="list-style-type: none"> 1. Employers that have substantially reduced their workforce but which have performed their self-insured employer duties and obligations in accordance with the requirements of the Act and its term and conditions of registration. 2. A subsidiary of a self-insured employer is sold and the subsidiary or the self-insured employer has sufficient resources and financial security to run off its claims. 3. An employer closes down its operations in the state, but remains a viable company operating interstate. <p>ReturnToWorkSA will evaluate the former self-insured employer's compliance with the Act, WHS Standards and Injury Management Standards and the agreement referred to in clause 8.8 and may terminate the run off if ReturnToWorkSA considers there are substantive grounds for doing so.</p> <p>Upon cessation of the run off period, ReturnToWorkSA will appoint an Actuary to assess the value of the claims existing at that time in order to calculate the capitalised sum (if any) the employer must pay to ReturnToWorkSA.</p> <p>Agreement</p> <p>In circumstances where ReturnToWorkSA has decided not to delay the undertaking all of the liabilities of the former self-insured employer and to continue the delegation of powers and discretions to the former self-insured employer for a period, ReturnToWorkSA may require the former self-insured employer to enter into an agreement with ReturnToWorkSA.</p>	
<p>Tas</p> <p>Exit provisions are set out in the following Guideline: How to apply to cease being a permit holder</p>	<p>No specific provisions</p>
<p>NT</p> <p>Employer retains responsibility for run off of claims incurred during period of self-insurance</p>	<p>No specific provisions</p>
<p>ACT</p> <p>Under s145R of the Act, a licensed self-insurer may surrender its self-insurer licence by giving written notice (a surrender notice) of the surrender to the regulator.</p>	<p>No specific provisions</p>

Requirements for surrendering a self-insurer licence	Penalties for exiting the scheme (and/ or moving to Comcare scheme)
<p>C'wealth Comcare</p> <p>A licensee may request the Commission to revoke its licence at a date from which it no longer wishes to hold such a licence under s107. There are 2 general scenarios for a licence revocation:</p> <ol style="list-style-type: none"> 1. Comcare continues to hold the bank guarantee and the ex-licensee continues to discharge its SRC Act liabilities post-revocation. The ex-licensee (or a third party) would manage the claims relating to the licence period. In this scenario, a number of licence conditions (including requirements for claims management) survive revocation. The SRC Commission would need to be satisfied that the claims relating to the licence period continue to be managed in accordance with its standards. To verify this, some continued regulatory oversight may be required and payments made by the ex-licensee parties to ensure this regulatory work (post-revocation) is fully funded. 2. The bank guarantee is called in and Comcare (or a third party) manages the claims. 	N/A
<p>New Zealand</p> <p>ACC has the right to terminate in respect of any insolvency event or a material breach</p> <p>If the Accredited Employer no longer complies with the framework of the Accident Compensation Act 2001</p> <p>Accredited Employer can choose not to renew their Accreditation Agreement.</p>	N/A



Chapter 8:

Scheme administrative and funding arrangements



Administrative and funding arrangements

This chapter provides background information on the administrative and funding arrangements under which the workers' compensation schemes operate.

The tables contained in this chapter include:

- 8.1 Applicable workers' compensation legislation
- 8.2 Transitional legislation provisions
- 8.3a Minor schemes – New South Wales
- 8.3b Minor schemes – Victoria
- 8.3c Minor schemes – Western Australia
- 8.3d Minor schemes – South Australia
- 8.3e Minor schemes – Tasmania
- 8.3f Minor schemes – Commonwealth
- 8.3g Minor schemes – New Zealand
- 8.4 Scheme funding positions as at 30 June 2023 and 30 June 2022
- 8.5 Standard average premium rates 2017-18 to 2021-22 (% of payroll)
- 8.6 Selected industry premium rates as at 31 December 2023 (% of payroll)
- 8.7 Scheme expenditure²
- 8.8 Direct compensation payments by type and jurisdiction, 2021–22³

Scheme administrative arrangements

Employers who operate in more than one Australian state or territory must comply with all relevant laws within each of the jurisdictions in which they work. Table 8.1 shows the legislation that workers' compensation schemes operate under in each jurisdiction.

Transitional provisions

Not all workers are covered under current workers' compensation legislation if their date of injury preceded the introduction of that legislation. However, most jurisdictions provide workers' compensation payments to people who would be entitled to compensation under preceding legislation, or for transitional arrangements to apply to them. For example, in Queensland injuries that occurred before 1 January 1991 are covered by the [Workers' Compensation Act 1916](#), injuries that occurred between 1 January 1991 and 1 February 1997 are covered by the [Workers' Compensation Act 1990](#) and injuries that occurred on or after 1 February 1997 and before 1 July 2003 are covered by the [WorkCover Queensland Act 1996](#).

Workers may also need to fulfil criteria for their injury that occurred when previous legislation was in force to be covered under current legislation. For example, a Commonwealth employee injured prior to 1988 is only be entitled to compensation under the *Safety, Rehabilitation and Compensation Act 1988* if there was an entitlement under the preceding pieces of legislation (see Table 8.2).

Unique provisions and other workers' compensation schemes

Several jurisdictions have specific workers' compensation or related legislation or other arrangements to assist people who injured in unique ways or at particular places or times. For example, the Commonwealth has an administrative scheme for people who may have been affected by nuclear radiation from British atomic tests in Australia in the 1950s. Tables 8.3a to 8.3g list the minor schemes in the applicable jurisdictions.

² Table was previously in the *Comparative Monitoring Report* under Workers' Compensation Funding, but has been moved to the Comparison report for this edition

³ Ibid.

Table 8.1: Applicable workers' compensation legislation

Applicable workers' compensation legislation	
NSW	<p>Workers Compensation Act 1987</p> <p>Workplace Injury Management and Workers Compensation Act 1998</p> <p>Workers' Compensation (Dust Diseases) Act 1942</p> <p>Workers' Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</p> <p>State Insurance and Care Governance Act 2015</p> <p>Historic versions can also be accessed from the same link</p>
Vic	<p>Workplace Injury Rehabilitation and Compensation Act 2013</p> <p>Accident Compensation Act 1985</p>
Qld	<p>Workers' Compensation and Rehabilitation Act 2003 (permalink to current reprint, superseded versions: Act)</p> <p>Workers' Compensation and Rehabilitation Regulation 2014 (permalink to current reprint, superseded versions: Reg)</p>
WA	<p>Workers' Compensation and Injury Management Act 1981 (Other versions of this Act can be found here)</p>
SA	<p>Return to Work Act 2014 Version valid from 1 July 2015</p> <p>Return to Work (Scheme Sustainability) Amendment Act 2022</p> <p>Historical versions can be accessed from South Australian Legislation</p>
Tas	<p>Workers Rehabilitation and Compensation Act 1988 (Historic versions can also be accessed from the same link)</p>
NT	<p>Return to Work Act 1986 As in force at 28 November 2022</p> <p>Return to Work Act As in force at 1 October 2015</p> <p>Return to Work Act As in force at 1 July 2015</p> <p>Workers Rehabilitation and Compensation Act As in force at 1 January 2015</p>
ACT	<p>Workers' Compensation Act 1951 (All versions can be accessed through the ACT Legislation Register)</p>
C'wealth Comcare	<p>Safety, Rehabilitation and Compensation Act 1988</p>
C'wealth Seacare	<p>Seafarers' Rehabilitation and Compensation Act 1992</p>
C'wealth DVA	<p>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</p> <p>Military Rehabilitation and Compensation Act 2004</p>
New Zealand	<p>Accident Compensation Act 2001</p>

Table 8.2: Transitional legislation provisions

Transitional legislation provisions	
NSW	Workers Compensation Act 1987 — Schedule 6
Vic	Accident Compensation Act 1985 Accident Compensation (WorkCover Insurance) Act 1993 Workers' Compensation Act 1958
Qld	Workers' Compensation Act 1916 Workers' Compensation Act 1990 WorkCover Queensland Act 1996
WA	Workers' Compensation and Injury Management Act 1981
SA	Return to Work Act 2014 Return to Work Regulations 2015 — Part 11 (Schedule 9 Part 9 of the Act)
Tas	Workers' Compensation Act 1927 (for injuries prior to 15 November 1988) Workers' (Occupational Diseases) Relief Fund Act 1954
NT	Workmen's Compensation Ordinance 1949 Workmen's Compensation Act 1979 Work Health Act 1986 Workers rehabilitation and Compensation Act 2008 Return to Work Act 1986
ACT	The ACT legislation is a consolidation of previous enactments
C'wealth Comcare	A person who has a date of injury under a previous Act (the 1971, 1930 or 1912 Acts) is entitled to compensation under the Safety, Rehabilitation and Compensation Act 1988 if compensation for that injury would have been payable under a previous Act.
C'wealth Seacare	A person who has a date of injury under the Seamen's Compensation Act 1911 is entitled to compensation under the Seafarers Rehabilitation and Compensation Act 1992 if compensation for that injury would have been payable under the earlier Act (Seafarers Rehabilitation and Compensation (Transitional Provisions and Consequential Amendments) Act 1992).
C'wealth DVA	Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004
New Zealand	Accident Compensation Act 2001

Table 8.3a: Minor schemes — New South Wales

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
Workers' Compensation (Bush Fire, Emergency and Rescue Services) Act 1987	icare: Cover for volunteers under workers compensation	To continue the special compensation scheme for bush fire fighters, emergency service workers and rescue association workers.	This fund provides insurance cover to volunteer workers for surf lifesaving clubs, state emergency services, volunteer rescue and firefighter associations and other deemed rescue volunteer workers.	Over 165 000 Rural Fire Service, State Emergency Service and Surf Life Saving Association volunteers	Unique scheme
Workers' compensation (Dust Diseases) Act 1942	icare: Work-related dust diseases - who we care for	This Act makes provisions regarding the payment of compensation when workers suffer death or disablement due to a dust disease specified in Schedule 1 , including any pathological condition of the lungs, pleura or peritoneum caused by dust that may also cause a disease so specified, to validate certain payments.	Any worker who has developed a 'dust disease' as defined in Schedule 1 from occupational exposure to dust as a worker in New South Wales.	As at 30 June 2017 compensation benefits are being provided to over 4,609 clients: 1,405 workers and 3,204 dependants of deceased workers.	A system of no-fault compensation for workers and their dependants where a worker suffers death or disability from dust diseases.
Coal Industry Act 2001	Coal Services	To operate an innovative, efficient, effective, competitive, and fully funded workers' compensation insurance scheme for the coal mining industry in NSW.	Coal Mines Insurance Pty Ltd is a specialised insurer and it is the insurer of all employers in the NSW coal mining industry under the <i>Coal Industry Act 2001</i> .	As at 30 June 2023, 2235 active policies and 37,277 workers	The Joint Coal Board (JCB) was dissolved by enactment of the <i>Coal Industry Repeal Act 2001 (Cth)</i> on 1 January 2002. It's assets, rights and liabilities were transferred to Coal Services Pty Ltd (Coal Services), ACN 099 078 234, on 1 January 2002. Coal Services is owned 50% by NSW Minerals Subsidiary Company Pty Ltd (NSW Minerals) and 50% by the Construction Forestry Mining and Energy Union. NSW Minerals is owned by the NSW Minerals Council (an association representing employers in the NSW coal industry). Coal Services owns Coal Mines Insurance Pty Ltd. Both operate as private companies, subject to the Federal Corporations Act 2001 . Both were created by the <i>Coal Industry Act 2001</i> .
Treasury Managed Fund (NSW Government's self-insurance scheme)	icare	icare self-insurance administers the NSW Government's main managed fund scheme, the Treasury Managed Fund (TMF). The TMF is the NSW Government's self-insurance scheme. It protects the insurable assets and liability exposures of all general government sector agencies and several state-owned corporations that have joined the scheme.	Employees of all member agencies	384 000 employees covered (as at 30 June 2023)	Unique scheme

Table 8.3b: Minor schemes — Victoria

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
<p>Volunteers — recoupable claims</p>	<p>Claims by volunteers under the:</p> <ul style="list-style-type: none"> Country Fire Authority Act 1958 are administered by the Country Fire Authority, and Police Assistance Compensation Act 1968 (PAC Act) are administered by the Police Department. <p>Except for claims under the Acts above, WorkSafe Victoria administers claims of volunteers as an agent on behalf of the Crown.</p> <p>The claims agent responsible for managing claims for the Department of Justice and Community Safety manages claims by volunteers under the following Acts:</p> <ul style="list-style-type: none"> Victorian State Emergency Services Act 1987 (applies to registered and casual emergency workers) Juries Act 2000 (applies to jurors), and Emergency Management Act 1986 (applies to casual emergency workers). <p>The agent responsible for managing claims for the Department of Education manages claims by volunteers under the <i>Education Training and Reform Act 2006</i> (applies to volunteer school workers or volunteer student workers).</p> <p>WorkSafe Victoria is reimbursed from the Consolidated Fund for any compensation payments made and the costs and expenses associated with administering these claims.</p>	<p>Under certain Acts, volunteers assisting Government Agencies are entitled to compensation in accordance with the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> if injured while carrying out specified duties.</p>	<p>Nominated volunteers specified under various pieces of legislation set out below. The term 'volunteers' includes people assisting government agents. Volunteers are not workers unless deemed so and are not entitled to compensation unless specified in one of the Acts of Parliament named.</p> <p>Workers assigned to emergency organisations by their employers as part of their contract of service remain workers of the employer. They will only be entitled to compensation as volunteers if they are covered by the aforementioned Acts.</p> <p>While carrying out the relevant duties volunteers in prisons and offenders working or participating in a correctional order or diversion program are entitled to compensation for personal injury if it would be payable under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> if they were a worker employed by the Crown and the personal injury had arisen out of or in the course of employment.</p>	<p>N/A</p>	<p>The aforementioned Acts provide that volunteers and other persons assisting government agencies are entitled to compensation if injured while carrying out relevant duties. Go to Victorian Legislation and Parliamentary Documents.</p>

Table 8.3c: Minor schemes — Western Australia

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
<i>Waterfront Workers (Compensation for Asbestos Related Diseases) Act 1986</i>	WorkCover WA	This Act applies to a waterfront worker in respect of whom there is an entitlement to make a claim for a relevant injury under s 33 of the <i>Workers' Compensation and Injury Management Act 1981</i> , but in respect of whom it is not known who was the employer who last employed the waterfront worker in the employment to the nature of which the 'relevant injury' is, or was, due. 'Relevant injury' means mesothelioma, or lung cancer, or that form of pneumoconiosis known as asbestosis.	Waterfront workers, within the meaning of the Compensation Act, employed in or about a harbour or port area at a time when asbestos was being loaded or unloaded from a vessel or otherwise handled in that harbour or port area.	N/A	N/A
<i>Employers' Indemnity Supplementation Fund Act 1980</i>	WorkCover WA	The Supplementation Fund provides for payments to injured workers in the event of the failure of an approved insurer.	The Supplementation Fund is funded through a levy on insurance premiums which is applied as and when required. No levy is currently in place.	N/A	N/A

Table 8.3d: Minor schemes — South Australia

Administered by	Purpose	Coverage	Number covered	Basis for legislation
Statutory reserve fund (clause 61 of schedule 9 of the Return To Work Act)	ReturnToWorkSA	<p>The Statutory Reserve Fund was established under the repealed <i>Workers' Compensation Act 1971</i>. It came into operation in 1980 and claims relating to workers compensation liabilities could be made in the event of the insolvency of an insurance company or the insolvency of an uninsured employer. The Fund was re-established under Schedule 1, Clause 5 of the <i>Worker's Rehabilitation and Compensation Act 1986</i> and continues in its existence pursuant to clause 61 of Schedule 9 of the <i>RTW Act 2014</i>. The Fund forms a separate part of the Compensation Fund of the Return to Work Scheme.</p> <p>The Statutory Reserve Fund is required to meet any liability arising from a shortfall of the Insurance Assistance Fund.</p>	N/A	<p>To provide protection of injured workers arising under the <i>Workers' Compensation Act 1971</i> in the event of the insolvency of an insurance company or an uninsured employer.</p>
Insurance assistance fund (clause 62 of schedule 9 of the Return To Work Act)	ReturnToWorkSA	<p>The Insurance Assistance Fund continues to be held as a separate part of the Compensation Fund.</p> <p>The Insurance Assistance Fund was established under Schedule 1 Clause 5A of the <i>Workers Rehabilitation and Compensation Act 1986</i> and continues in its existence pursuant to clause 62 of Schedule 9 of the <i>RTW Act 2014</i>. The Fund supports policies issued under s118g of the repealed <i>Workers' Compensation Act 1971</i>. As 118g policy relates to a policy of workers' compensation insurance issued by the State Government Insurance Commission as insurer of last resort at a determined premium.</p>	N/A	<p>To provide assistance to an employer to meet its obligation to be insured under the repealed <i>Workers' Compensation Act 1971</i> in cases where an employer was unable to obtain satisfactory workers' compensation insurance from within the open insurance market.</p>

Table 8.3e: Minor schemes — Tasmania

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
<u>Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011</u>	Department of Justice	This Act establishes a scheme for the payment of compensation to workers who contract asbestos related diseases in the course of their employment.	Claimants who are or were workers as defined by the Act and who have suffered a compensable disease.	N/A	N/A

Table 8.3f: Minor schemes — Commonwealth

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
Administrative scheme for the purposes of compensating persons present at British nuclear test sites in Australia	Department of Employment and Workplace Relations	To compensate those persons who can establish that they were in the region of the tests at the time of the testing, who sustained an injury or a disease which can be demonstrated to have arisen as a result of exposure to radiation, etc. emanating from the British Nuclear Tests in the 1950s and 1960s. This scheme was formed by Executive Government in 1986.	Non-Commonwealth employees, pastoralists and indigenous persons who were present at or near the test sites at the time of the testing in the 1950's and early 1960's are covered under the scheme.	N/A	As there is no legislative basis to the scheme, any determination of a claim involves an exercise of the Government's executive power. There is no right of appeal, although claimants may seek common law redress against the Government. The scheme references Commonwealth workers' compensation legislation to determine the types and quantum of benefits paid under the scheme.
Scheme for the payment of special compensation for injury in exceptional circumstances	Department of Employment and Workplace Relations	To compensate those persons who suffer injuries or contract diseases, under exceptional circumstances, such as injuries which arise a result of actual or threatened acts of violence because the claimant was identified with the Australian Government. It also provides compensation for diseases contracted because of changes in the person's environment arising out of their connection with the Government, who would not have incurred such injuries or diseases but for the claimant's connection with the Australian Government — and for which they have no claim for compensation under a statutory scheme. This scheme was formed by Executive Government in 1986.	The Special Compensation Scheme provides compensation to Commonwealth government employees and/or their dependants, Commonwealth contractors, people undertaking actions at the direction of the Commonwealth and judges.	N/A	As there is no legislative basis to the scheme, any determination of a claim involves an exercise of the Government's executive power. There is no right of appeal although claimants may seek common law redress against the Government. The scheme references Commonwealth workers' compensation legislation to determine the types and quantum of benefits paid under the scheme.
Asbestos related claims (management of Commonwealth liabilities) Act 2005	Comcare	Manages the Commonwealth's asbestos related claims liabilities for claims made outside the <i>Safety, Rehabilitation and Compensation Act 1988</i> and <i>Military Rehabilitation and Compensation Act 2004</i> .	Claimants with asbestos-related conditions such as asbestosis, an asbestos-induced carcinoma, an asbestos-related non-malignant pleural disease, mesothelioma etc.	134 open claims being managed at 31 December 2023.	A focal point for the Commonwealth to manage its asbestos liabilities.
Veterans' Entitlements Act 1986 (VEA)	Department of Veterans' Affairs	Provides entitlements to compensation and rehabilitation for members and former members of the ADF injured in the course of their duties. Injury, disease or death related to the following service: <ul style="list-style-type: none"> • peacetime service (after completion of 3 year qualifying period) from 7 December 1972 to 6 April 1994. Members who enlisted before 22 May 1986 and served continuously until after 6 April 1994 are also covered for service after that date • all periods of operational service, peacekeeping service and hazardous service to 30 June 2004, and • war-like operations (for example in East Timor) and non war-like operations to 30 June 2004. 	To be eligible for compensation payments under the VEA, a person must first qualify as a 'veteran', a 'member of the Forces' or a 'member of a Peacekeeping Force'. Certain civilians have access to the VEA. A member who had not completed the 3 year qualifying period before 7 April 1994 is not covered under the VEA, unless they were medically discharged within that time.	Statistics about the veteran population	Eligible veterans, serving and former defence force members, their war widows and widowers and dependants have access to appropriate compensation and income support in recognition of the effects of war and defence service and to health and other care services that promote and maintain self-sufficiency, well-being and quality of life.

Table 8.3g: Minor schemes — New Zealand

	Administered by	Purpose	Coverage	Number covered	Basis for legislation
<i>Tuberculosis Act 1948</i>	Ministry of Health	Make better provision for the treatment, care and assistance of persons suffering or having suffered from tuberculosis and for preventing the spread of tuberculosis.	Any person who is suffering from tuberculosis in an active form and who is likely to infect others. Can claim for workers' compensation if contracted during employment.	350–400 new cases a year	N/A

Scheme funding arrangements

All workers' compensation schemes collect funds to meet liabilities and administer the scheme. There are 2 different types of scheme funding: publicly and privately underwritten.⁴

In publicly underwritten schemes, a single public insurer performs most, or all, of a workers' compensation insurer's functions. Some schemes undertake claims management internally and some may outsource claims management to the private sector. Premiums set by the public insurer are based on actuarial forecasts of claim costs across all sectors.

In privately underwritten schemes, insurer functions are provided by the private sector, through the scheme's list of approved insurance companies.⁵ Premiums charged by insurers are based on a commercial underwriting basis. The Northern Territory approved insurers operate with commercial independence and set their own premium rates which vary by different types of industry.

Net funding ratio

The net funding ratio is a net of outstanding claim liabilities and indicates the financial viability of a scheme. It measures the ratio of assets to outstanding claims liability and is generally expressed as a percentage. Where the ratio is over 100%, the scheme may be over funded, and where the ratio is below 100% the scheme may be under funded. For publicly underwritten schemes where there is a separate workers' compensation fund, the scheme's annual report identifies the assets set aside for future liabilities. For privately underwritten schemes assets are set aside to meet all liabilities, but the insurance companies do not identify reserves specifically for workers' compensation liabilities.

Net assets

Net assets in publicly underwritten schemes are equal to the total current and non-current assets of the scheme minus the outstanding claim recoveries as at the end of the reference financial year. In privately underwritten schemes, net assets are considered to be the insurers' overall balance sheet claims provisions. Net assets are used in the calculation of funding ratios.

Net liabilities

Net liabilities in publicly underwritten schemes are the total current and non-current liabilities of the scheme minus any amounts the scheme expects to retrieve at the end of the financial year. The liabilities in privately underwritten schemes are taken as the central estimate of outstanding claims for the scheme at the end of the financial year. Net liabilities are used in the calculation of funding ratios. Table 8.4 shows each jurisdiction's scheme funding position as reported in their annual reports.

⁴ Previous reports referred to the scheme funding as managed, central and privately underwritten. For this report, it has been changed to publicly or privately underwritten as it better reflects how schemes are funded and provides for easier comparison.

⁵ Please see linked the list of approved insurance companies for the privately underwritten schemes: [ACT](#), [NT](#), [Seacare](#), [Tasmania](#) and [Western Australia](#).

Table 8.4: Schemes' funding positions as at 30 June 2023 and 30 June 2022

	30 June 2023	30 June 2022
NSW¹	Assets: \$20,285m Liabilities: \$22,070m Funding Ratio: 92%	Assets: \$18,549m Liabilities: \$19,795m Funding Ratio: 94%
Vic	Assets: \$22,083.60m Liabilities: \$26,154.80m Funding Ratio: 84.40%	Assets: \$20,255m Liabilities: \$23,938.60 Funding Ratio: 84.60%
Qld	Assets: \$6,771m Liabilities: \$4,874m Funding ratio: 139%	Assets: \$6,267m Liabilities: \$4,397m Funding ratio: 143%
WA	WA is a privately underwritten scheme, therefore this data is not available	WA is a privately underwritten scheme, therefore this data is not available
SA	Assets: \$4,070m Liabilities: \$4,297m Funding ratio: 94.7%	Assets: \$3,801m Liabilities: \$4,096m Funding Ratio: 92.8%
Tas	Tasmania is a privately underwritten scheme therefore this data is not available	Tasmania is a privately underwritten scheme, therefore this data is not available
NT	Northern Territory is a privately underwritten scheme therefore this data is not available	Northern Territory is a privately underwritten scheme therefore this data is not available
ACT	Australian Capital Territory is a privately underwritten scheme therefore this data is not available	Australian Capital Territory is a privately underwritten scheme therefore this data is not available
C'wealth Comcare²	Liabilities: \$1,698m Funding Ratio: 117%	Liabilities: \$1,664m Funding Ratio: 124%
C'wealth Seacare	Seacare is a privately underwritten scheme, therefore this data is not available	Seacare is a privately underwritten scheme, therefore this data is not available
New Zealand	Assets: NZ\$ 10,378m Liabilities: NZ\$ 7,086m Funding Ratio: 146.4%	Assets: NZ\$ 9,943m Liabilities: NZ\$ 6,810m Funding Ratio: 146.0%

¹ The funding position is provided for the government insurer, Insurance & Care NSW which represents 74% of wages within New South Wales

² Comcare data is, and has been in previous years, inclusive of risk margins and **may not** be directly comparable to publicly underwritten schemes.

Care should be taken when analysing the information above as the valuation of liabilities differs across jurisdictions. The funding ratios included in the [Comparative Performance Monitoring \(CPM\) report 25th edition - Workers' compensation funding ratios](#) attempts to address most of the areas where differences occur by applying consistent definitions and assumptions.

Premiums

Employers, other than self-insurers, must pay workers' compensation premiums to cover their workers in the event of a work-related injury or illness. Most employers in Australia and New Zealand are premium payers. Premiums fund financial and medical support to injured workers, cover the costs of dispute management and administration of the schemes.

In publicly underwritten schemes, premium rates are set by a central authority based on actuarial forecasts of claim costs across all industry sectors. In privately underwritten schemes, independent insurers charge premiums based on a commercial underwriting basis.

Premium rates are generally pooled across similar risk profile groups. This allows employers who share a common set of risks to spread the risk across their industry type. Across the schemes there are hundreds of specified premium rates for industry types. Employers operating in more than one jurisdiction must pay the relevant premium in each jurisdiction.

Premiums are usually expressed as a percentage of employers' total wages bills. The rates depend on an employer's:

- size
- industry
- individual claims experience, and
- the way that 'wages' are defined for workers' compensation purposes, which can vary across the jurisdictions.

In 2021–22, the Australian standardised average premium rate was 1.34% of payroll, consistent with the previous year 2020–21 (1.34% cent of payroll). Table 8.5 shows the standardised average premium rate in each jurisdiction over the last 5 financial years as reported in the [Comparative Performance Monitoring 25th edition – Workers' Compensation Premiums](#).

The standardised premium rates are determined by applying factors that adjust the combined average premium rate for employer excess and journey claims in each jurisdiction. A full explanation of the methodology for producing standardised average premium rates is in *Appendix 1 – Explanatory notes* of the [Comparative Performance Monitoring 25th edition – Workers' Compensation Premiums](#).

Table 8.5: Standardised average premium rates 2017-18 to 2021-22 (% of payroll)

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT*	C'wealth Comcare	C'wealth Seacare	New Zealand
2017-18	1.37	1.37	1.16	1.20	1.84	1.62	1.20	1.64	0.85	N/A	0.57
2018-19	1.41	1.35	1.14	1.31	1.68	1.67	1.54	1.61	0.82	N/A	0.57
2019-20	1.42	1.34	1.15	1.31	1.63	1.67	1.45	1.60	0.74	N/A	0.55
2020-21	1.47	1.32	1.15	1.40	1.57	1.75	1.37	1.60	0.76	N/A	0.54
2021-22	1.45	1.31	1.15	1.45	1.60	1.92	1.29	1.62	0.70	N/A	0.53

*ACT Private

Premiums vary from industry to industry. Table 8.6 provides an indication of some selected premium rates. Apart from Western Australia, Tasmania, the Northern Territory and the Australian Capital Territory, industry rates are not provided for jurisdictions with full private insurance underwriting, as each individual insurer sets their own industry rates. In the Comcare jurisdiction industry rates are not applicable as all employers are experience rated.

Further information on industry premium rates calculations are available for:

- NSW — SIRA utilises the rates published in the [Insurance Premiums Order 2015-2016](#) to calculate the levy rates. Further information regarding industry rates and classifications are also published via [icares website](#).
- Victoria — Further information regarding industry rates and classifications are available on the [WorkSafe Victoria website](#)
- Queensland - [WorkCover Industry Classifications](#)
- Western Australia — The [Gazetted industry premium rates](#) for Western Australia.
- Australian Capital Territory — [suggested reasonable industry premium rates](#) and an actuarial [review of Scheme Performance](#) are published annually.
- South Australia — [Industry descriptions and rates](#) are available on the ReturnToWorkSA website.
- Tasmania — Suggested premium rates for 2019–20 are available on [the WorkSafe Tasmania website](#).

Table 8.6: Selected industry premium rates as at 31 December 2023 (% of payroll)

	NSW ¹	Vic ²	Qld ³	WA ⁴	SA ⁵	Tas	New Zealand ⁶
Average levy/premium rate	1.30	1.272	1.29	1.727	1.85	2.07	0.67
Highest published rate	12.720 (Concrete Construction Services) (Professional Footballers)	18.00 (Other Non-metallic Mineral Product Manufacturing)	14.863 (Other Non-Metallic Mineral Product Manufacturing)	10.85 (Other Horse and Dog Racing Activities)	9.892 (Other Horse Racing Activities)	9.17 (Other non-metallic mineral product manufacturing)	6.43 (Sport and physical recreation - professional sport (not elsewhere classified)) (Sport and physical recreation - professional rugby) (Sport and physical recreation - professional rugby league) (Sporting and recreational equine activities (not elsewhere classified)) (Sport and physical recreation – motorcycling) (Horse racing activities - thoroughbred and other (not elsewhere classified)) (Horse racing activities - thoroughbred racing – jockeys)
Highest experienced rate	N/A	N/A	N/A	N/A	N/A	N/A	73.87% loading (expressed as a % of an employer's standard levy)
Lowest published rate	0.203 (Financial Asset Broking Services) (Computer Consultancy Services)	0.360 (numerous)	0.129 (Computer system design and related services)	0.25	0.390 (Coin and Stamp Dealing)	0.40 (Optometry and optical dispensing) (Accounting services)	0.05 (Legal services) (Accounting services) (Computer systems design and related services)

	NSW ¹	Vic ²	Qld ³	WA ⁴	SA ⁵	Tas	New Zealand ⁶
Lowest experienced rate	N/A	N/A	N/A	N/A	N/A	N/A	43.91% discount (expressed as a % of an employer's standard levy).
House construction	4.170	2.212	2.881	1.32	2.519	2.78	1.84
Non-residential construction	2.680	1.897	1.932	2.28	2.474	2.31	1.71
Meat products	7.57	5.719	4.731	4.04	7.469	6.11	2.46
Rubber products manufacturing	620 (Rubber Tyre Manufacturing) 4.280 (Other Rubber Product Manufacturing nec)	3.702 (Natural rubber product manufacturing) 2.864 (Synthetic resin and synthetic rubber manufacturing) 4.248 (Tyre manufacturing)	3.115 (Natural rubber product manufacturing) 1.890 (Synthetic Resin and Synthetic Rubber Manufacturing) 3.115 (Tyre Manufacturing)	2.39 (Natural Rubber Product Manufacturing) 2.65 (Rubber tyre manufacturing).	3.930 (Tyre manufacturing)	2.22 (Natural rubber product manufacturing) 2.69 (Synthetic resin and synthetic rubber manufacturing)	0.61 (Natural rubber product manufacturing) 0.61 (Tyre manufacturing)
Plastic products	610 (Plastic Product, Rigid Fibre Reinforced, Mfg) 4.390 (Plastic Foam Product Manufacturing) 3.690 (Plastic Bag and Film Manufacturing) 3.40 (Plastic Extruded Product Manufacturing) 3.340 (Plastic Injection Moulded Product Manufacturing)	4.888 (Rigid and semi-rigid polymer product manufacturing) 2.986 (Other polymer product manufacturing) 4.162 (Polymer film and sheet packaging material manufacturing)	3.115 (Rigid and semi-rigid polymer product manufacturing)	2.48 (Rigid And Semi-Rigid Polymer Product Manufacturing) 2.64 (Polymer Film And Sheet Packaging Material Manufacturing) 3.19 (Other Polymer Product Manufacturing)	3.308 (Polymer Film and Sheet Packaging Material Manufacturing) 4.568 (Rigid and Semi-Rigid Polymer Product Manufacturing)	2.22 (Other polymer product manufacturing). 2.78 (Polymer film and sheet packaging material manufacturing) 2.78 (Rigid and semi rigid polymer products manufacturing)	0.74 (Rigid and semi-rigid polymer product manufacturing)
Basic iron and steel products	4.390	4.011	2.437	3.00	N/A	2.59	1.02
Steel casting	5.350	4.337	2.437	2.09	6.496	2.59	1.02
Steel pipes and tubes manufacturing	4.610	2.846	2.437	2.51	3.091	2.59	1.02

	NSW ¹	Vic ²	Qld ³	WA ⁴	SA ⁵	Tas	New Zealand ⁶
Pulp paper and paperboard manufacturing	3.600	3.528	2.529	2.51	3.646	0.93	0.50
Paint and coatings manufacturing	N/A	2.541	1.830	2.50	2.733	2.78	0.27
Soap and detergents	2.680 (Soap and Other Detergent Manufacturing)	3.224 (Cleaning compound manufacturing)	1.830 (Cleaning compound manufacturing)	1.87 (Cleaning compound manufacturing)	2.470 (Cleaning compound Manufacturing)	2.78 (Cleaning compound manufacturing)	0.36 (Cleaning compound)
Glass and glass products manufacturing	5.620	6.223	5.140	3.50	3.203	2.69	1.25
Cement	2.890	5.119	1.757	2.71	1.068	2.69	1.25
Clothing manufacturing	3.100 (Men's and Women's Clothing Manufacturing) 3.030 (Other Clothing Manufacturing nec)	2.115	1.451	2.14	2.280	2.31	0.61
Beer manufacturing	2.000	2.548	1.395	1.66	1.520	1.76	0.41
Hotels	0.340 (Accommodation)	2.252 (Accommodation) 1.771 (Pubs, taverns and bars)	2.083 (Accommodation) 1.862 (Pubs, taverns and bars)	2.30 (Accommodation) 1.80 (Pubs, taverns and bars)	2.192 (Pubs taverns and bars)	1.85 (Pubs, taverns and bars)	0.60 (Accommodation)
Bread manufacturing	4.070	4.890	3.307	2.66	4.558	2.87	0.70
Footwear manufacturing	3.690	6.283	1.451	2.31	3.199	2.31	0.61
Aged care residential services	3.510	4.161	2.633	2.52	3.704	4.17	1.18
Department stores	2.050	1.660	1.454	1.60	1.738	1.20	0.34

	NSW ¹	Vic ²	Qld ³	WA ⁴	SA ⁵	Tas	New Zealand ⁶
Medical practice	0.733 (General practice medical services) 0.507 (Specialist Medical Services)	0.827 (General practice medical services) 0.517 (Specialist medical services)	0.415 (General practice medical services)	0.68 (General practice medical services)	0.458 (General Practice Medical Service)	0.46 (General practice medical services)	0.07 (General practice medical services)
Secondary schools	1.020	1.015 (Secondary schools – private) 1.865 (Secondary schools – government)	0.985	1.04	0.804	1.02	0.24

¹ New South Wales — Rates have not been publicly disclosed since the 1 September 2015 reforms to separate the workers compensation regulatory and insurance functions between the newly created statutory agencies, State Insurance Regulatory Authority and Insurance and Care NSW. The rates utilised above are applicable as per icare's NSW Workers Compensation Industry Classification rates.

² Victoria — All rates exclude GST

³ Queensland — Published rates exclude stamp-duty and GST. Average premium rates include stamp-duty and exclude GST.

⁴ Western Australia — All published premium rates are exclusive of GST.

⁵ South Australia — all listed rates are exclusive of GST. All other listed rates include GST and The New Tax System effects.

⁶ New Zealand — All published levy rates are exclusive of GST and excludes residual levy.

Premium setting: Notes relating to the industry rates comparison table

As it is difficult to make exact comparisons between the states and territories, the following qualifications should be noted:

- Industry classifications vary from jurisdiction to jurisdiction.
- On 1 July 2010, WorkCover Queensland moved from ANZSIC 1993 to ANZSIC 2006 to better reflect the evolution of technology and changes in industry during that period. [Current rates are published by Gazette notice](#).
- On 1 July 2011, Victoria introduced an industry classification system based on ANZSIC 2006 to better reflect the evolution of technology and changes in industry. Current rates are published by Gazette notice.
- The Australian Capital Territory publishes [ACT private sector workers' compensation scheme suggested reasonable premium rates](#) for industry classifications based on ANZSIC 2006, which include a comparison from the preceding year.
- These actuarially determined rates are released to the community and are provided to the Approved Insurers who underwrite the Scheme to assist in the determination of premium rates for the coming year.
- Levy/Premium category comparisons are done on a 'best match' basis and should not be regarded as exact equivalents.

The number of self-insurers varies across the different jurisdictions. For the number of self-insurers in each jurisdiction see Table 7.1.

Charges in addition to the workers' compensation premium may be levied in some jurisdictions. An example is the Dust Diseases levy in New South Wales, which is levied on employers under the *Workers' Compensation (Dust Diseases) Act 1942* to fund compensation to people who contract a dust disease including asbestosis and silicosis, and to their dependants. Employers engaged in the mining industry in New South Wales also pay a contribution to the Mine Safety Fund, established under the [Mine Safety \(Cost Recovery\) Act 2005](#). This contribution funds the mine safety activities of the New South Wales Department of Trade and Investment, Regional Infrastructure and Services. A work health and safety fee is additional to the levy (premium) payable in South Australia.

The maximum and minimum figures given for experience-rated premium rates represent the extent to which the published rate may be varied according to the various forms of experience rating based on claims rate in a given period. The following information should be noted relating to experience-rated premium rates.

- In Victoria it is based on the employer's remuneration.
- The extent to which insurance companies may discount or load premiums according to experience may vary. For example, amendments to Western Australia's legislation mean that recommended premium rates can be surcharged up to 75% and with the WorkCover WA Authority's (Board) approval can be surcharged in excess of 75%. There are no limitations on discounting.
- Figures given for highest and lowest experience-rated premium rates should be treated with some caution. Those for South Australia represent actual maximums and minimums. New Zealand applied an experience rating from 1 April 2011. ReturnToWorkSA applied a mandatory experience rating system for medium and large employers and optional retro-paid loss arrangements for large employers from 1 July 2012.

Calculation of industry rates

Each jurisdiction calculates its industry rates differently. Some calculate certain claims performance elements, while some other jurisdictions also include current industry premium rates. The Northern Territory does not provide industry premium rates because the legislation gives insurers the power to set their own industry premium rates and these do not have to be gazetted. The information below outlines how each jurisdiction calculates their industry premium rates.

New South Wales

There are currently 538 Workers Compensation Industry Classification Rates. Rates are reviewed on an annual basis. Each industry's rate is calculated based on an actuarially verified methodology considering 5 years of wages and claims data.

Victoria

Each industry's rate is calculated based on claim cost rates and claim frequency rates over a 5-year period with 12 months of development. The rates are calibrated to achieve the average premium rate.

Queensland

There are currently 560 WorkCover Industry Classifications. Rates are calculated annually based on an actuarially verified methodology considering 7 years of wages and claims data.

Western Australia

Recommended premium rates are determined annually according to independent actuarial analysis of claims and wages data provided by current and former approved insurers and self-insurers. The actuarial analysis includes:

- a calculation of relative premium rates
- examination of the adequacy of the declared outstanding claims reserves
- an analysis of insurers' expense and contingency allowances
- a projection of the expected incurred cost of claims for the year
- a calculation of the amount of premium expected to meet the cost of claims, and
- a calculation of the implied uniform percentage variation in the relative premium rates to generate the required premium income.

South Australia

From 1 July 2015, South Australian industry classifications have been aligned to the Australian and New Zealand Standard Industrial Classification system. Each employer location is allocated to an industry classification that corresponds to the predominant activity for that employer at that location — see [Industry classification rates](#).

Tasmania

WorkCover Tasmania is required to publish suggested premium rates for employers and licensed insurers. The objective is to ensure full funding, minimisation of cross subsidisation and increased transparency in the premium setting process. The actuarial analysis includes:

- analysis of claim numbers, claim frequency and claim size
- calculation of required premium pool
- examination of effect of legislative change
- analysis of economic assumptions and insurers expense and profit assumptions, and
- a comparison with insurer filed rates.

Australian Capital Territory

The Australian Capital Territory releases suggested reasonable rates by ANZSIC class. These rates are determined annually according to independent actuarial analysis of wages and premium data provided by current and former approved insurers and self-insurers.

New Zealand

In New Zealand there are 540 classification units and 142 levy risk groups. For each classification unit the levy relativities are compared by year for the last 4 years. As a result of this comparison and taking into account such things as the impact of large claims, the number of years experience for a new classification unit, the volume of claims etc., the classification unit will either stay within the same levy risk group or be moved to another.

The credibility-adjusted levy rate relativity of each levy risk group is the expected ultimate cost of claims expressed as a percentage of wages for the levy risk group, compared with the expected ultimate cost of claims as a percentage of wages for all levy risk groups. All the expected ultimate cost of claims and wage quantities used for this calculation are weighted averages of the most recent 6 years of experience. The levy rate relativities are credibility-adjusted (as required) to the self-insurers, then to the levy risk groups, then to the industry groups, and finally to the aggregate rate. The absolute level of the levy rates is set so that the expected costs of the scheme will be met. The classification unit levy rates shown are fully-funded levy rates.

Scheme expenditure

Table 8.7 shows the amount and proportion of total scheme expenditure paid out to injured workers, plus administrative costs, for the period 2017-18 compared to 2021-22. Since publicly and privately underwritten schemes have different financial structures, this indicator separates each jurisdiction into their respective funding arrangement group.

Table 8.7: Scheme expenditure (\$m)

Note: Figures are rounded to the nearest one decimal place and therefore the rows and columns may not add to the respective totals. N/A – Data is unavailable or not collected.

Scheme Costs	Publicly underwritten					Privately underwritten				Total	
	NSW	Vic	Qld	SA	C'wealth Comcare	WA	Tas	NT	C'wealth Seacare	Australia	NZ
2017-18											
Direct to claimant	1,118.2	1,252.0	831.1	165.7	147.1	605.0	68.9	80.2	11.1	4,279.3	332.2
Services to claimant	744.3	510.8	315.4	119.9	81.0	249.3	33.0	32.0	1.3	2,086.9	226.3
Insurance operations	460.9	502.8	101.8	103.3	25.2	271.3	34.8	37.2	2.6	1,539.8	68.5
Regulation	19.6	40.7	10.4	5.0	2.2	4.2	0.9	N/A	N/A	82.9	27.3
Dispute resolution	81.6	37.0	12.0	6.1	3.4	4.3	1.1	0.8	N/A	146.3	0.0
Other administration	118.1	85.4	51.7	33.2	21.0	9.3	1.2	6.3	0.6	326.8	40.0
Total	2,542.6	2,428.6	1,322.4	433.2	279.8	1,143.4	139.9	156.5	15.6	8,462.0	694.3
2021-22											
Direct to claimant	1,853.6	1,994.9	1,261.1	305.4	125.9	802.9	79.6	58.8	11.0	6,493.3	511.3
Services to claimant	935.7	632.8	408.1	148.4	58.7	295.3	34.5	29.4	1.4	2,544.3	258.7
Insurance operations	626.0	545.6	119.2	123.7	26.2	366.9	41.9	31.1	2.4	1,882.9	70.2
Regulation	37.5	51.5	12.5	6.9	2.0	5.1	0.8	N/A	N/A	116.1	27.4
Dispute resolution	77.6	40.4	14.9	5.7	0.5	5.7	1.4	0.7	N/A	146.9	2.0

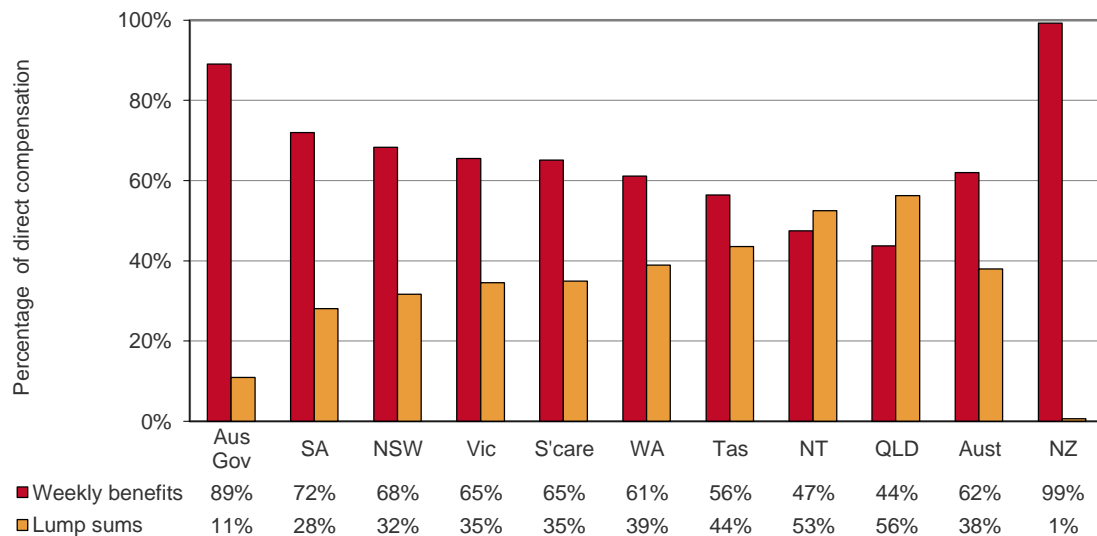
Other administration	113.8	152.2	61.1	32.4	22.6	8.1	1.5	7.1	0.9	399.7	52.9
Total	3,644.3	3,417.4	1,876.9	622.5	235.8	1,484.1	159.6	127.1	15.7	11,583.2	922.7

Direct compensation payments

Table 8.8 shows the distribution of direct payments into weekly benefits and lump sums. The payment of long-term weekly benefits results in higher administration costs. This indicator shows that in 2020-21, 7 out of the 9 Australian jurisdictions paid out more as weekly benefits than lump sum benefits.

The New Zealand scheme has little provision for lump sum payments.

Table 8.8: Direct compensation payments by type and jurisdiction, 2020–21



Appendix 1 – Jurisdictional contacts

	Contact	Position	Phone No.	Email	Postal Address	Website
NSW	Darren Parker	Executive Director, Workers Home Building Compensation Regulation	13 10 50 (02) 8270 2644	darren.parker@sira.nsw.gov.au	Workers' Compensation Regulation State Insurance Regulatory Authority Locked Bag 2906 LISAROW NSW 2252	www.sira.nsw.gov.au
Vic	Roger Arnold	Executive Director, Insurance Business Unit	1800 136 089	roger_arnold@worksafe.vic.gov.au	WorkSafe Victoria 1 Malop Street GEELONG VIC 3220	www.worksafe.vic.gov.au
Qld	Janene Hillhouse	Executive Director, Workers' Compensation Regulatory Services, Office of Industrial Relations	1300 362 128 (07) 3406 9920	janene.hillhouse@oir.qld.gov.au	Office of Industrial Relations GPO Box 69, BRISBANE QLD 4001	www.worksafe.qld.gov.au
WA	Kevin Gillingham	Manager, Policy and Legislative Services, Office of the CEO	(08) 9388 5555 (08) 9388 5640	kevin.gillingham@workcover.wa.gov.au	Office of the CEO WorkCover WA 2 Bedbrook Place SHENTON PARK WA 6008	www.workcover.wa.gov.au
SA	Steve Johnson	Manager, Government Services ReturnToWorkSA	131 855 (08) 8233 2267	Government.services@rtwsa.com	Government Services ReturnToWorkSA GPO Box 2668 ADELAIDE SA 5001	www.rtwsa.com
Tas	Robyn Pearce	Executive Director, WorkSafe Tasmania	(03) 6166 4744	robyn.pearce@justice.tas.gov.au	WorkSafe Tasmania PO Box 56 ROSNY PARK TAS 7018	www.worksafe.tas.gov.au
NT	Kerry Barnaart	Director, Rehabilitation and Compensation	1800 250 713 (08) 8999 5410	kerry.barnaart@nt.gov.au datantworksafe@nt.gov.au	NT WorkSafe Rehabilitation and Compensation GPO Box 1722 DARWIN NT 0801	www.worksafe.nt.gov.au
ACT	ACT Work Health and Safety Commissioner (Operations)	ACT Work Health and Safety Commissioner, Office of the Work Health and Safety Commissioner (WorkSafe ACT)	13 22 81 (02) 6207 3000	WorkersCompensation@worksafe.act.gov.au michael.young@act.gov.au	GPO Box 158, CANBERRA ACT 2601	http://www.worksafe.act.gov.au/

	Contact	Position	Phone No.	Email	Postal Address	Website
	Michael Young (Policy)	Executive Group Manager, Work Safety Group, Chief Minister, Treasury and Economic Development Directorate				https://www.cmtedd.act.gov.au/
C'wealth Comcare	Seyram Tawia	Director, Scheme Policy and Design	1300 366 979 (03) 9627 5433	tawia.seyram@comcare.gov.au SchemePolicyandDesign@comcare.gov.au	Comcare GPO Box 9905 CANBERRA ACT 2601	www.comcare.gov.au
C'wealth Seacare	Maree Sherwood	Director, Secretariat and Scheme Support Services	1300 366 979	seacare@comcare.gov.au	Comcare GPO Box 9905 CANBERRA ACT 2601	www.seacare.gov.au
C'wealth DVA	Paul Weber	Director, Policy Reform Section	(02) 6289 6419	Paul.Weber@dva.gov.au	Department of Veterans' Affairs GPO Box 9998 BRISBANE QLD 4001	www.dva.gov.au
New Zealand	Andrew Milne	Deputy Chief Executive, Strategy, Engagement and Planning		andrew.milne@acc.co.nz	Accident Compensation Corporation PO Box 242 WELLINGTON New Zealand	www.acc.co.nz

Appendix 2 – Agencies responsible for overseeing workers’ compensation in each jurisdiction

	Policy	Premium	Claims	Current legislation	Disputes
NSW	State Insurance Regulatory Authority (SIRA)	Insurers subject to SIRA oversight	Nominal Insurer for most employees through 6 private sector Scheme Agents, Self-Insurance Corporation for most public sector employees through 3 private sector claims administrators, 69 self-insurers and 6 specialised insurers.	Workplace Injury Management and Workers Compensation Act 1998 Workers Compensation Act 1987	SIRA Workers Compensation Commission Workers Compensation Independent Review Office
Vic	WorkSafe Victoria	WorkSafe Victoria	4 private sector agents and 34 self-insurers. Further information regarding WorkSafe agents and self-insurers are available on WorkSafe Victoria's website.	Workplace Injury Rehabilitation and Compensation Act 2013	WorkSafe Victoria Accident Compensation Conciliation Service (ACCS), Medical Panels Magistrates' or County Court
Qld	Office of Industrial Relations	WorkCover Queensland	WorkCover Queensland and self-insurers	Workers' Compensation and Rehabilitation Act 2003	Workers' Compensation Regulator Queensland Industrial Relations Commission or Industrial Magistrate, Industrial Court
WA	WorkCover WA	Insurers subject to WorkCover WA oversight	7 private sector insurers, 23 self-insurers, (exempt employers) and the Insurance Commission of Western Australia	Workers' Compensation and Injury Management Act 1981	Conciliation and Arbitration Services
SA	ReturnToWorkSA	ReturnToWorkSA	2 private sector agents, 70 private self-insurers and 54 Crown (State Government) self-insurers	Return to Work Act 2014 Return to Work Corporation of South Australia Act 1994 South Australian Employment Tribunal Act 2014	South Australian Employment Tribunal Supreme Court ReturnToWorkSA Premium Review Officer
Tas	WorkSafe Tasmania	Licensed private sector insurers subject to WorkCover Tas oversight	7 private sector insurers and 9 self-insurers	Workers Rehabilitation and Compensation Act 1988	Tasmanian Civil and Administrative Tribunal, Supreme Court
NT	Department of Attorney General and Justice NT WorkSafe	Private sector insurers	4 private sector insurers 4 self-insurers and the Northern Territory Government self-insures for public sector employees Nominal Insurer	Return to Work Act 1986 Return to Work Regulations 1986	Coordinated by NT WorkSafe. Mediation Work Health Court
ACT	Chief Minister, Treasury and Economic Development Directorate	Licensed private sector insurers, subject to WorkSafe ACT oversight	7 private sector insurers and 7 self-insurers	Workers Compensation Act 1951	Conciliation, arbitration, Magistrates Court, Supreme Court

	Policy	Premium	Claims	Current legislation	Disputes
C'wealth Comcare	Department of Employment and Workplace Relations	Comcare	Comcare/Self-insurers and their agents.	Safety, Rehabilitation and Compensation Act 1988	AAT, Federal Court
C'wealth Seacare	Department of Employment and Workplace Relations	Private sector insurers	Employers/insurers	Seafarers Rehabilitation and Compensation Act 1992	AAT, Federal Court
C'wealth DVA	Military Rehabilitation and Compensation Commission (MRCC)	N/A	DVA	Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) Military Rehabilitation and Compensation Act 2004 (MRCA)	AAT, Federal Court, Veterans' Review Board (VRB)
New Zealand	Ministry of Business, Innovation, and Employment (former) Department of Labour	Accident Compensation Corporation (ACC)	ACC	Accident Compensation Act 2001	ACC, mediation, independent reviewers, court system

Glossary

Administrative scheme

A scheme put in place where no legislation applies.

Attendant care

Services of a person to provide regular and essential personal care to an injured worker.

Benefits

Money paid to injured workers as compensation for economic and non-economic loss arising from work-related injury.

Common law

Provisions that allow, or preclude, injured workers from taking legal action through the courts to sue their employers for the costs of injury arising from negligence leading to unsafe workplaces.

Commutation, redemption or settlement payment

Depending on the particular legislation of a jurisdiction, an ongoing liability for specified workers' compensation entitlements can be commuted to a lump sum payment. Following payment of the lump sum, liability for those entitlements generally ceases.

Cross-border arrangements

Provisions that allow workers who are injured away from their main state or territory of employment are to be covered by workers' compensation in their main state or territory of employment.

Current work capacity (also known as Partially incapacitated)

The worker can return to work and perform suitable duties, even if it is not the same job they were doing before the injury.

Date of injury

The date a worker became injured. In the case of diseases, this may be the first time symptoms manifest or the first time medical treatment was sought.

Death benefits

Compensation payable to the financial dependants (usually families) of workers who die in work-related circumstances.

Deemed worker

People who may not have the status of 'worker' and are deemed by legislation or regulation to be covered for workers' compensation as though they were workers.

Diseases

Includes physical or mental disorders, defects or morbid conditions, whether of sudden or gradual development.

Dispute resolution

Processes for resolving disputes between parties in the claims process.

Employee

A person who works for an employer on a full-time or part-time basis under a contract of service and receives remuneration in wages or salary. See also worker.

Funeral costs

Reimbursement for the cost of a funeral to the family of a deceased worker or to a person who buries a deceased worker.

Home help

Services of a person to provide domestic assistance to an injured worker.

Comparison report

Workers' Compensation Arrangements in Australia and New Zealand

Income replacement (also known as weekly payments)

Payments that assist workers to substantially maintain their living standards if they are unable to work due to their work-related injury.

Injury

Can include a full range of physical injuries, illnesses, psychological conditions and diseases, as well as aggravations, exacerbations and recurrences of existing injuries.

Levy

The term used in New Zealand for premiums. See Premiums.

Medical and hospital costs

Reimbursement of medical and other treatment costs related to workplace injury which can include hospital stays, ambulance transport, pharmaceuticals, aids and appliances, and household help.

Net assets

For publicly underwritten schemes, the total current and non-current assets minus the outstanding claims recoveries at the end of each financial year. For privately underwritten schemes, the balance sheet claim provisions.

Net funding ratio

Ratio of assets to outstanding liabilities.

Net liabilities

For publicly underwritten schemes, it is the total current and non-current liabilities minus the outstanding claim recoveries at the end of each financial year. For privately underwritten schemes, it is the central estimate of outstanding claims for the scheme at the end of each financial year.

No current work capacity (also known as Totally incapacitated)

The injured worker is unable to perform any duties in the workplace.

Non-economic loss

Measure of the impact of an injury on a worker's lifestyle, such as pain and suffering, disfigurement and reduced expectation of life, normally associated with permanent impairment.

Permanent impairment payments

Lump sum compensation payment for injuries that have reached maximum medical improvement and result in permanent reduction in function as assessed by an approved medical specialist.

Premiums

A percentage of the amount an employer expects to pay to their workers in a given period is paid as premium to a workers' compensation insurer.

Privately underwritten schemes

Workers' compensation schemes where the underwriting function is performed by the private insurers, with varying degrees of government regulation.

Prudential requirements

Ensures that private insurers can operate on a fully funded basis to meet all expected compensation payments and the costs of managing claims.

Publicly underwritten scheme

Single public insurer (government agency) that performs most or all workers' compensation functions. Central insurers underwrite their schemes.

Remuneration

The total amount of gross earnings of workers of an employer.

Return to work

The process of employers or other people or organisations assisting workers recover from a work-related injury and return to work or stay at work while they recover. This can include medical treatment, retraining, the use of aids and appliances or alterations to workplace and home to assist in recovery, and the gradual return to full-time or part-time duties.

Self-insurer

Employers who manage their workers' compensation arrangements without having to pay annual premiums.

Serious claims

Includes all accepted workers' compensation claims involving temporary incapacity of one or more weeks plus all accepted claims for fatality or permanent incapacity.

State of connection

The jurisdiction decided through applying the test on page 271, when an injured worker has been working in more than one state or territory.

Suitable duties

Duties suited for the worker's capacities at a particular point of time in the return to work process.

Suitable work/employment

Employment suited for the worker's capacities, age, location, education, skills and work experience.

Threshold test

A level of impairment an injured worker must reach.

Types of damages

Damages that may be suffered by an injured worker. Includes general damages (compensation for pain and suffering), economic loss (compensation for loss of past earnings or future earning capacity), legal costs, medical and hospital costs.

Underwriting

The process of writing and signing a policy of insurance.

Worker

A person who is covered by workers' compensation insurance.

Workers' compensation

Financial support to workers who are injured in the course of employment.

Workplace rehabilitation consultant

Suitably qualified health/behavioural science professional employed by a workplace rehabilitation provider to provide workplace rehabilitations services.

Workplace rehabilitation services

Types of services that may assist a worker return to work with the same employer or a new employer.

Workplace rehabilitation provider

An organisation that has been approved by a workers' compensation authority to provide workplace rehabilitation services to assist workers return to work following a workplace injury. A reference to a workplace rehabilitation provider may include a reference to a workplace rehabilitation consultant.

Workers' compensation authority/authorities

The body responsible for workers' compensation legislation and policy covering designated employers and their employees within their area of legal authority.

Acronyms and abbreviations

AAT	Administrative Appeals Tribunal (C'wealth)
ABS	Australian Bureau of Statistics
ACA	<i>Accident Compensation Act</i> (Vic)
ACC	Accident Compensation Corporation (NZ)
ADF	Australian Defence Force
AE	Accredited Employer (NZ)
AMA	American Medical Association
AMS	Approved Medical Specialists (NSW)
ANZSIC	Australia and New Zealand Standard Industry Classification
ASIC	Australian Standard Industry Classification
AWE	Average Weekly Earnings (SA*, NT, ACT)
CPI	Consumer Price Index
CPM	Comparative Performance Monitoring
DRCA	<i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act</i> (Cth)
DPI	Degree of Permanent Impairment (Qld)
DVA	Department of Veterans' Affairs
GST	Goods and Services Tax
HWCA	Heads of Workers' Compensation Authorities
IP	Impairment Points
JAS-ANZ	Joint Accreditation System of Australia and New Zealand
MAT	Medical Assessment Tribunal
MRCA	<i>Military Rehabilitation and Compensation Act</i> (C'wealth)
MRCC	Military Rehabilitation and Compensation Commission
NWE	Normal Weekly Earnings (Qld, Tas, NT, C'wealth)
NWE	Notional Weekly Earnings (SA)
PIAWE	Pre-injury Average Weekly Earnings
QOTE	Queensland Ordinary Time Earnings
SIRA	State Insurance Regulatory Authority (NSW)
SRC Act	<i>Safety, Rehabilitation and Compensation Act</i> (C'wealth)
SRCC	Safety, Rehabilitation and Compensation Commission
TMF	Treasury Managed Fund (NSW)
TRMF	Tasmanian Risk Management Fund (Tas)
VEA	<i>Veterans' Entitlements Act</i> (C'wealth)
WIC	WorkCover Industry Classification (NSW, Qld)
WISE	WorkCover Incentive Scheme for Employers (Vic)
WPI	Whole Person Impairment (NSW, Vic, WA, Tas, NT, C'wealth)
WSV	WorkSafe Victoria

*state-based statistics