

HEADS OF WORKERS' COMPENSATION AUTHORITIES

COMPARISON OF WORKERS' COMPENSATION ARRANGEMENTS

AUSTRALIA & NEW ZEALAND
OCTOBER 2005



Victorian WorkCover
Authority

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FOREWORD

This publication is an initiative of the Heads of Workers' Compensation Authorities (HWCA).

The HWCA comprises the chief executives from all ten Australian Commonwealth State and Territory workers' compensation schemes and the New Zealand Accident Compensation Corporation. It is a body whose prime purpose and role is to share information between jurisdictions and, where possible, promote increased national consistency in the design of Australian workers' compensation schemes.

Comparison of Workers' Compensation Arrangements in Australia and New Zealand has been compiled from information supplied by the HWCA jurisdictions and is revised yearly. The information in this edition is current as at 1 October 2005.

The HWCA has agreed that from this edition the publication will only be available in electronic format. The current publication can be accessed via the Internet on the HWCA website at www.hwca.org.au and the Victorian WorkCover Authority website at www.workcover.vic.gov.au.

Should you have any comments on, or suggested improvements to the contents, please let us know by using the feedback facility on the HWCA website or by writing to the workers' compensation body in your jurisdiction (contact details on page 54).

Jon Blackwell
Chair, Heads of Workers' Compensation Authorities

STATISTICAL INFORMATION

STATISTICAL INFORMATION				
	AUSTRALIA	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Area (Square kilometres)	7,682,000	228,000 ¹	802,000	984,000
Population (June 2005)	20,328,600	5,022,300	6,774,200	1,542,000
Population, 15 years & over (Oct 2005)	16,395,300	4,085,800	5,465,000	1,260,000
Labour force (Oct 2005)	10,546,400	2,632,900	3,417,500	775,300
Unemployment rate (Oct 2005)	4.9%	5.3%	5.0%	5.0%
Gross earnings - Public (Sept 2005)*	\$82,276m	\$17,482m	\$26,699m	\$6,131m
Gross earnings - Private (Sept 2005)*	\$272,878m	\$71,020m	\$99,044m	\$17,937m
Average weekly earnings - All employees (Aug 2005)	\$806.10	\$809.80	\$862.70	\$684.60
<p>* ABS data on total gross earnings is no longer available. This data is now recorded separately for private and public sector employees.</p>				
<p>¹ In addition, for the purposes of determining whether a worker's employment is connected with the State of Victoria since 1 September 2004, the State is defined as including the adjacent areas within the outer limits of the continental shelf.</p>				

STATISTICAL INFORMATION					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
2,525,000	1,727,000	68,000	1,346,000	2,349	268,021
2,010,100	3,964,000	485,300	202,800	325,200	4,107,000 (Sep 2005)
1,621,200	3,165,500	390,800	147,600	259,300	3,229,770 (Sep 2005)
1,092,800	2,099,900	238,700	104,000	185,200	2,093,000 (Sep 2005)
3.7%	4.5%	7.4%	4.2%	3.5%	3.4% (Sep 2005)
\$7,656.2m	\$15,772.3m	\$2,130.5m	\$1,356.8m	\$5,057.6m	NZ\$61,192m (March 2005 - Employees earnings liable for levy)
26,569m	\$47,711m	\$4,597m	\$2,573m	\$3,418m	NZ\$6,676m (March 2005 - Self-employed earnings liable for levy)
\$806.10	\$744.10	\$718.00	\$834.30	\$980.10	NZ\$801.89 (June 2005 - All employees)

SCHEME DETAILS

SCHEME DETAILS				
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Scheme name	Comcare, Seacare	Victorian WorkCover Authority	WorkCover NSW	WorkCover Corporation
Workers compensation legislation	Safety, Rehabilitation and Compensation Act 1988(SRC); Defence Act 1903 (allows for additional compensation for the Australian Defence Force from 07/04/94) Seacare: Seafarers' Rehabilitation and Compensation Act 1992	Accident Compensation Act 1985; Accident Compensation (WorkCover Insurance) Act 1993	Workplace Injury Management and Workers Compensation Act 1998; Workers Compensation Act 1987; Workers Compensation (Brucellosis) Act 1979; Workers Compensation Regulation 2003; Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987; Workers Compensation (Dust Diseases) Act 1942; Workmen's Compensation (Lead Poisoning – Broken Hill) Act 1922; Associated General Contractors Insurance Company Limited Act 1980; Bishopgate Insurance Australia Limited Act 1983; The Standard Insurance Company Limited and Certain other Insurance Companies Act 1963; Other Sporting Injuries Insurance Act 1978	Workers' Rehabilitation and Compensation Act 1986
Responsibility held for OH&S legislation and related legislation	Yes Occupational Health and Safety (Commonwealth Employment) Act 1991 Seacare: Occupational Health and Safety (Maritime Industry) Act 1993	Yes Occupational Health and Safety Act 2004; Dangerous Goods Act 1985; Equipment (Public Safety) Act 1994; Road Transport (Dangerous Goods) Act 1995	Yes OHS Act 2000, and OHS Regulation 2001, Rural Workers Accommodation Act 2006, Rail Transport (Dangerous Goods) Act 1997, Explosives Act 2003 and the Explosives Regulation 2005. The Dangerous Goods Act, 1975 has been repealed and dangerous goods are now under the OHS Act and OHS Regulation. The Rural Workers Accommodation Act 1969 has been amended with amendments commencing in June 2006.	Yes Occupational Health, Safety and Welfare Act 1986* *see Recent Developments
Fund type	Central Fund Seacare: Authorised Insurers (No set rates - a private system)	Central Fund	Managed Fund	Central Fund
Scheme's funding position at 30 June 2005 and/or 30 June 2004	30/06/05 Assets: \$1,002m Liabilities: \$949m Funding Ratio: 105.6%	30/06/05 Assets: \$8,907m Liabilities: \$8,007m Funding Ratio: 111%	30/06/05 Assets: \$8,186m Liabilities: \$10,185m Funding Ratio: 80.4%	30/06/05 Assets: \$1,120m Liabilities: \$1,766m Funding Ratio: 63.4%
	30/06/04 Assets: \$933.3m Liabilities: \$807.6m Funding Ratio: 115.6%	30/06/04 Assets: \$7,438m Liabilities: \$7,313m Funding Ratio: 102%	30/06/04 Assets: \$6,245m Liabilities: \$8,599m Funding Ratio: 73%	30/06/04 Assets: \$872m Liabilities: \$1,444m Funding Ratio: 60.4%
Employer excess	NB: Excludes pre-premium claims Seacare: N/A No excess - scheme coverage from first full day/shift of incapacity Seacare: Employer excess varies between employers	First 10 days of incapacity, and first \$517 of medical costs. Buy out option also exists (12.5% of premium for policy year commencing 1 July 2005)	Category A employers (annual premiums > \$10,000): first \$500 of weekly payments for each claim. Category B employers (annual premiums ≤ \$10,000): first \$500 or payment of excess surcharge premium of 3% of base tariff premium.	First two weeks of incapacity per worker per calendar year. Option for 'buy-out' first two weeks by paying an extra percentage of the levy rate (8% in 2003/2004)
	* Unless otherwise stated, information provided applies to both Comcare and Seacare			

SCHEME DETAILS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>WorkCover Western Australia Authority (WorkCover WA) Workers' Compensation and Injury Management Act 1981 ('the Act')</p>	<p>Workers' Compensation Scheme of Queensland* Workers' Compensation and Rehabilitation Act 2003</p> <p>*NOTE:Q-COMP, the Workers' Compensation Regulatory Authority, is the scheme regulator. WorkCover Queensland is the major insurer, and there are also self-insured employers.</p>	<p>WorkCover Tasmania Workers Rehabilitation and Compensation Act 1988</p>	<p>NT WorkSafe Work Health Act 1986</p>	<p>ACT Private Sector Workers' Compensation Scheme Workers' Compensation Act 1951</p>	<p>Accident Compensation Corporation Injury Prevention, Rehabilitation and Compensation Act 2001</p>
No	No	Monitoring, promotional and advisory functions only. <i>Workplace Health and Safety Act 1995</i>	Yes	No <i>Occupational Health and Safety Act 1989; Workers Compensation Supplementation Fund Act</i>	No
Approved Insurers (Essentially private insurance. Loading of 100% allowable on set premium and full discounting allowed. WorkCover WA may approve a loading in excess of 100%)	Central Fund	Approved Insurers (No set rates - a private system)	Approved Insurers. (No set rates - a private system)	Privately underwritten by Approved Insurers	Central Fund (between 1/7/99 and 30/6/00 Approved Insurers; no set rates - a private system)
30/06/05	30/06/05	N/A	N/A	N/A	30/06/05 (NZ\$)
Assets: \$1,361m	Assets: \$2,887m				Assets: \$2,501m
Liabilities: \$1,146m	Liabilities: \$2,163m				Liabilities: \$3,682m
Funding Ratio:118.8%	Funding Ratio:133.5%				Funding Ratio: 68%
30/06/04	30/06/04				30/06/04 (NZ\$)
Assets: \$1,263m	Assets: \$2,539m				Assets: \$2,186m
Liabilities: \$1,011m	Liabilities: \$1,903m				Liabilities: \$3,267
Funding Ratio:125%	Funding Ratio:133.4%				Funding Ratio: 67%
No excess - scheme coverage from first day of incapacity	<p>WorkCover Queensland only (does not include self-insurers). From WorkCovers' Annual Report 2004-2005</p> <p>From 1 July 2005, up to first \$500 of weekly benefits, plus day of injury. Option to buy-out excess at the greater rate of 5% of premium or \$10.</p>	First weekly payment and first \$200 of other benefits	No excess - scheme coverage from first day of incapacity No medical costs	Excesses are not prescribed in the Act but may be negotiated between an employer and insurer.	For work injuries, the employer is liable to cover the first week after incapacity for work begins.

SCHEME DETAILS									
	COMMONWEALTH*		VICTORIA		NEW SOUTH WALES		SOUTH AUSTRALIA		
Number of reported claims per financial year	2004-05:	11,819	04-05:	30,489	04-05:	49,749	04-05:	25,086	
	2003-04:	18,902	03-04:	32,040	03-04:	51,551	03-04:	25,662	
	2002-03:	18,811	02-03:	32,096	02-03:	51,000	02-03:	25,785	
	2001-02:	19,195	01-02:	31,891	01-02:	54,674	01-02:	27,476	
	2000-01:	19,317	00-01:	32,539	00-01:	53,797	00-01:	29,031	
	1999-00:	19,512	99-00:	31,592	99-00:	53,224	99-00:	30,989	
	1998-99:	21,170	98-99:	31,242	98-99:	55,492	98-99:	31,236	
	1997-98:	24,532	97-98:	30,113	97-98:	58,604	97-98:	32,590	
	1996-97:	28,807	96-97:	31,809	96-97:	60,109	96-97:	34,690	
	1995-96:	32,796	95-96:	32,632	95-96:	62,469	95-96:	37,120	
		NB up to 2003-04 includes self insurers and delegated authority. From 2004-05 includes self insurers but excludes claims under the military scheme (MCRS).		NB: Figures exclude self-insurers		NB: Revised to conform to National Data Set, i.e. excludes claims less than 5 days			
		Seacare:							
		2004-05:	164						
		2003-04:	208						
		2002-03:	166						
		2001-02:	164						
		2000-01:	203						
		1999-00:	122						
	1998-99:	220							
	1997-98:	380							
	1996-97:	519							
	1995-96:	704							
	1994-95:	593							
Average premium rate per financial year	2004-05:	1.67% ¹	05-06:	1.80%	05-06:	2.57%	05-06:	3.00%	
	2004-05:	3.07% ²	04-05:	1.99%	04-05:	2.57% ¹	04-05:	3.00%	
	2003-04:	1.43% ¹	03-04:	2.22%	03-04:	2.57% ¹	03-04:	3.00%	
	2003-04:	3.13% ²	02-03:	2.22%	02-03:	2.80% ¹	02-03:	2.46%	
	2002-03:	1.13% ¹	01-02:	2.22%	01-02:	2.80% ¹	01-02:	2.46%	
	2002-03:	3.07% ²	00-01:	2.22%	00-01:	2.80% ¹	00-01:	2.86%	
	2001-02:	1.00% ¹	99-00:	1.90%	99-00:	2.80%	99-00:	2.86%	
	2001-02:	3.36% ²	98-99:	1.90%	98-99:	2.80%	98-99:	2.86%	
	2000-01:	0.98% ¹	97-98:	1.80%	97-98:	2.80%	97-98:	2.86%	
	2000-01:	3.12% ²	96-97:	1.80%	96-97:	2.80%	96-97:	2.86%	
	1999-00:	1.03% ¹	95-96:	1.98%	95-96:	2.50%	95-96:	2.86%	
	1999-00:	2.77% ²							
	1998-99:	1.00% ¹							
	1998-99:	2.60% ²							
	1997-98:	1.20% ¹							
	1997-98:	3.00% ²							
	1996-97:	1.60% ¹							
	1996-97:	5.00% ²							
	1995-96:	1.70% ¹							
	1995-96:	5.20% ²							
	¹ Commonwealth Agencies				¹ Excludes New Tax System effects				
	² ACT Government Service								
	Seacare:								
	2003-04:	5.19%							
	2002-03:	5.17%							
	2001-02:	3.75							
	2000-01:	4.12%							
	1999-00:	3.48%							
	Seacare premium rate estimated to equivalent of 5 day excess								

* Unless otherwise stated, information provided applies to both Comcare and Seacare

SCHEME DETAILS				
SELF-INSURANCE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Do provisions for self-insurance exist?	Yes	Yes	Yes	Yes
Number	<p>9 self-insurers (including 8 self-administrators, 5 of which have outsourced claims processing) 1 delegated authority</p> <p>Seacare: No</p>	39 self-insurers	<p>48 self-insurers. 18 group self-insurers, includes a State public sector insurer (the Treasury Managed Fund).</p> <p>6 specialised insurers (insurers restricted to particular industry or class of employer eg. State Cover Mutual which covers local councils).</p>	69 self-insurers plus Government departments and authorities
Criteria	<p>Applicants must be either Commonwealth Authorities or corporations which have been declared eligible by the Minister for Employment and Workplace Relations under s100 of the SRC Act. Such applicants must then be able to satisfy the SRC Commission that they have the capacity to meet the Commission's standards in relation to claims management, benefit delivery, prevention and rehabilitation. The Commission must also be satisfied that the grant of a licence will not be contrary to the interests of employees and that the applicant has sufficient resources to fulfill the responsibilities imposed upon it under its licence, including entering into prudential arrangements to ensure that the applicant's employees can continue to be paid in the event that the corporation is wound up.</p> <p>Seacare: N/A</p>	Prudential Requirements	<p>≥ 500 NSW workers</p> <p>Prudential Requirements (WorkCover may use its discretion to grant a licence to an employer which does not meet the "minimum employee number" if such an employer currently holds a self-insurer licence issued by another workers compensation jurisdiction)</p>	<p>≥ 200 SA workers</p> <p>Prudential Requirements</p>
	<p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>			

SCHEME DETAILS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
Yes	Yes	Yes	Yes	Yes	Yes
28 self-insurers	26 self-insurers	17 self-insurers including the State Service.	6 self-insurers	9 self-insurers currently approved	177 self-insured accredited employers- these include 1,156 subsidiary companies
Prudential Requirements	<p>Minimum of 2,000 workers</p> <p>Minimum net tangible assets \$100m²</p> <p>Q-COMP must consider:</p> <ul style="list-style-type: none"> • If self-insurer is, and is likely to continue to be, able to meet its liabilities; • Long term financial viability; eg. the level of capitalisation, profitability and liquidity. <p>Bank guarantee / cash deposit, must be the greater of:</p> <ul style="list-style-type: none"> • \$5M or • 150% of self-insurers estimated claims liability <p>Reinsurance - unlimited cover with a retention amount of between \$300,000 and \$1M</p> <p>Employer's occupational health and safety performance is satisfactory³</p> <p>Licence period up to 2 years (new and renewed)⁴</p> <p><i>For end notes see Recent Developments</i></p>	Prudential Requirements	Prudential Requirements	Set out in Part 10 of the Workers' Compensation Regulations 2002. The Act and regulations are available at www.legislation.act.gov.au	Prudential, Systems and Procedural Requirements

COVERAGE

COVERAGE					
COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA	WESTERN AUSTRALIA
Definition of 'remuneration' for the purpose of defining premium	<p>Includes gross wages/salaries (including condition-of-service payments normally covered by gross wages e.g. sick leave, annual leave, maternity leave, long service leave); overtime; over-award payments; penalty rates; piece work payments; public holiday payments; statutory officers' salaries; allowances for reward of merit; holiday leave loading (if absorbed into wages/salaries); generally, any taxable allowances</p> <p>It does not include superannuation payments; workers' compensation benefits; district and remote locality allowances; any payments made on termination of employment (e.g. accrued long service leave/annual leave); payments for special expenses; performance pay; tool allowance; fringe benefit allowances and administration costs; holiday leave loading (if paid separately from wages/salaries); generally, any non-taxable allowances</p> <p>Seacare: Not regulated, but generally taken to be gross wages, salaries and all other remuneration, including pay in respect of holidays, sick leave and long service leave.</p>	<p>Includes: Gross wages; salaries (including overtime and all pay loadings); bonuses; commissions; allowances; items included as part of an employment package; any other Fringe Benefits; and employer superannuation contributions.</p> <p>Exempt remuneration includes: certain apprentice and trainee remuneration; workers' compensation payments; shareholder dividends; partners' drawings; employer contributions to the Construction Industry Long Service Leave Board and the Redundancy Payments Central Fund (only if not taxable as Fringe Benefits); and termination payments.</p>	<p>It includes: salary, overtime, shift and other allowances, over-award payments, bonuses, commissions, payments to working directors (including payments as directors' fees), payments for public and annual holidays (including loadings), payment of sick leave, value of board and lodging provided by the employer for the worker and any other consideration in money or money's worth by the employer given to the worker under a contract of service, apprenticeship or training contract, payments for long service leave (including lump sum payments instead of long service leave), retirement/termination payments (lump sum payments in respect of annual leave, long service leave, sick leave and related leave loadings), amount that is the employer's grossed-up fringe benefits taxable amount in respect of fringe benefits payable to the worker, employer superannuation contributions to workers (including the superannuation guarantee levy), trust distributions to workers where the distribution is in lieu of wages for work done for the trust.</p> <p>It does not include: directors' fees paid to non-working directors, compensation paid under the Workers Compensation Act 1987 and any GST component in a payment to a worker.</p>	<p>As a guide payments made to or for the benefit of a worker (quantified in monetary terms) but excluding: workers' compensation payments; superannuation payments; termination payments or severance payments; payments as a reimbursement for a specific expenditure by worker on behalf of employer; motor vehicle allowance for use of worker's own vehicle in the course of employment (which is less than 56 cents per kilometre travelled); accommodation allowance which is less than \$127.60 per day</p>	<p>All gross wages; salaries; remuneration; commissions; bonuses; overtime; allowances and the like; directors' fees 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.</p> <p>Termination payments; retirement pay; retrenchment pay in lieu of notice; superannuation payment(s); pensions; 'golden handshakes' or weekly payments of compensation do not have to be declared.</p>
Number of workers covered	<p>2004-05: 252,000¹ 2003-04: 306,353 2002-03: 305,918 2001-02: 304,035 2000-01: 309,069</p> <p>¹ This year excludes military (MCRS)</p> <p>Seacare: 2004-05: 4,260 2003-04: 3,933 2002-03: 3,355 2001-02: 3,152 2000-01: 2,895</p>	<p>04-05: 2,428,600 03-04: 2,335,700 02-03: 2,337,200² 01-02: 1,998,000 00-01: 1,960,400¹</p> <p>¹ Estimate based on ABS data for March quarter 2000</p> <p>² Number of employees data differs from previous estimate as ABS no longer publishes 6297.0. Estimate based on ABS 6105.0 for June quarter 2003.</p>	<p>04-05: 2,710,000 03-04: 2,750,000 02-03: 2,750,000 01-02: 2,700,000 00-01: 2,652,255 99-00: 2,497,660</p> <p>As calculated by the Australian Bureau of Statistics.</p>	<p>03-04: 610,645 02-03: 602,500 01-02: 578,350 00-01: 570,525 99-00: 560,950</p> <p>Note: Approx. 40% of all SA workers are employed by self insurers - These figures are likely to include a small number of Commonwealth employees Data Source: 6291.0.55.001 Labour Force, Australia, Detailed.</p>	<p>04-05: 843,879 03-04: 831,822 02-03: 816,343 01-02: 797,592 00-01: 797,902 99-00: 779,838 98-99: 746,741</p> <p>NB: From ABS data</p>
Definition of 'worker' for purpose of coverage - relationship to employment	<p>Contract of service</p> <p>Seacare: Must be employment of employees</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Contract of service</p>	<p>Contract of service or apprenticeship</p>	<p>Contract of service</p>	<p>Contract of Service - excludes police officers (unless a police officer is killed in the line of duty). Contractors engaged in a contract for services for the purpose of the principal's trade or business may be defined as workers, depending on the circumstances.</p>

COVERAGE																												
QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND																								
<p>Wages means the total amount paid, or provided by, an employer to, or on account of, a worker as wages, salary or other earnings by way of money or entitlements having monetary value, but does not include—</p> <p>(a) allowances payable in relation to any travelling, car, removal, meal, education, living in the country or away from home, entertainment, clothing, tools and vehicle expenses; and</p> <p>(b) superannuation contributions, for deciding the amount of compensation payable to a worker under chapter 3 or 4 (ie. employer superannuation contributions are included for premium purposes but excluded from calculating weekly benefits); and</p> <p>(c) lump sum payments on termination of a worker's services for superannuation, accrued holidays, long service leave or any other purpose; and</p> <p>(d) an amount payable as employer excess.</p> <p>04-05: 1,836,600 03-04: 1,747,000 02-03: 1,713,000 01-02: 1,652,800 00-01: 1,583,500</p> <p>Based on ABS data (employed wage and salary earners, QLD)</p> <p>A worker is a person who works under a contract of service. Schedule 2 of the Act mentions persons who are or are not workers.</p>	<p>The Workers Rehabilitation and Compensation Act 1988 refers to 'wages' for the purpose of defining premium. 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, and includes:</p> <ul style="list-style-type: none"> • Any amount paid or payable by way of remuneration to a person holding office under, or in the service of, the Crown; • Any amount paid or payable to a person or class of persons taken to be a worker under this Act to the extent to which that payment is attributable to labour; • Any amount paid or payable by a company by way of remuneration to a director or member of the governing body of that company; • The value of the provision by the employer of meals or sustenance or of the use of premises or quarters as consideration or part consideration for the worker's services; • The value of fringe benefits within the meaning of the Fringe Benefits Tax Assessment Act 1986 of the Commonwealth; • All superannuation contributions forming part of the worker's salary package, made by the employer in respect of the worker. <p>The following are specifically excluded from the definition of wages:</p> <ul style="list-style-type: none"> • Any allowance for travelling or accommodation; • Any workers' compensation payment; • Any redundancy, severance or termination payment <p>04-05: 200,978 03-04: N/A 02-03: approx.174,000 01-02: 171,424 ¹ 00-01: approx.160,000</p> <p>¹ From ABS data</p> <p>Contract of service</p>	<p>Not regulated, however, generally taken to be: gross wages; salaries (including overtime); bonuses; allowances; commission and all other remuneration paid; including pay in respect of holidays; sickness and long service leave</p> <p>04-05: 86,000 03-04: N/A 02-03: N/A 01-02: 79,600 ¹ 00-01: N/A 99-00: approx. 74,000</p> <p>¹ From ABS data</p> <p>Contract or agreement of any kind to provide work or service Exclusion applies where ABN has been provided</p>	<p>The Workers' Compensation Act 1951 uses the term 'earnings' rather than 'remuneration' for defining premium.</p> <p>Earnings means all payments made by the employer and includes regular overtime; allowances; commissions; and other like payments</p> <p>04-05: 93,305 03-04: 90,559 02-03: 95,613 01-02: 93,757 00-01: 97,136 99-00: 94,870 98-99: 73,700</p> <p>NB: ACT Public Service covered under Comcare</p> <p>Section 8 of the Act defines 'worker' as an individual who has entered into or works under a contract of service with an employer, whether the contract is express or implied, oral or written. Public sector employees are excluded from the definition and coverage under the Act.</p>	<p>The Injury Prevention, Rehabilitation and Compensation Act 2001 defines 'earnings' according to the following three categories:</p> <p>Earnings as an employee means all gross source deduction payments (i.e. taxable wages) of the person, but does not include social security benefit, student allowance, redundancy payment, retiring allowance or superannuation scheme pension.</p> <p>Earning as a self-employed person is defined as their annual assessable income, after expenses are deducted, that results from personal exertions. This definition includes Private Domestic Workers.</p> <p>'Earnings' as a shareholder employee is defined as any earnings as an employee, and/or any further salary representing payment for services provided as an employee or director of the company.</p> <table border="1"> <thead> <tr> <th>Levy Year</th> <th>Employees</th> <th>Self-employed</th> </tr> </thead> <tbody> <tr> <td>30/09/05</td> <td>1,649,271</td> <td>360,075</td> </tr> <tr> <td>30/09/04</td> <td>1,667,761</td> <td>355,239</td> </tr> <tr> <td>30/09/03</td> <td>1,627,848</td> <td>338,152</td> </tr> <tr> <td>30/09/02</td> <td>1,554,482</td> <td>322,518</td> </tr> <tr> <td>30/09/01</td> <td>1,508,288</td> <td>319,712</td> </tr> <tr> <td>30/09/00</td> <td>1,415,787</td> <td>331,213</td> </tr> <tr> <td>30/09/99</td> <td>1,365,878</td> <td>356,122</td> </tr> </tbody> </table> <p>Self-employed and employees were split part way through the year ending 30 June 1999. Prior to this, no distinction was made between the two groups.</p> <p>An 'earner' is an employee, self-employed person, shareholder employee or private domestic worker.</p>	Levy Year	Employees	Self-employed	30/09/05	1,649,271	360,075	30/09/04	1,667,761	355,239	30/09/03	1,627,848	338,152	30/09/02	1,554,482	322,518	30/09/01	1,508,288	319,712	30/09/00	1,415,787	331,213	30/09/99	1,365,878	356,122
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COVERAGE					
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA	WESTERN AUSTRALIA
Deemed workers	Included Seacare: N/A	Includes certain incorporated and unincorporated contractors.	Included	Included	Included
Definition of 'injury' for the purpose of coverage	'... a physical or mental injury arising out of, or in the course of, the employee's employment ...'	'... an injury arising out of, or in the course of any employment ...'	'... personal injury arising out of, or in the course of employment ...'	'... physical or mental injury which arises out of, or in the course of employment ...'	'... a personal injury or disease arising out of, or in the course of, employment ...'
- Relationship to employment	Seacare: As above				
- Contribution of employment	To a material degree (for disease only) Seacare: Not specified	A significant contributing factor test applies only where heart attack injury or stroke injury; a disease contracted in the course of worker's employment; a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease. (s82 (2B)(2C))	A substantial contributing factor	A substantial cause (for psychiatric disabilities only)	To a significant degree
- Aggravation, acceleration, etc.	Included Seacare: Included	Included	Included	Included	Included
- Diseases	Included Seacare: Included	Included	Included	Included	Included
- Recess claims	On/off worksite Seacare: Includes off-duty on the ship and recess	On/off worksite	On/off worksite	On worksite only	On/off worksite

COVERAGE				
QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
Not included	Included	Included	<p>Included: see ch. 3 and s84 of the Act Section 11 provides that contractors are workers if the contractor is engaged on a regular and systematic basis or has a reasonable expectation of ongoing engagement on a regular and systematic basis.</p> <p>Section 14 provides that trainees, including unpaid trainees, are workers.</p> <p>Section 15 provides that some outworkers are workers.</p> <p>Section 16 provides that some timber contractors are workers.</p> <p>Section 17 allows religious workers to be declared to be workers.</p> <p>Section 18 provides that volunteers working for commercial organisations are workers unless specifically exempted.</p> <p>Section 19 provides that volunteers working for public interest organisations (eg charities) are not workers unless otherwise declared.</p> <p>Section 84 provides that sportspeople are not entitled to compensation under the Act for injuries sustained as a result of professional sporting activities.</p>	N/A
'... a personal injury arising out of, or in the course of, employment ...'	'... an injury, or a disease, arising out of, and in the course of employment ...'	'... a physical or mental injury ... out of or in the course of employment ...'	Section 4 defines 'injury' as 'a physical or mental injury (including stress), and includes aggravation, acceleration or recurrence of a pre-existing injury'	'... a personal injury that the insured suffers while he or she is at any place for the purposes of his or her employment'
"...if the employment is a significant contributing factor to the injury."	To a substantial degree only if it is 'the major or most significant factor' (for disease only)	Included for diseases and injuries that occur gradually	Subsection 30(1) provides that 'an employer is liable to pay compensation... if a worker of the employer suffers personal injury arising out of, or in the course of, the worker's employment.	Workplace must have been a cause or a contributing factor in cases of gradual process, disease and infection injuries
Included	Included	Included	Included, see definition of 'injury' above.	Included unless original claim resolved, in which case treated as a new injury
Included	Included	Included	Subsection 30(2) provides that 'if the injury is caused by a disease, the injury is taken to have arisen out of, or in the course of, the workers employment only if the employment substantially contributes to the injury'.	Included, subject to the criteria of section 30 of the IPRC Act
On/off worksite	On worksite only	On/off worksite	On/off worksite	At place of employment

COVERAGE					
COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA	WESTERN AUSTRALIA
- Journey claims - to/from work	Included Seacare: Included	Not Included	Included (with some restrictions)	Not included unless there is a real and substantial connection between the employment and the accident	Not included. However, workers are covered for injury during journeys made in the course of employment or at the direction of the employer.
- Stress-specific exclusion factors	Included Seacare: Included	Included	Included (s11A)	Included	Included
- Industrial deafness threshold	5% binaural loss Seacare: 10%	10% - initial (first) hearing loss claim lodged on or after 12/11/97. 1% - for Impairment Benefit claims lodged on or after 18/11/04 where there has been a further noise induced hearing loss claimed (must have one or more previous hearing loss claim(s) lodged).	6% binaural loss	5%	10% (Above baseline hearing loss previously assessed)
	* Unless otherwise stated, information provided applies to both Comcare and Seacare				

COVERAGE				
QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
Included (with some restrictions)	Not included, except where the journey occurred at the request or direction of the employer; or if the journey is work related, with the authority (expressed or implied) of the employer.	Included, unless injury involves a motor vehicle, which would be covered by Motor Accident Compensation Act (MACA)	Included S 36	Included, if transport is provided by the employer, for the purpose of transporting employees, and is driven by or at the direction of the employer; or travelling between a workplace and a place of treatment for a work-related injury
Included, except where the psychiatric or psychological disorder arising out of, or in the course of, any of the following circumstances – (a) reasonable management action taken in a reasonable way by the employer in connection with the workers employment; or (b) the workers expectation or perception of reasonable management action being taken against the worker; or (c) action by Q-COMP or an insurer in connection with the worker's application for compensation.	Included	Included	Subsection 4(2) provides that 'mental injury (stress)' for the purposes of the Act 'does not include a mental injury (including stress) 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'.	Claims only allowed for <ul style="list-style-type: none"> • Stress caused by physical injury • Stress caused by sexual abuse.
5% Application for compensation must be made (a) while the claimant is a worker under the Act, or (b) where the claimant would ordinarily be a worker but is temporarily unemployed, or (c) within 12 months after the claimant's formal retirement from employment. The industrial deafness is to be attributed to the worker's employment in Queensland as a worker (a) for period(s) of employment in Queensland totalling at least 5 years, and (b) the employment was at location(s) where the noise level was a significant contributing factor to the industrial deafness. A further application may be considered only if lodged more than 3 years after the previous application, and claimant has sustained a further hearing diminution of more than 1%.	5% binaural hearing impairment	5% whole person impairment (percentage of loss of whole body)	Subsection 64(1) provides that 'a worker is not entitled to compensation...for a loss of hearing... if the worker's hearing loss is less than 6%'.	No threshold is specified. Covered under the 'gradual process' provisions

COVERAGE				
COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Retirement provisions	<p>Comcare: Section 23 of the Safety, Rehabilitation and Compensation Act states that compensation for incapacity is not payable to a person who reaches the age of 65 years.</p> <p>However, section 134 states that when former employees to whom section 131, 132, or 132A (special transitional provisions relating to former employees) applies reach 65, their amount of compensation payable per week shall be reduced by a formula defined in the Act.</p> <p>Following amendments to the SRC Act in October 2001, an employee who suffers a compensable disease or injury at any age after 63 years, is entitled to receive incapacity benefits under the Act for a maximum period of 104 weeks.</p> <p>Seacare: Under Section 38 of the Seafarers Rehabilitation and Compensation Act 1992, compensation for incapacity is not payable to a person who reaches the age of 65 years, except in the case of a person who is injured after the age of 64 years, in which case compensation is payable for 12 months</p> <p>All other benefits (such as medical and permanent impairment) are payable in full, irrespective of a person's age at the time of injury, without any time limits on their payment</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Section 5 of Accident Compensation Act 1985 defines 'retirement age' as:</p> <p>(a) if there is a normal retiring age for workers in the occupation in which the worker was employed at the time of the injury - that age; or</p> <p>(b) the age of 65 years, whichever is earlier.</p> <p>A worker is not entitled to weekly payments after attaining retirement age.</p> <p>However, if a worker is injured within 104 weeks' of attaining retirement age, or after attaining retirement age, the worker is entitled to weekly payments for not more than the first 104 weeks (whether consecutive or not) of incapacity for work.</p>	<p>Section 52 of the Workers' Compensation Act 1987 provides that a worker's entitlement to weekly compensation benefits continues until one year after the age at which the worker would become eligible to receive the age pension.</p> <p>If the injury occurs after this age, weekly benefits will be paid for one year after the date of injury.</p> <p>Other benefits, such as hospital, medical, rehabilitation costs and access to common law and lump sums, are able to be claimed irrespective of age. (These restrictions do not apply to injuries received before 30 June 1985).</p>	<p>Section 35(5) of the Workers' Rehabilitation and Compensation Act 1986 states that weekly benefits cease at normal retirement age. This is defined as either the normal retirement age for workers in employment of the kind from which the worker's disability arose, or 65 years of age, whichever is the lesser.</p> <p>Section 35(5A) states that workers who are within six months of retirement age, or above retirement age and are still in employment, are entitled to weekly payments for a period of up to six months; this does not apply to working directors, or to contractors.</p> <p>No weekly payments are payable after a worker reaches 70 years of age.</p> <p>All other non-income related entitlements remain, regardless of age.</p>

COVERAGE					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>Section 5 of the Act defines 'notional residual entitlement'</p> <p>Section 24A - Lump sum compensation for noise induced hearing loss</p> <p>Section 56 - Entitlement to weekly payments ceasing on account of age.</p> <p>Schedule 5 – Where a worker attains the age of 65, he or she is entitled to receive the supplementary amount if it can be proven that the worker intended to work beyond the age of 65 (until age 70).</p> <p>Workers suffering injury after the age of 64, have a period of one year for payment of compensation from the date of the injury. Special provisions apply to workers suffering asbestos related diseases.</p>	<p>There are no provisions in the Act that refer to retirement age</p> <p>Entitlement to benefits cease when:</p> <p>(a) incapacity because of the injury ceases; or</p> <p>(b) worker has received weekly compensation for 5 years of incapacity; or</p> <p>(c) the statutory maximum compensation amount is reached - \$182,620 for lump sum, and \$182,620 for weekly benefits; or</p> <p>(d) 28 days after an offer of lump sum compensation for permanent impairment is made; or</p> <p>(e) insurer and the worker agree on an amount that redeems insurer's liability to make weekly payments; or</p> <p>(f) when entitlement to weekly compensation is reviewed and the entitlement is ceased (e.g. no longer incapacitated due to injury)</p>	<p>Section 87 of the Act provides that</p> <p>(1.) Subject to subsection (2.), an entitlement of a worker to weekly payments of compensation ceases:</p> <p>(a) if the injury occurs on or before the date on which the worker attains the age of 64 years, on his/her attaining the age of 65 years; or</p> <p>(b) if the injury occurs after the date on which the worker attains the age of 64 years, on the date one year after the injury occurs</p> <p>(2.) Where the terms and conditions of a workers' employment are such as to permit him/her to continue in that employment beyond the age of 65 years, the worker may refer to the Tribunal for determination of the question as to whether or not the provision of subsection (1) should apply</p> <p>(3.) Pursuant to subsection (2.), if the Tribunal is satisfied:</p> <p>(a) that the terms of the worker's employment would have entitled him/her to continue in that employment beyond 65 years, and the worker; but for the injury refer to subsection (1.), intended to continue in that employment beyond that age; and</p> <p>(b) that the incapacity of the worker resulting from that injury will continue beyond the date the worker attains the age of 65 years;</p> <p>The Tribunal might determine that weekly payments may be continued beyond the dates mentioned in subsection (1) and shall determine the period for which such payments are to be continued</p>	<p>Section 65 of the Act refers to long-term incapacity</p> <p>A worker will be paid 75% of his/her loss of earning capacity until:</p> <p>(a) he/she attains the age of 65 years; or</p> <p>(b) if the normal retiring age for workers in the industry or occupation in which he/she was employed at the time of the injury is more than 65 years, he/she attains that normal retiring age</p>	<p>a) Entitlement to benefits continues until the 'pension age' - s 39(4)(c).</p> <p>b) If injury occurs within two years of worker reaching 'pension age', entitlement to benefits continues for two years from entitlement to compensation arising -s39(4)(d).</p>	<p>Weekly compensation paid for loss of earnings normally stops when the person reaches 'New Zealand Superannuation Qualifying Age (NZSQA)' i.e. retirement age</p> <p>Between 1 April 1994 and 2001 the NZSQA was raised from 60 to 65 years</p> <p>If incapacity occurs between 24 and 12 months prior to NZSQA, weekly compensation can be paid for 24 months from the start date, provided they elect upon reaching NZSQA to receive weekly compensation rather than superannuation.</p> <p>If incapacitated within 12 months prior to NZSQA, or after reaching NZSQA, weekly compensation can be paid as well as any superannuation, until the later of:</p> <ul style="list-style-type: none"> • NZSQA date • the first date of entitlement to weekly compensation <p>After that 52 weeks, they can elect to receive either weekly compensation or national superannuation for a further year. Weekly compensation stops after that further year</p>

COVERAGE				
COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Cross-border cooperative arrangements	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities.</p> <p>Seacare: State/Territory compensation schemes have no application if Seafarers Act applies.</p>	<p>Effective from September 2004, Victoria proclaimed legislation which means there is no entitlement to compensation in Victoria other than in respect of employment that is 'connected' with Victoria. The legislation provides guidance to determine if a worker's 'state of connection' is Victoria.</p> <p>Under the Act a worker's employment is connected with:</p> <ol style="list-style-type: none"> 1. One state where the worker usually works; 2. If no state or no one state applies (test 1), then the state where the worker is usually based for that employment; or, 3. If no state or no one state applies (test 1&2), then the state where the employer has their principal place of business (in Australia). <p>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.</p> <p>Effective from 1 July 2005, Victorian legislation imposed a Victorian premium liability on employers only in respect of workers who are connected to Victoria as defined above.</p>	<p>NSW has passed legislation basically consistent with the HWCA model however this legislation is yet to be proclaimed.</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p>
	<p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>		<p><i>See Recent Developments</i></p>	

COVERAGE					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>Compensation is only payable under the Act if the worker's employment is 'connected' with Western Australia. Section 20 of the Act provides the test for determining which jurisdiction a worker's employment is 'connected' with.</p> <p>Compensation may be paid under the Act for an injury occurring outside Western Australia, as long as the worker's employment is 'connected' with Western Australia.</p>	<p>As at 1 July 2003 the Workers' Compensation and Rehabilitation Act 2003 introduced new cross-border provisions (sections 113 and 114) under which compensation is only payable if employment is connected to Queensland. There are a new series of tests to determine whether employment is connected with Queensland.</p>	<p>National cross border model implemented from December 2004.</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities.</p>	<p>The ACT commenced provisions relating to the nationally agreed cross border model on 3 June 2004 Part 4.2A of the Act.</p> <p>Compensation under the ACT scheme is payable if the ACT is the Territory or State of connection.</p> <p>An injured worker's State or Territory of connection is determined by considering:</p> <ul style="list-style-type: none"> a) The Territory or State where the worker usually works in the employment b) If not identified through (a) – the Territory or State where the worker is usually based for the purposes of the employment c) If not identified through (a) or (b) – the Territory or State where the employer's principal place of business in Australia is located. <p>If the above provisions do not identify the Territory or State of connection, the worker is considered to be connected with the Act if:</p> <ul style="list-style-type: none"> a) The worker is in the ACT when injured; and b) The worker is not entitled to compensation in relation to the injury under the workers compensation law of an external territory, or a place outside Australia. 	<p>N/A</p>

BENEFITS

BENEFITS					
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA	WESTERN AUSTRALIA
Weekly benefit rates	<p>≤ 45 weeks: Normal weekly earnings (NWE)</p> <p>> 45 weeks: 75% of NWE</p> <p>Maximum: \$1,512.15</p> <p>(150% of Average Week Ordinary Time Earnings for Full-time Adults as published by ABS)</p> <p>Minimum:\$347.18</p> <p>Additional for prescribed person \$85.96 and for each dependent child \$42.96</p> <p>Compensation payments for ex-employees were increased by reference to the ABS Wage Cost Index by 3.5% from 1 July 2005.</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</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: Workers entitled to receive weekly benefits as at 12/11/97; old rates apply</p> <p>Post 12/11/97: ≤ 13 weeks: 95% of pre-injury average weekly earnings (PIAWE) (maximum: \$1150), less notional earnings</p> <p>> 13 weeks: a) No current work capacity- 75% of PIAWE (maximum \$1150)</p> <p>(b) Worker has a current work capacity for suitable/alternative work and has not had an employment offer (offer of suitable employment): 75% of PIAWE (maximum\$1150)</p> <p>(c) A worker who has current work capacity for suitable/alternative work and suitable duties have been offered;</p> <p>If RTW achieved 60% of PIAWE (maximum \$688) less 60% of notional earnings</p> <p>> 104 weeks: Weekly benefits cease after 104 weeks of weekly payments unless: (a) worker is likely to have no current work capacity indefinitely, then benefits continue while this is the case until retirement; or (b) worker has a current work capacity and has returned to work at his/her maximum capacity</p> <p>Must be working at least 15 hours per week and earning at least \$134 per week; and be employed / self-employed</p>	<p>≤ 26 weeks: Current weekly wage rate (maximum \$1,449.50) or, where no award, 80% of worker's Average Weekly Earnings (AWE), not including overtime, shiftwork or penalty rates</p> <p>> 26 weeks: 90% of AWE (maximum \$340.90) plus dependants: • spouse: \$89.90 • 1 child: \$64.20 • 2 children: \$143.70 • 3 children: \$238.00 • 4 children: \$334.70 • For each additional dependant child in excess of 4: \$96.50</p> <p>> 52 weeks: The maximum period for which partially incapacitated workers whose employers cannot provide suitable duties can receive special benefits is 52 weeks.</p> <p>Special benefits are paid at the basic award rate for up to 26 weeks post-injury, after which they are paid at 80% of the basic award rate for a maximum of 52 weeks.</p> <p>After 52 weeks, partially incapacitated workers are able to claim the difference between current and pre-injury capacity.</p> <p>> 104 weeks: Payments can be discontinued at the end of 104 weeks of partial incapacity if the worker is no longer jobseeking, is unemployed mainly as a result of the labour market conditions, or has unreasonably rejected an offer of suitable employment.</p> <p>Note: Benefits are indexed on 1 April and 1 October each year.</p>	<p>≤ 52 weeks: Worker's Average Weekly Earnings (WAVE) to a maximum of 2 x State average weekly earnings (AWE).</p> <p>Maximum: \$1,930.80 at 1/10/05 less actual earnings if partially incapacitated.</p> <p>> 52 weeks: (a) Total incapacity: 80% of WAVE subject to a maximum of 80% of 2 x State AWE. Maximum: \$1,544.64 at 1/10/05.</p> <p>(b) Partial incapacity: 80% of difference between worker's adjusted notional weekly earnings (NWE) and earnings from employment, or potential earnings in suitable employment that the worker has a reasonable prospect of obtaining. Maximum: \$1,544.64 at 1/10/05 less actual or potential earnings if partially incapacitated.</p> <p>> 104 weeks: If a worker is partially incapacitated and not in suitable employment, 80% of difference between NWE and what the worker is deemed capable of earning in suitable employment.</p> <p>Otherwise same as for > 52 weeks.</p>	<p>Workers whose earnings are prescribed by an industrial award or enterprise bargaining agreement</p> <p>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 or EBA, any over award or service payment paid on a regular basis, including overtime, bonuses or allowance, up to a maximum of \$1522.70. Overtime, bonuses or allowances are averaged over the 13 weeks before the injury occurred.</p> <p>14th week onward: Weekly payments consist of the rate of weekly earnings payable under the relevant award or EBA, plus any other over award or service payment paid on a regular basis, but excluding overtime, bonuses or allowances. Maximum payment is \$1522.70.</p> <p>Minimum rate : Subject to the cap of \$1522.70, the minimum rate of earnings payable at the time of injury is that provided for under the relevant award or EBA.</p> <p>Workers whose earnings are not prescribed by an industrial award or enterprise bargaining agreement</p> <p>First 13 weeks of claim Weekly payments will consist of the worker's average earnings including overtime, bonuses and allowances averaged over the 12 months before the injury occurred, up to a maximum of \$1522.70.</p> <p>14th week onwards Weekly payments step down to 85% of the workers' weekly earnings; maximum payment is \$1522.70.</p> <p>Minimum rate: Subject to the cap of \$1522.70, the minimum rate of weekly earnings is the rate payable under the Minimum Conditions of Employment Act 1993.</p>

BENEFITS				
QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>≤ 26 weeks: Workers under industrial instrument - the greater of:</p> <p>(a) 85% of the worker's normal weekly earnings (NWE); or</p> <p>(b) amount payable under the worker's award or agreement.</p> <p>Workers not under industrial instrument the greater of:</p> <p>(a) 85% of NWE</p> <p>(b) 70% of QOTE⁵</p> <p>QOTE (Queensland Ordinary Time Earnings) at 1 July 2005 is \$925.30.</p> <p>> 26 weeks to < 39⁶ weeks:</p> <p>Workers under industrial instrument - the greater of:</p> <p>(a) 75% of NWE</p> <p>(b) 70% of QOTE</p> <p>Workers not under industrial instrument - the greater of:</p> <p>(a) 75% of NWE</p> <p>(b) 65%⁷ of QOTE</p> <p>>39⁸ weeks < 104 weeks:</p> <p>all workers - the greater of:</p> <p>(a) 65% of NWE</p> <p>(b) 60% of QOTE</p> <p>104 weeks to 5 years:</p> <p>all workers -</p> <p>Workers with work-related impairment (WRI) of more than 15% - the greater of:</p> <p>(a) 65% of NWE</p> <p>(b) 60% of QOTE</p> <p>or</p> <p>Workers with WRI less than or equal to 15%, receive an amount equal to the Department of Social Security single person pension rate.</p> <p>Total amount payable for weekly benefits is \$182,620⁹.</p> <p><i>For end notes see Recent Developments</i></p>	<p>≤ 13 weeks: 100% of weekly payment i.e. the greater of normal weekly earnings (NWE) for the period of twelve months prior to the period of incapacity, or ordinary time rate-of-pay for work engaged in prior to incapacity.</p> <p>> 13 weeks: 85% of weekly payment.</p> <p>> 78 weeks: 80% of weekly payment.</p> <p>Entitlement to weekly payments ceases on the expiration of 9 years after the date of the incapacity. Minimum rate: \$356.12 from 1/1/05.</p>	<p>≤ 26 weeks: Normal weekly earnings (NWE) i.e. worker's normal working hours per week at hourly rate, including overtime and shift penalties (where worked in a regular and established pattern).</p> <p>> 26 weeks: Whichever is the greater of:</p> <p>(a) 75% of NWE to a maximum of \$1,449.60; or</p> <p>(b) \$483.20 plus \$120.80 for a dependant spouse and \$60.40 for each dependent child; or 90% of NWE (whichever is the lesser).</p> <p>≤ 104 weeks: Weekly benefits may reduce or cease, if the worker has been deemed to have an earning capacity, provided that suitable employment is reasonably available.</p> <p>> 104 weeks: 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.</p>	<p>Total incapacity</p> <ul style="list-style-type: none"> worker's average pre-incapacity weekly earnings for first 26 weeks- s39(2) after 26 weeks, 100% of the worker's average pre-incapacity weekly earnings if less than the pre-incapacity floor for the worker - s39(3)(a); or if 100% of the worker's average pre-incapacity earnings is more, but 65% of those earnings is less than the pre-incapacity floor for the worker, then the statutory floor -s39(3)(b); or if 65% of the worker's average pre-incapacity weekly earnings is more than the pre incapacity floor for the worker then whichever of the following is more - 65% of the worker's average pre-incapacity weekly earnings, or the statutory floor (s39(3)(c)). <p>Statutory floor is defined as the federal minimum wage decided from time to time by the Australian Industrial Relations Commission under the Workplace Relations Act 1996 (Cwlth).</p> <p>Partially incapacitated workers up to 26 weeks - weekly compensation equal to the difference between---</p> <p>(a) the worker's average pre-incapacity weekly earnings; and</p> <p>(b) the average weekly amount paid to the worker for working or could earn in reasonably available suitable employment. s40(2)(a)(b).</p> <p>In working out the average weekly amount the worker could earn, consideration may be given to the following:</p> <p>(a) suitable employment that the worker unreasonably rejects;</p> <p>(b) suitable employment that the worker obtains but unreasonably discontinues. s40(3)(a)(b)</p> <p>After 26 weeks S41(1)(b) weekly compensation equal to the difference between the weekly amount paid to the worker for working and -</p> <p>(a) if 100% of the workers average pre-incapacity weekly earnings is less than the statutory floor - 100% of the workers average pre-incapacity weekly earnings S41(2)(a);or</p> <p>(b) if the relevant percentage of the worker's average pre-incapacity weekly earnings is less than the statutory floor- the statutory floor S41(2)(b); or</p> <p>(c) if the relevant percentage of the worker's average pre-incapacity weekly earnings is more than the statutory ceiling- the statutory ceiling S41(2)(c); or</p> <p>(d) in any other case - the relevant percentage of the worker's average pre-incapacity weekly earnings S41(2)(d). Statutory ceiling, in relation to an amount, means 150% of AWE at the time the amount is to be paid.</p>	<p>For weeks 2-5 of incapacity, weekly compensation is paid at 80% of the short-term rate (defined on page 23).</p> <p>From the 5th week, weekly compensation is paid at 80% of the long-term rate (defined on page 23). Maximum weekly compensation is NZ\$1,486.45</p> <p>Weekly compensation is reduced by a proportion of any earnings derived during the period of incapacity</p> <p>A minimum rate for full-time earners applies after 5 weeks of incapacity, set at 80% of NZ\$380, or 80% of NZ\$304 for people under the age of 18 years</p> <p>Payment of weekly compensation continues until:</p> <ul style="list-style-type: none"> the person is assessed as no longer incapacitated for normal work, or has a capacity for work for which they are otherwise suited; or, the person returns to employment and derives earnings higher than their pre-injury earnings; or, the upper age limit rules apply.

BENEFITS				
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Basis for determining weekly benefits.	<p>Normal weekly earnings including: allowances payable each week (excluding expenditure reimbursement or an allowance payable in respect of special expenses incurred); average of overtime worked on regular basis; income from job outside Commonwealth employment if injured in part-time Commonwealth employment.</p> <p>Seacare: Normal weekly earnings as defined in Section 13 of the Act.</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Either Pre-Injury Average Weekly Earnings (PIAWE) during the 12 months preceding injury (if the worker was continuously employed by the same employer for this period); or PIAWE for the period less than 12 months preceding the injury for which the worker has been continuously employed by the same employer.</p> <p>PIAWE is calculated at the worker's ordinary time rate-of-pay for the worker's normal number of hours per week.</p> <p>Regular overtime and regular shift allowances are to be included in the calculation of a worker's weekly compensation rate for the first 26 weeks.</p>	<p>Average weekly earnings during 12 months preceding injury (if the worker was continuously employed by the same employer for this period) or; if less than 12 months, average weekly earnings by a person in the same grade at the same work of same class of employment.</p> <p>Pre-Injury Average Weekly Earnings include: reference to ordinary weekly rate-of pay applicable under industrial law; overtime; and other amounts payable under common industry or other practice.</p> <p>Weekly benefit rates for first 26 weeks of incapacity and for partial incapacity are determined with reference to the current weekly rate. Current weekly rate is determined in respect of work performed by the worker immediately before being incapacitated, remunerated at the rate (for one week):</p> <ul style="list-style-type: none"> - pursuant to a determination, fixing or providing fixing of a rate for a weekly or longer period, made by the Crown or made under the Public Service Act 1979 or under the provisions of any other Act (where the worker is an employee of the Crown or of an employer constituted by an Act); - calculated in accordance with the formula prescribed by the regulations in respect of that class of workers (where the worker belonged to the class of workers prescribed by the regulations); - of an award fixing or providing for the fixing of a rate for a weekly or longer period (where the worker does not belong to a class of works prescribed by the regulations above); or - where the above do not apply, the prescribed proportion (80%) of the workers average weekly earnings in respect of work performed immediately prior to becoming incapacitated. <p>Weekly benefit rates after the first 26 weeks of incapacity and for partial incapacity are determined with reference to average weekly earnings. Average weekly earnings is determined at the rate of the average weekly amount during the 12 months prior to injury:</p> <ul style="list-style-type: none"> - earned by the worker; - by a person in the same grade, employed at the same work, by the same employer (where average weekly earnings of the worker can not be calculated); or - by a person of in the same grade employed in the same class of employment in the same district (where there is no person so employed by the employer). 	<p>Average weekly earnings refers to the amount the worker could reasonably expect to earn for a week's work if not disabled, and includes: wages and/or salary; overtime if regular and established; substantially uniform and continuing; non-cash entitlement (e.g. loss of use of company vehicle); eligible allowances paid in recognition of a skill (e.g. First Aid allowance).</p>

BENEFITS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>The cap on weekly payments of \$1,522.70 is obtained by multiplying by two, the amount that the ABS publishes as all employees average weekly total earnings in Western Australia for the pay periods ending in the months of May, August, November and February in the preceding financial year. This figure is indexed annually (every 1 July).</p> <p>Workers whose earnings are prescribed by an industrial instrument</p> <p>First 13 weeks of claim: Weekly payments will consist of the rate of the worker's average weekly earnings payable under the relevant industrial instrument, any over award or service payment paid on a regular basis, including overtime, bonuses or allowance</p> <p>14th week onwards- Weekly earnings payable under the relevant industrial instrument, plus any other award or service payments paid on a regular basis as part of the worker's earnings plus any allowance paid on a regular basis as part of the worker's earnings and related to the number and pattern of hours worked plus any other allowance provided for by the regulations.</p> <p>Workers whose earnings are not prescribed by an industrial instrument</p> <p>First 13 weeks – Average weekly earnings payable (including overtime, bonuses or allowances) are averaged over 12 months before the disability occurred.</p> <p>14th week onwards – Weekly payments step down to 85% of the worker's average weekly earnings.</p> <p>Total weekly payments</p> <p>Total weekly payments of compensation and lump sum compensation are normally limited to the prescribed amount (the maximum total amount payable in weekly payments and lump sum settlements which amounts to \$145,892 – current until 30 June 2006).</p> <p>In certain circumstances, at the discretion of the Dispute Resolution Directorate, an additional amount of up to \$50,000 in weekly payments may be granted.</p>	<p>Normal weekly earnings (NWE) of the worker from employment (continuous or intermittent) in the 12 months before the day of the injury, including amounts paid immediately prior to the injury in overtime, higher duties, penalties and regular allowances.</p> <p>Does not include one-off periods of overtime, and further exclusions also apply as per the definition of 'wages'.</p> <p>The total statutory maximum payable amounts to \$182,620¹⁰.</p> <p>From 1 January 2005, in addition to weekly benefits, a worker may have an entitlement to lump sum compensation up to \$182,620¹¹.</p> <p>Additional lump sum and gratuitous care lump sums are not included in these maximums.</p>	<p>Normal weekly earnings (NWE) are the average weekly earnings of the worker over the period of 12 months ending at the commencement of the period of incapacity.</p> <p>Where it is impracticable to compute the NWE of the worker under that employer, the NWE are taken to be the NWE of a person employed in the same grade at the same work by the same employer.</p> <p>NWE includes all payments, allowances or benefits received during the period, excluding any long service benefit or entitlement, bonus or gratuity.</p> <p>Generally, overtime is excluded unless it was a regular and established pattern of work.</p>	<p>Normal weekly earnings (NWE) are a worker's normal number of hours per week, at his/her hourly rate, including overtime and shift penalties (where worked in a regular and established pattern).</p> <p>NWE also includes: climate; district; leading hand and qualification allowances and service grants.</p>	<p>Average pre-incapacity weekly earnings are the worker's weekly earnings from all employment.</p> <p>Weekly compensation payable is based on the Average Pre-incapacity Weekly Earnings of the worker over the previous year prior to injury, s21(1)(b)(i).</p> <p>If the worker has worked for the employer for less than a year then the entire period of employment is to be considered, s21(1)(b)(ii).</p> <p>If it is not possible to work out fair average pre-incapacity weekly earnings for the worker under subsection 21(1) because the worker has only been employed for a short time, because of the terms of the worker's employment or for some other reason, the worker's average pre-incapacity weekly earnings may be worked out by reference to the average weekly amount being earned by</p> <p>(a) others in the same employment who perform similar work at the same grade as the worker; or</p> <p>(b) if there is no-one in the same employment – others in the same class of employment as the worker, who perform similar work at the same grade as the worker.</p> <p>Overtime is to be taken into account in working out average pre-incapacity weekly earnings or average pre-incapacity weekly hours only if</p> <p>(a) the worker worked overtime in accordance with a regular established pattern; and</p> <p>(b) the pattern was substantially uniform as to the number of hours of overtime worked; and</p> <p>(c) the worker would have continued to work overtime in accordance with the established pattern if the worker had not been injured, s25.</p> <p>For injuries resulting from a gradual onset of incapacity, if it appears that the level of the worker's average pre-incapacity weekly earnings, or average pre-incapacity weekly hours, have been affected then the worker's average pre-incapacity weekly earnings, or average pre-incapacity weekly hours, must be set at an amount that fairly represents the weekly amount that the worker would have been earning or working if the level had not been affected, s26(1) and (2).</p> <p>For contractors, average pre-incapacity weekly earnings are to be worked out as if the worker were an employee or if there is an award or industrial agreement applying to the class of work in which the worker was engaged then, by that award or industrial agreement, s22.</p>	<p>For a permanent employee:</p> <ul style="list-style-type: none"> the short-term calculation is based on earnings in the 4 weeks prior to incapacity divided by the number of weeks in which they were derived; and, the long-term calculation is based on earnings, from that job, in the 52 weeks prior to incapacity, divided by the weeks over which they were derived; and, <p>For a non-permanent employee:</p> <ul style="list-style-type: none"> the short-term calculation is based on all non-permanent employee earnings in the 4 weeks prior to incapacity, divided by the actual number of weeks in which they were derived; and, the long-term calculation is based on all non-permanent employee earnings in the 52 weeks prior to incapacity, divided by 52 <p>Any prior periods of unpaid sick leave, or time on weekly compensation, are disregarded.</p> <p>For a self employed person, entitlement is generally based on earnings in the most recently completed tax-year. Shareholder employees have a similar assessment.</p>

For end notes see Recent Developments

BENEFITS				
BENEFITS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Medical and hospital - limits	No limits - all reasonable costs.	Entitlement to medical and like services ceases 52 weeks after the entitlement to weekly payments ceases, or if compensation is payable only for medical and like services, 52 weeks after this entitlement commences. In certain circumstances, entitlement does not cease. All medical and like services are limited to payment of reasonable costs. Where death results from injury, reasonable costs of counselling for family members up to \$1,910.	\$50,000.00 or such greater amount as is prescribed or as directed by the Workers' Compensation Commission.	No limit - all reasonable costs.
Basis for medical and like service fees	Basis for payment is whether it is reasonable to obtain the service and at a cost that Comcare determines is appropriate to that service. Seacare: Appropriate amount having regard to nature of treatment. * Unless otherwise stated, information provided applies to both Comcare and Seacare	Basis for payment is reasonable costs, subject to any maximum amount specified in, or determined in accordance with, an Order of the Governor in Council Fees for medical and like services are considered for review on an annual basis	Rates prescribed by gazettal following consultation with stakeholders and provider associations. If not gazetted after determination that the medical or related treatment is reasonably necessary, fees for the treatment are according to the customary charges for the service in the general community to persons other than workers.	Rates prescribed by regulation following consultation with stakeholders and provider associations. Where possible, fees are based on the average charge to private patients. If the fee is not prescribed, the amount paid is a reasonable amount for the service.

BENEFITS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$43,768 (being 30% of the prescribed amount). In certain circumstances, at the discretion of the Conciliation and Review Directorate, an additional amount of up to \$50,000.00 may be granted.</p> <p>See Recent Developments section for further information.</p>	<p>Pre 1 April 2005:</p> <p>(a) Medical and rehabilitation: no limit – all reasonable costs.</p> <p>(b) Private hospitalisation cost for any one incident: \$10,000 limit.</p> <p>In special circumstances, a further \$10,000 may be granted</p> <p>(c) Workers' compensation scheme provided grant to public hospitals.</p> <p>From 1 April 2005:</p> <p>(a) Medical and rehabilitation: no limit – all reasonable costs.</p> <p>(b) Private hospitalisation: the insurer must pay the cost lawfully charged by the hospital.</p> <p>(c) Public hospitalisation (Queensland Health public hospitals) : Costs billed on fee-for-service basis to insurers</p>	<p>No limit - all reasonable costs.</p> <p>Entitlements cease ten years after the date the claim was lodged.</p>	<p>No limit - all reasonable costs.</p>	<p>Reasonable costs for medical treatment having regard to the charges customarily made for similar treatment, s70(1)(a).</p> <p>Total amount payable for each of the following must not be more than an amount agreed between the worker and employer or in any other case \$500 cpi indexed: for the cost of the repair or replacement of a worker's contact lenses, crutches, prosthesis, spectacles, or other artificial aid, s70(2)&(3).</p>	<p>Full costs of public health acute services are met by ACC and residual insurers, with services provided exclusively by public hospital and health services. If a treatment is other than a 'public health acute service', and is one of the types of treatment set out in regulation, then the set amount is payable. If a treatment is not regulated or covered by a contract agreement, then the actual cost is paid. Treatment must be necessary and appropriate.</p>
<p>Prescribed by regulation, following consultation and negotiation with the relevant representative associations.</p>	<p>Medical Practitioners based on Medicare Benefits Schedule, and calculated as Scheduled Fee plus 36% for all consultations and procedures.</p> <p>Allied Health and other services - Table of Costs, developed in consultation with service providers, outlines fees and conditions.</p> <p>From 1 July 2005, fees for workers' compensation medical services comprise three parts:</p> <ul style="list-style-type: none"> • the market rate as a base; • a factor to recognise the complexities involved in treating workers with a compensable injury; and • a factor to recognise the need for priority access for injured workers. 	<p>Prescribed fee, or if no fee prescribed, service provider must not charge fee in excess of fee normally charged for that service in the general community (taking into account any discount that would normally be applicable).</p>	<p>Reasonable fees for medical and like services.</p>	<p>Medical Fees: assessed having regard to the charges (includes wages lost, transport & accommodation expenses incurred by injured worker) customarily made for similar medical treatment in the place where that treatment is obtained, s 70(1)(4).</p>	<p>Acute (Hospital) services: annual levy payment to the Ministry of Health</p> <p>Primary Care Rates: Prescribed by regulation</p> <p>Elective Services: Contract with provider</p> <p>Services not covered by regulation or contract: Full cost paid</p>

BENEFITS		
BENEFITS	COMMONWEALTH*	VICTORIA
<p>Lump sum payments:</p> <p>Impairment / non-economic loss</p> <p>- Maximum</p> <p>- Thresholds</p> <p>- Method of calculating (assessing permanent impairment)</p> <p>Settlement / Redemption / Commutation</p>	<p>For both Comcare and Seacare:</p> <p>\$137,501.12 for permanent impairment. In addition, a maximum of \$51,562.96 for non-economic loss.</p> <p>No award below 10% assessed impairment (exceptions for fingers, toes, hearing, taste and smell).</p> <p>Whole-person impairment assessed according to approved guides for permanent impairment and non-economic loss</p> <p>Permanent impairment assessed under Guide to the Assessment of the Degree of Permanent Impairment (Separate guides available for Comcare and Seacare - but essentially identical)</p> <p>The only occasion under the SRC Act where a lump sum payout can be made is when:</p> <ul style="list-style-type: none"> • an employee's weekly incapacity payments are equal to or less than the indexed rate, and • Comcare is satisfied that the degree of the employee's incapacity is unlikely to change. <p>The indexed rate as at 1 July 2005 is \$85.96 per week.</p> <p>The redemption of the incapacity amount is calculated as per section 30(1) (or 137(1) for former employees) of the SRC Act. It does not affect any ongoing medical or rehabilitation entitlements under the Act.</p> <p>Seacare: Section 44 of the Act requires settlement where:</p> <ul style="list-style-type: none"> • an employee is receiving weekly payments for an injury resulting in incapacity • the amount of those payments is equal to or less than \$85.96 (as at 1 October 2005), and • the employer is satisfied that the degree of the employee's incapacity is unlikely to change. <p>If these conditions are met, an employer must commute weekly incapacity benefits to a lump sum calculated by a formula contained in the Act.</p>	<p>The statutory scheme changed as of 12/11/97 Entitlement depends on date of injury</p> <p>Pre 12/11/97 injury: \$104,990 In addition, maximum of \$56,400 for pain and suffering</p> <p>From 12/11/97 injury (for injuries which occur from 1 July 2005 to 30 June 2006) : \$363,660 (for impairment of more than 80% whole person).</p> <p>Pre 12/11/97 injury: Pain and suffering: no award if payment under Table of Maims < \$11,270; Hearing Loss - no award if loss is < 7%</p> <p>From 12/11/97 injury: Physical injuries; 10% whole person impairment (WPI) or 10% impairment benefit rating for those injuries which occurred on or after 3 December 2003. (Except those injuries considered as 'total loss' injuries in accordance with No Disadvantage Compensation Table) Psychiatric injuries: 30% WPI Hearing Loss: 10% National Acoustic Laboratory Standard (NAL) converted to 10% WPI; or for further injury hearing loss claims 1% NAL converted to 1% WPI only if the prior injury hearing loss and the further injury hearing loss together equate to a 10% or more NAL converted WPI (eg the worker is required to meet the 10% threshold at least once).</p> <p>Pre 12/11/97 injury: Old Table of Maims applies.</p> <p>From 12/11/97 injury: Physical impairment - assessed under American Medical Association Guides to the Evaluation of Permanent Impairment, 4th edition. Psychiatric impairment - assessed in accordance with the Clinical Guidelines to the Rating of Psychiatric Impairment prepared by the Medical Panel (Psychiatry) Melbourne Victoria, Oct 1997 and published in the Government Gazette (No.587 Friday, 28 August 1998). Hearing impairment assessed using the Improved Procedures for Determination of Percentage Loss of Hearing (1998 Edition or a later prescribed edition), published by the National Acoustics Laboratory.</p> <p>The Accident Compensation Act 1985 allows for the voluntary settlement of weekly benefits in a lump sum in some circumstances. This lump sum does not include medical and like expenses, which continue to be paid as required. The Act has three separate subdivisions with its own specific eligibility criteria.</p> <p>Subdivision 1 applies to a worker injured on or after 12 November 1997 and before 20 October 1999 and who: is receiving, or entitled to receive, compensation under the Accident Compensation Act 1985; has no current work capacity; and is likely to continue indefinitely to have no current work capacity; has been receiving weekly payments for at least 104 weeks and has been assessed, in accordance with the Act, as having a 30% or more whole person impairment.</p> <p>Subdivision 2 was only available for expressions of interest received between 8 April 2002 and 8 July 2002 (unless worker can demonstrate that "special circumstances" prevented time limit being met). Applied to workers injured on or after 4.00 pm on 31 August 1985 and before 1 December 1992.*</p> <p>Subdivision 3 applies to a worker who is receiving, or entitled to receive, compensation under the Accident Compensation Act 1985; and is over the age of 55 years; has no current work capacity; and is likely to continue indefinitely to have no current work capacity; has been receiving weekly payments for at least 104 weeks;</p> <p>OR</p> <p>has a serious injury within the meaning of s93B(5) of the Act; and has been receiving weekly payments for at least 104 weeks.</p> <p>* Further criteria are available in s116 of the Accident Compensation Act.</p>
	<p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	

BENEFITS	
NEW SOUTH WALES	SOUTH AUSTRALIA
<p>For injuries received on or after 1 Jan 2002 when the degree of permanent impairment is 75% or more, the amount of permanent impairment compensation is \$200,000. The worker can also receive a maximum of \$50,000 for pain and suffering.</p> <p>If the claim was made on or after 12 January 1997, but before 1 Jan 2002, the most the worker can receive for a permanent loss is \$100,000 for a single permanent loss, or \$121,000 for a multiple permanent loss. The most the worker can receive for pain and suffering is \$50,000.</p> <p>A minimum level of permanent impairment must be present before compensation payments are made. For permanent impairments, the minimum levels are greater than 1% of the whole person. However, for psychiatric and psychological impairment there is a 15% threshold, and for hearing loss claims a minimum level of 6% binaural hearing loss must be present.</p> <p>For injuries received prior to 1 January 2002, the degree of permanent impairment is assessed using the Table of Disabilities. For injuries received on or after 1 January 2002, the degree of permanent impairment is assessed on a whole-of-person basis, using the WorkCover Guides for the Evaluation of Permanent Impairment (available from WorkCover's website, www.workcover.nsw.gov.au)</p> <p>Settlements of future entitlements to weekly benefits (known as 'commutations') are allowed, by agreement of the worker and the insurer. From 9am on 27 November 2001, new procedures were adopted for the commutation of workers' compensation benefits, regardless of the date of injury or the date the claim for compensation was made</p> <p>WorkCover must now certify that a number of conditions, which are listed in Section 87EA(1) of the Workers' Compensation Act 1987, have been met before a commutation can be registered by the Workers' Compensation Commission.</p> <p>A commutation is only available under the following circumstances:</p> <ul style="list-style-type: none"> • the injured worker must have a permanent impairment that is at least a 15% whole person impairment • compensation for permanent impairment and pain and suffering has been paid • the worker must be entitled to ongoing weekly benefits and must have received weekly benefits regularly and periodically during the previous six months • it is more than two years since the worker first received compensation for the injury • all opportunities for injury management and return-to-work have been exhausted • weekly benefits have not been stopped or reduced as a result of the worker not cooperating with the injury management plan • the worker has received independent legal advice • the insurer and worker must agree with the commutation • WorkCover must agree with the commutation • all agreements must be registered with the Workers Compensation Commission 	<p>For non-economic loss \$127,200 in 2004.</p> <p>If the lump sum assessment exceeds 55% of the prescribed sum (\$127,200), a supplementary benefit of up to \$85,860 is available.</p> <p>5% (hearing loss only)</p> <p>Assessed under 3rd Schedule (Table of Maims) based on medical opinion, or medically assessed under American Medical Association Guides (3rd Edition revised).</p> <p>Disability not listed in 3rd Schedule or in AMA guides not eligible for assessment.</p> <p>No assessment for psychiatric impairment.</p> <p>Liability for weekly payments and/or medical expenses may be redeemed by a capital payment to the worker.</p> <p>Redemptions require worker and Corporation collaboration and agreement.</p>

BENEFITS		
BENEFITS	WESTERN AUSTRALIA	QUEENSLAND
<p>Lump sum payments:</p> <p>Impairment / non-economic loss</p> <p>– Maximum</p>	<p>Prescribed amount is \$145,892.00 (less any amount paid in weekly benefits) for workers with a permanent disability.</p>	<p>From 1 January 2005 – The total amount payable for lump sum compensation is up to \$182,620. The worker is also entitled to weekly benefits up to \$182,620.(except for payments for injuries resulting in death). After a decision to accept offer of lump sum, all compensation ceases.</p> <p>Additional lump sum payments: A worker sustaining an injury resulting in a work-related impairment (WRI) of 50% or more is entitled to an additional lump sum of \$182,620¹³. Also entitled to a lump sum for gratuitous care if the injury results in a WRI of 15% and moderate/total level of dependency for daily care. Amount payable up to \$226,555.</p>
<p>– Thresholds</p>	<p>None, except for claims related to hearing loss.</p>	<p>No</p>
<p>– Method of calculating (assessing permanent impairment)</p>	<p>Medically assessed as a percentage of a maximum amount payable under Schedule 2 (Table of Compensation Payable) where an injury by accident results in a permanent loss of function.</p>	<p>Assessed in accordance with the AMA Guide (4th edition); psychiatric and psychological injuries assessed by a Medical Assessment Tribunal; industrial deafness injuries by an audiologist. If, as a result of assessment, a worker is entitled to lump sum compensation, the amount of the lump sum compensation is calculated as per Schedule 2 of the Worker's Compensation and Rehabilitation Regulation 2003, having regard to the worker's degree of permanent impairment and the Table of Injuries.</p>
<p>Settlement / Redemption / Commutation</p>	<p>A lump sum redemption, for future loss of weekly wages as a result of an injury, is available, subject to the following conditions:</p> <ul style="list-style-type: none"> • the worker must have a permanent total or partial incapacity; • the worker must have been in receipt of weekly payments for not less than 6 months; • the worker and employer agree to the redemption and the amount of the lump sum; and • the Director of Dispute Resolution is satisfied the worker is aware of the consequences of redeeming their claim. 	<p>Insurer's liability to make weekly payments of compensation to a worker may be discharged by a redemption payment of an amount agreed between WorkCover and the worker. For such a redemption payment to be considered, WorkCover must receive a report from the doctor stating that the worker's injury is not stable and stationary for the purposes of assessing permanent impairment, and:</p> <ul style="list-style-type: none"> • the worker has been receiving weekly payments of compensation for at least two years, or • the worker moves interstate permanently, or • the worker stops ordinarily residing in Australia. (Entitlement to compensation ceases in this instance). <p><i>For end notes see Recent Developments</i></p>

BENEFITS			
TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$187,725.06 for permanent impairment (indexed January each year).</p> <p>No award below 5% whole-person impairment for physical impairment, except for impairment involving the loss of a finger or toe. No award for psychiatric impairment of less than 10% whole-person impairment.</p> <p>Whole-person impairment assessed according to guidelines issued by the WorkCover Tasmania Board or, if no such guidelines are issued, the AMA Guides (4th Edition) or such other methods as may be prescribed.</p> <p>Section 39 of the Workers Rehabilitation and Compensation Act 1998 allows the settlement of a claim by agreement where:</p> <p>(a) the injury is stable and stationary, and</p> <p>(b) 12 months has elapsed since the lodgement of the claim.</p>	<p>\$201,011.20 for permanent impairment.</p> <p>No award below 5% whole-person impairment</p> <ul style="list-style-type: none"> • 5-9%: 2% of maximum • 10-14%: Sliding scale to 12% of maximum • 15-84%: True % of maximum • > 84% :Maximum amount (Statutory maximum = 208x AWE) <p>Whole-person impairment assessed according the American Medical Association's Guides (4th Edition).</p> <p>Under NT legislation there is provision for lump sum payments for commutation.</p> <p>Section 74 of the Work Health Act provides for the commuting of weekly benefits to a lump sum, calculated to a maximum amount of 156 times a particular worker's NWE or 156 times AWE (whichever is the greater amount) at the time the payment is made.</p> <p>This is only for a worker who is not totally incapacitated for work and where rehabilitation is complete. It does not include medical and like expenses, which continue to be paid as required.</p>	<p>A single loss amount means \$110,033.13 cpi indexed rate for October 2004 quarter, s49.</p> <p>Maximum loss amount means \$165,049.70 cpi indexed rate for December 2005 quarter, s50.</p> <p>No</p> <p>Assessed according to the American Medical Association Guides to the Evaluation of Permanent Impairment (5th edition); and New South Wales WorkCover Guides for the Evaluation of Permanent Impairment (1st edition), (other than a vision related injury)</p> <p>Vision related injuries assessed according to the American Medical Association Guides to the Evaluation of Permanent Impairment (4th edition)</p> <p>This is generally a matter of negotiation between the injured worker and the employer/insurer.</p>	<p>Lump-sum compensation for permanent impairment injury occurring after 1 April 2002. Maximum award is \$107,003.29. No award if impairment is less than 10% as assessed using AMA Guides 4th Edition.</p> <p>For injury prior to 1 April 2002, an independence allowance may be payable, if impairment is greater than 10%.</p> <p>From 1 April 2002, a spouse of a person killed in an accident can apply to have weekly compensation commuted.</p> <p>The Independence Allowance can be capitalized for periods of 5 years.</p> <p>Assessed impairment of 10% using the AMA Guides (4th Edition).</p> <p>N/A</p>

BENEFITS				
BENEFITS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Death benefits	<p>For both Comcare and Seacare: \$206,251.69 Plus \$68.73 per week for each dependent child.</p>	<p>Pre 12/11/97: \$134,430.00 Plus an additional lump sum payments for dependent children.</p> <p>From 12/11/97: \$212,070 Plus pre-injury earnings-related pensions to dependent partner and children.</p> <p>Payable to partner for 3 years, and children until age of 16 (or 21, if in full-time study).</p> <p>Funeral expenses of up to \$9,000.</p>	<p>\$307,100 Plus \$96.50 dependent child (per week)</p> <p>Funeral expenses of up to \$9,000 from 19/11/04.</p>	<p>\$213,060 at 1/10/05</p> <p>NB: Lump sum available for spouse. Also available for dependent orphan children (up to 50% of maximum)</p> <p>Minus any amount granted for non-economic loss</p> <p>Plus weekly benefit for dependants:</p> <ul style="list-style-type: none"> • spouse (50% of WAVE) • children (orphans, up to 25% of WAVE; non-orphans up to 12.5%) <p>Dependent relatives (not being a spouse or a child) may be entitled to compensation by way of a lump sum or weekly payments as determined by WorkCover Corporation.</p>
Common law rights	<p>Most common law rights abolished</p> <p>Comcare: from December 1988</p> <p>Seacare: from June 1993</p>	<p>Common law rights were available for injuries that occurred before 12/11/97 or after 19/10/1999, in accordance with thresholds (see p.32)</p> <p>Between these dates only available for the death of the worker under the Wrongs Act</p>	<p>The threshold of permanent impairment on a whole-of-person basis for making a common law claim is 15%. Refer to the WorkCover Guides for the Evaluation of Permanent Impairment.</p> <p>Lump sum compensation for permanent impairment is paid under the statutory scheme.</p>	<p>Common law rights against employer abolished for injuries occurring on or after 3 December 1992.</p>
Maximum	<p>No ceiling to third-party actions or those made by dependants</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Pecuniary Loss: \$1,023,300</p> <p>Pain and Suffering: Pre 12/11/97 \$404,900 From 20/10/99 \$445,520 Wrongs Act: \$675,070</p>	<p>Common law damages for an injured worker are only awarded in respect of lost wages and future loss of earnings.</p>	<p>N/A</p>

BENEFITS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$145,892</p> <p>Minus amount paid as weekly payments prior to worker's death.</p> <p>Plus \$38.30 per week for each dependent child up to the age of 16 years (or 21 if a student).</p> <p>Funeral expenses of \$7,241 available.</p>	<p>Maximum of \$313,735¹⁴</p> <p>Minus amount paid for weekly benefits or lump sum compensation</p> <p>Plus lump sum payment of \$11,430¹⁵ for each dependent child, and weekly payments of 7%¹⁶ of QOTE (currently \$64.78) until the age of 16 years (or 21 if student).</p> <p>Lump sum payment of \$17,235¹⁷ payable to parents if the deceased is under 21 years of age with no dependants.¹⁸</p> <p><i>For end notes see Recent Developments</i></p>	<p>\$187,725.06</p> <p>(Weekly payments paid/payable prior to death are not included in the lump sum calculation).</p> <p>Plus pre-injury earnings-related payments to dependent spouse for two years, and weekly allowance for each dependent child until age 16 or 21, (if in full-time study).</p>	<p>\$251,264</p> <p>Plus \$96.64 per week for each dependent child (maximum of 10)</p>	<p>\$165,049.70 CPI indexed for Dec 2005 quarter</p> <p>Funeral expenses: \$4,401.33 CPI indexed for Dec 2005 quarter</p> <p>Plus: \$55.02 CPI indexed per week for each dependent child (s 77)</p>	<p>The surviving spouse of an earner is entitled to receive 60% of the long-term rate of weekly compensation that the earner would have received if they had lived. Each surviving child, and other dependant, is entitled to receive 20% of the weekly compensation. If the total entitlement of the survivors exceeds 100%, individual entitlements are reduced on a pro rata basis</p> <p>Also payable:</p> <ul style="list-style-type: none"> • funeral grant of NZ\$4,815.15 • survivor's grant of NZ\$5,162.47 to a spouse of the deceased • survivor's grant of NZ\$2,581.24 to each child or other dependant • child care payments of NZ\$109.78 for a single child, NZ\$65.86 each if there are 2 children, and a total of NZ\$153.69 if there are 3 or more children
<p>Common law rights are available in accordance with the threshold requirements.</p>	<p>Common law rights are available in accordance with the requirements outlined on page 33.</p>	<p>Common law rights are available in accordance with the threshold and requirements outlined below.</p>	<p>Common law rights against employer or fellow worker abolished for injuries occurring after 1 January 1987.</p>	<p>Common law rights available</p>	<p>Abolished when the scheme was introduced in 1974</p>
<p>Unlimited for workers with a disability assessed as 30% or more.</p> <p>For workers with 'significant disability' (not less than 16%, but less than 30%), a maximum of \$306,375</p> <p><i>See Recent Developments</i></p>	<p>Unlimited</p>	<p>Unlimited (less any amount received as compensation)</p>	<p>N/A</p>	<p>Unlimited</p>	<p>N/A</p>

BENEFITS				
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Type of loss	<p>Non-economic loss limited to \$110,000</p> <p>Seacare: \$138,570.52</p> <p>Unlimited amount for claim by dependants</p> <p>Election between statutory amounts for permanent impairment and non-economic loss</p>	Economic and non-economic	Economic only	N/A
Threshold for common law	<p>Subject to state/territory legislation</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Impairment threshold Injury before 12/11/97 Actions available for 'seriously injured' workers whether through narrative test or ≥ 30% impairment (AMA2)</p> <p>Injuries between 12/11/97 and 19/10/99 No common law available</p> <p>Injury from 20/10/99 Actions available for 'seriously injured' workers, whether through narrative test or ≥ 30% impairment (AMA4)</p> <p>Minimum monetary threshold</p> <p>Pecuniary Loss: \$45,460</p> <p>Pain and Suffering:</p> <ul style="list-style-type: none"> • If injury before 12/11/97 \$39,900 • If injury from 20/10/99 \$43,900 	<p>If a worker wishes to pursue a damages claim, they must be able to prove that their employer was negligent and that their injury was their employer's fault. The worker will need to obtain an assessment from a trained medical assessor to determine if they are over the 'serious injury' threshold. If the worker has more than 15% permanent impairment (using the WorkCover Guides for the Evaluation of Permanent Impairment), they may then commence common law action.</p>	N/A

BENEFITS					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
Economic and non-economic loss.	Economic and non-economic loss.	Economic and non-economic loss.	N/A	Economic and non-economic loss.	N/A
<p>Disability thresholds assessed in accordance with Schedule 2 or if Schedule 2 does not apply the AMA Assessment of Disability Guide.</p> <p>Common Law Access</p> <p>Access to common law is only available if:</p> <p>a) The claimant can demonstrate a degree of permanent disability not less than 16% but less than 30% (in which case the claimant must 'elect' within six months of payment commencing whether to pursue a common law claim or receive statutory benefits)</p> <p>OR</p> <p>b) A degree of permanent disability of 30% or more. Workers with injuries assessed at this level are entitled to keep receiving statutory benefits while pursuing a common law claim.</p> <p>New statutory criteria apply to causes of action arising on or after 14 November 2005. See 'Recent Developments'.</p>	<p>A worker who sustains work related impairment (WRI) of at least 20% or more of statutory maximum compensation is entitled to lump sum compensation and access to common law.</p> <p>A worker who sustains a WRI of less than 20% of statutory maximum compensation must make an irrevocable election between accepting the lump sum compensation offered or access to common law.</p>	<p>Common law access available only if it is agreed or determined that the worker has a degree of permanent impairment of at least 30% whole person impairment.</p> <p>A worker is required to elect to claim common law damages within two years of the date that the claim for compensation is given to the employer.</p> <p>Statutory benefits continue to be paid after the election.</p>	N/A	No	N/A

STATUTORY RESPONSIBILITIES

STATUTORY RESPONSIBILITIES		
	COMMONWEALTH*	VICTORIA
<p>Return-to-work (RTW) provisions:</p> <p>– Employer responsibilities</p>	<p>An employer is required to provide an injured worker with suitable employment within the Commonwealth until the date of separation and that employment is usually the worker's original position and hours of work.</p> <p>Comcare has developed a model of occupational rehabilitation to assist employers to meet their responsibilities under the SRC Act. Effective occupational rehabilitation is a managed process, combining early intervention with appropriate, adequate and timely services, based on the assessed needs of the individual.</p> <p>The key elements of Comcare's occupational rehabilitation model are:</p> <ul style="list-style-type: none"> • the return-to-work activity should commence as soon as possible after injury; • the employee's workplace and specific duties are the focus of the planned return-to-work activities; • the employer is responsible for the close management and monitoring of return-to-work programs, in consultation with treating health professionals and specialist rehabilitation providers; • employees are required to actively participate in the development and implementation of their return-to-work programs; and, • the employer takes action to ensure further workplace injuries are prevented. <p>Seacare: Employer required to take all reasonable steps to provide worker with suitable employment</p>	<p>If an employer has an annual payroll of \$1 million or more, they must appoint a return to work co-ordinator and develop an occupational rehabilitation program with their workers. The program must be displayed in the workplace or each worker given a copy.</p> <p>Employers must prepare a return to work plan (inclusive of an offer of suitable employment where the injured worker has a capacity for work) and nominate a return to work coordinator for any injured worker with an incapacity for work no later than 10 days after a claim being accepted or determined in the worker's favour, or the employer becomes aware that the worker's period of incapacity is likely to exceed 20 days (whatever the size of the business).</p> <p>Employers must offer pre-injury equivalent or suitable employment to an injured worker within 12 months of the claim being accepted or determined in the worker's favour.</p> <p>Failure to comply with the return to work and rehabilitation requirements can result in substantial fines.</p>
<p>– Worker responsibilities</p>	<p>Benefits may be suspended if worker fails to comply with, or obstructs a rehabilitation program or medical examination.</p> <p>Seacare: Benefits may be suspended if the worker is not cooperative in rehabilitation or refuses to be medically examined.</p>	<p>A worker is required to make 'reasonable efforts' to return to work, including:</p> <ol style="list-style-type: none"> (a) participating in rehabilitation or RTW plan, (b) participating in assessments of incapacity, rehabilitation progress and employment prospects; and, (c) complying with request to provide information, including medical reports, as to current nature and extent of injury and incapacity. <p>Benefits may be terminated if worker fails to comply.</p>
	<p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	

STATUTORY RESPONSIBILITIES	
NEW SOUTH WALES	SOUTH AUSTRALIA
<p>The Workplace Injury Management and Workers' Compensation Act 1998 provides that an employer must:</p> <ul style="list-style-type: none"> • notify insurers of all work related incidents that involve a worker, where workers compensation is or may be payable, within 48 hours the insurer will notify WorkCover. For serious incidents, WorkCover must also be contacted immediately; • participate and cooperate in the establishment of an injury management plan for the injured worker; • comply with the provisions of the insurer's Injury Management Program and any Injury Management Plan established for an injured worker; • if a Category 1 employer (i.e. a base tariff premium of over \$50,000), employ a Rehabilitation Coordinator who has undertaken approved training; and, • provide suitable employment (if reasonably practicable to do so) on request from partially incapacitated workers. <p>An employer may be in breach of the Industrial Relations Act 1996 if:</p> <p>(a) the employer dismisses the employee due to a work-related incapacity; and,</p> <p>(b) the dismissal is within 6 months of the incapacity occurring.</p> <p>If the employer offers a dismissed injured employee's position to a replacement employee, the employer must advise the replacement employee that the injured employee may be re-instated to that position within two years of the date of injury.</p> <p>Workers must:</p> <ul style="list-style-type: none"> • notify their employers of an injury as soon as possible; • participate and cooperate in the establishment of an Injury Management Plan (if significant injury); • comply with the obligations imposed by the Injury Management Plan; • nominate a treating doctor who is prepared to participate in the development and arrangements under the Injury Management Plan; • authorise the treating doctor to provide relevant information to the insurer and employer; and, • make reasonable efforts to return to work with the pre-injury employer as soon as possible, having regard to the nature of the injury. <p>Failure to unreasonably comply with any of the above, after being requested to do so by the insurer, can result in suspension or cessation of weekly payments.</p>	<p>The onus is on the pre-injury employer, where reasonably practicable, to provide suitable employment for which the worker is fit.</p> <p>The pre-injury employer is also required to provide 28 days notice to WorkCover Corporation and the worker of their intention to terminate the worker's contract of employment. (The notice period to the worker may vary where a federally certified agreement is in operation).</p> <p>This ensures that the onus to provide suitable employment is not avoided.</p> <p>These provisions are a general obligation on all employers (registered or self insured) and is not time limited.</p> <p>Exceptions to these legislative obligations exist for example where the employer employs less than 10 workers and the workers incapacity is greater than 12 months.</p> <p>Weekly benefits may be discontinued, reduced or suspended if the worker:</p> <ul style="list-style-type: none"> (a) consents to the discontinuance or reduction; (b) has ceased to be incapacitated; (c) has resumed work; (d) has obtained work paying at or above the worker's notional weekly earnings; (e) is dismissed for serious or wilful misconduct; (f) is resident outside the State or is absent from the State for two months out of twelve without the WorkCover Corporation's consent; (g) fails to submit to medical examination after written request by WorkCover Corporation; (h) fails to supply prescribed medical certificate for continuing incapacity; (i) fails to submit to proper medical treatment; (j) refuses to participate in, or frustrates a rehabilitation or RTW plan; (k) refuses to do suitable work or take reasonable steps to find suitable work, or unreasonably discontinues work, or; (l) anything else that is recognised as a breach of mutuality.

STATUTORY RESPONSIBILITIES			
	WESTERN AUSTRALIA	QUEENSLAND	TASMANIA
<p>Return-to-work (RTW) provisions:</p> <p>– Employer responsibilities</p>	<p>Employer required to keep position open (if reasonably practical) for an injured worker for 12 months. In the event that the job is not available, or the worker cannot perform it, the employer is obliged to offer an alternative position, which the worker is able to perform.</p> <p>From 14 November 2005, employers are required to comply with new return to work and injury management provisions. See 'Recent Developments'.</p>	<p>Employers who employ 30 or more workers at a workplace must appoint a trained rehabilitation coordinator and have workplace rehabilitation policy and procedures in place.¹⁹</p> <p>The rehabilitation coordinator, and workplace rehabilitation policy and procedures, must be accredited by Q-COMP.</p> <p>Employers must take all reasonable steps to assist or provide rehabilitation and suitable duties to injured workers.</p> <p>The prescribed minimum period an employer is allowed before dismissing an employee is 6²⁰ months (Section 93 Industrial Relations Act 1999 (QLD)).</p> <p><i>For end notes see Recent Developments</i></p>	<p>Employer required to keep position open for an injured worker for 12 months, unless it is not practicable to do so, or the reason for the position no longer exists.</p> <p>Employer required to provide suitable alternative duties unless not reasonably practical to do so.</p> <p>Employer required to prepare return-to-work plan where incapacity exceeds 14 days.</p> <p>Employers with more than 20 workers required to prepare and display a rehabilitation policy.</p> <p>Employers with more than 50 workers required to provide a person who is responsible for coordinating return-to-work in accordance with the employer's rehabilitation policy (a rehabilitation coordinator).</p>
<p>– Worker responsibilities</p>	<p>Benefits may be suspended if:</p> <ul style="list-style-type: none"> • Worker does not undergo rehabilitation, as specified by WorkCover WA. • Worker refuses to attend or obstructs a medical examination requested by the employer (if refusing to attend, the injured worker has one month to attend such an exam, or benefits will cease). <p>Further worker responsibilities apply in relation to the failure to participate in a return to work program, effective from 14 November 2005. See 'Recent Developments'.</p>	<p>Worker may be required by the insurer to undertake a rehabilitation program.</p> <p>Failure to comply may result in entitlements being suspended.</p>	<p>Benefits may be terminated or reduced if a worker fails or refuses to undertake a rehabilitation program or suitable alternative duties recommended by employer.</p> <p>Benefits may be suspended if worker refuses or obstructs medical examination or treatment.</p>

STATUTORY RESPONSIBILITIES		
NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>No requirement under the Act for employer to keep a position open for injured worker but employer must take all reasonable steps to provide suitable employment and, if unable to do so, the employer must assist the worker to find alternative employment.</p>	<p>Recent amendments to the <i>Workers Compensation Act 1951</i> established a system to achieve the best result for the timely, safe and durable return to work of workers following workplace injuries, (Chapter 5). This regime places obligations upon insurers, employers, workers, and rehabilitation providers with respect to return-to-work objectives. Employers must comply with obligations imposed by their insurer's injury management program, s91. They must notify their insurer within 48 hours of becoming aware that a worker has received a workplace injury, s93(2). If an employer fails to notify their insurer of an injury within time, then the employer is liable to pay the worker weekly compensation from the end of the notification time until the employer gives the insurer the injury notice, s95.</p> <p>Employers must:</p> <ul style="list-style-type: none"> • take part and cooperate in the establishment of a Personal Injury Plan (PIP) for workers with significant injuries and comply with obligations imposed on the employer under the PIP, s100. • establish a Return-to-Work Program in relation to policies and procedures for the rehabilitation of injured workers, s109. • provide suitable employment if requested by the worker within 6 months from the day the worker became entitled to compensation, ss 105 & 106. 	<p>The <i>IPRC Act</i> has introduced a requirement for an employer to take all practicable steps to assist a claimant with their vocational rehabilitation, if ACC notifies them that it is reasonably practicable for the claimant to return to their usual employment with that employer.</p>
<p>Benefits may be terminated if there is unreasonable refusal or failure:</p> <ul style="list-style-type: none"> (a) to undertake medical, surgical and rehabilitation treatment; (b) to undertake rehabilitation training or return-to-work program; (c) to attend medical exam, provided and paid for by employer; and, (d) to provide ongoing certification of incapacity. 	<p>Workers must:</p> <ul style="list-style-type: none"> • tell the employer of an injury as soon as possible. s93(1) • participate and cooperate in the establishment of a PIP and comply with the reasonable obligations imposed upon the worker arising from that plan, including any medical or surgical treatment, rehabilitation and retraining. s101; • nominate a treating doctor who is prepared to take part in the worker's PIP. s102; • make all reasonable efforts to return to work with the pre-injury employer as soon as possible, having regard to the nature of the injury. s104; and, • where a worker fails to comply with their obligations, their weekly compensation payments may be stopped. s113 	<p>A claimant must, when reasonably required to do so by ACC or a Residual Insurer:</p> <ul style="list-style-type: none"> • provide the necessary medical certificates, and any other relevant information; • authorise ACC or the Residual Insurer to obtain medical and other records that are (or may be) relevant to the claim; • undergo assessment at ACC's or the Residual Insurer's expense; and- • cooperate with ACC or the Residual Insurer in the development and implementation of an individual rehabilitation plan, and participate in rehabilitation. <p>ACC or a Residual Insurer may suspend a statutory entitlement if it is not satisfied, on the basis of the information in its possession, that a claimant is entitled to continue to receive it. ACC or a Residual Insurer may decline to provide an entitlement for as long as a claimant unreasonably refuses or unreasonably fails to:</p> <ul style="list-style-type: none"> • comply with any requirement of this Act relating to their claim, or • undergo medical or surgical treatment, to be provided by ACC or the Residual Insurer, for his or her personal injury, or • agree to, or comply with, an individual rehabilitation plan.

STATUTORY RESPONSIBILITIES				
STATUTORY RESPONSIBILITIES	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Incentives for new employers of injured workers	<p>Comcare: No direct financial subsidy scheme; the original employer subsidises any income loss</p> <p>Seacare: No direct financial subsidy scheme</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>WISE (WorkCover Incentive Scheme for Employers)</p> <p>Scheme is for new employers (other than injury employer) who employ workers ready to return to work but unable to do so with injury employer.</p> <p>Includes the following incentives:</p> <p>(a) a subsidy of up to \$14,860; and,</p> <p>(b) protection from premium impacts if the worker has a new or recurring injury.</p>	<p>JobCover Program</p> <p>Program offers to new employers:</p> <p>(a) up to \$300.00 training/employment allowance per week</p> <p>(b) a premium exemption for employer for first 12 months of employment on injured worker's wages; and,</p> <p>(c) costs of any claim within 12 months relating to the existing injury, excluded from experience-based premium adjustments.</p> <p>Work Trial</p> <p>Places an injured worker for a short period of time (maximum of 12 weeks) with a host employer when the worker's pre-injury employer is unable to develop suitable duties. It provides increased workplace-based opportunities for injured workers to develop marketable skills and upgrade their physical and psychological capacity for work. An injured worker may participate in one or more Work Trials.</p> <p>Retraining</p> <p>WorkCover funds the retraining of injured workers. These funds do not form part of the injured worker's claims costs.</p> <p>Expenses covered include course fees, travel, HECS, accommodation, text books and stationery, and equipment.</p> <p>Equipment</p> <p>Provides injured workers with essential equipment or workplace modifications to return to suitable employment or to safely and successfully participate in training.</p>	<p>RISE (Re-employment Incentive Scheme for Employers)</p> <p>Scheme offers new employers of injured workers the following:</p> <p>(a) gross wage subsidy of 75% for 3 months (excluding overtime);</p> <p>(b) gross wage subsidy of 40% for the next 3 months (excluding overtime);</p> <p>(c) a retention bonus of up to \$2,000 if the worker is employed for longer than 12 months;</p> <p>(d) protection from employer levy penalty and the first two weeks' income maintenance for that worker, if they suffer an aggravation of the pre-existing condition (up to two years);</p> <p>(e) an allowance of up to \$1,000 for appropriate training; and,</p> <p>(f) reasonable workplace modification cost.</p>

STATUTORY RESPONSIBILITIES					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
No direct financial subsidy scheme	<p>No direct financial subsidy scheme.</p> <p>Suitable duties plan.</p> <p>(a) Total incapacity: When a worker returns to work on a graduated return to work (RTW) program, the insurer may be responsible for wages paid for an agreed period. The employer is encouraged to pay wages according to partial incapacity as at (b).</p> <p>(b) Partial incapacity: When a worker returns to work on a graduated RTW program. The employer is responsible for wages paid for the hours worked, with the insurer paying the difference.</p> <p>Exempt employer policy (of WorkCover Queensland only): Host employer of injured worker is not responsible for aggravation or exacerbation of same injury for period of six months.</p>	No direct financial subsidy scheme	<p>Alternative Employer Incentive Scheme</p> <p>The scheme provides:</p> <p>(a) that the new employer be indemnified by the original employer for any aggravation, acceleration or exacerbation of the injury that occurs within one year of the worker commencing employment with the other employer; and,</p> <p>(b) monetary incentives for the new employer.</p>	Second injury arrangements are available to encourage the employment of injured workers. s108 (1)	<p>No direct financial subsidy scheme</p> <p>However, recovery of costs can be made from previous insurer if the effects of new injury are exacerbated by a previous injury.</p>

DISPUTE RESOLUTION

DISPUTE RESOLUTION				
	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
	<p>The SRC Act provides that when a party is not satisfied with an initial decision made in relation to their worker's compensation claim, they may request an internal reconsideration. Should a dispute still exist following the reconsideration process, then a party may apply to the Administrative Appeals Tribunal (AAT) for a review of the decision.</p> <p>The AAT's 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'. The AAT can also make determinative decisions. A party may apply from the AAT to the Federal Court on questions of law.</p> <p>Seacare: The Seafarers Act provides for a claimant who is dissatisfied with an employer's determination to seek a reconsideration of the determination. Should a dispute still exist after the reconsideration process, then the claimant may apply to the Administrative Appeals Tribunal for review of such a decision.</p> <p>* Unless otherwise stated, information provided applies to both Comcare and Seacare</p>	<p>Court proceedings must not be commenced (except in the case of a fatality or claims for compensation under the table of maims) unless the dispute has been referred for conciliation.</p> <p>A referral for conciliation must be lodged within 60 days of the decision to decline liability. The Senior Conciliator may extend the time for lodgement.</p> <p>Disputes are referred to conciliation officers. A conciliation conference may be held to attempt to resolve the dispute.</p> <p>If the dispute is resolved by agreement, a conciliation officer will issue a certificate outlining the agreement. Failing agreement, a conciliation officer may give directions, make recommendations or decline to give directions or make recommendations.</p> <p>A direction of a conciliation officer is binding on the parties unless subsequently revoked by that conciliation officer, another conciliation officer or the County Court.</p> <p>Where a claimant has taken all reasonable steps to attempt settlement of the dispute but agreement cannot be reached, a conciliation officer will issue a certificate permitting the claimant to commence court proceedings.</p> <p>Unless the County Court orders otherwise, a dispute can be conciliated notwithstanding that court proceedings have been commenced.</p> <p>The Magistrates Court deals with claims up to \$40,000.00 and claims for arrears of weekly compensation up to 104 weeks. The County Court deals with all other claims.</p> <p>Medical Panels During the conciliation process, a conciliation officer may refer medical questions to a medical panel. The County Court and the Magistrates Court are required to refer medical questions to a medical panel if requested by either party</p> <p>A medical panel is constituted by one or more medical practitioner members (up to a maximum of 5 members) as is required to assess the injuries of the claimant.</p> <p>A medical panel is not bound by rules of evidence but may inform itself as it thinks fit.</p> <p>A panel is required to provide an opinion on a medical question in respect of an injury within 60 days of the referral.</p> <p>The opinion of a medical panel is final and conclusive.</p> <p>Appeals against a medical panel opinion are by way of administrative law review or judicial review to the Supreme Court.</p> <p>Appeals from decisions of the Magistrates Court are to the Supreme Court and appeals from the County Court are to the Court of Appeal.</p>	<p>The Workers Compensation Commission (the Commission) is an independent Statutory Tribunal, that commenced on 1 January 2002. The Commission deals with disputed workers compensation claims in NSW (except for coal miners).</p> <p>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>There are no fees. Parties may be represented by a legal representative or agent.</p> <p>The Commission is headed by a President, and comprises Deputy Presidents, a Registrar and Arbitrators.</p> <p>Arbitrators are required to be legally qualified, or have skills, qualifications and experience in workplace injury management. They are required to use their best endeavours to enable parties to reach their own agreement, prior to determining a dispute.</p> <p>Approved Medical Specialists (AMS) are appointed to assess medical disputes.</p> <p>Appeal provisions exist both in relation to decisions of Arbitrators and Approved Medical Specialists, under limited grounds. Appeals against the decision of an Arbitrator are determined by a Presidential member; appeals against the assessment of an AMS are determined by an Appeal Panel comprising 2 Approved Medical Specialists and 1 Arbitrator.</p> <p>Further information about the Commission is located on www.wcc.nsw.gov.au or by contacting 1300 368 040.</p>	<p>Reconsideration Disputed claim determinations must be considered by an officer who was not involved in the original decision. A reconsideration must be conducted within 7 days of being requested.</p> <p>Conciliation An independent conciliator must take appropriate steps to allow parties to reach agreement, but cannot force an agreement.</p> <p>Arbitration After a formal hearing of both sides, an arbitration officer must hand down a decision that binds both sides, subject to appeal.</p> <p>Judicial Review A Tribunal hearing before one member.</p> <p>Full Bench Appeal Appeal on a matter of law to Full Bench of the Workers' Compensation Tribunal.</p> <p>Appeal to the Supreme Court Cases stated by Full Bench of the Tribunal to Supreme Court on a question of law, or an appeal based on an alleged excess or want of jurisdiction.</p> <p>Levy The legislation also provides review rights for employers of certain decisions impacting on penalty interest, levy or fines</p> <p>These reviews are conducted under procedures determined by the Board of WorkCover Corporation.</p>

DISPUTE RESOLUTION					
WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>Conciliation and Review Directorate Includes up to 4 stages:</p> <ul style="list-style-type: none"> • Conciliation • Review • Compensation • Magistrate's Court • Supreme Court <p>Questions on medical issues, such as when there is conflicting opinion between the worker's doctor(s) and the employer's doctor(s), can be referred to a Medical Assessment Panel. The Panel also has the ability to determine the nature, extent and degree of permanency of any disability under Schedule 2.</p> <p>Note: Refer to Recent Developments section</p>	<p>Steps are:</p> <ul style="list-style-type: none"> • Internal review by the insurer • Formal review by Q-COMP • Appeal to Industrial Magistrate <p>From 22 August 2005, appeal in relation to a claim may be to either the Industrial Magistrate or Industrial Commission)</p> <ul style="list-style-type: none"> • Appeal (of Industrial Magistrate / Industrial Commission) to industrial court <p>For medical issues steps include:</p> <ul style="list-style-type: none"> • Referral to Medical Assessment Tribunal (MAT) • No appeal against a decision by MAT unless fresh medical evidence is submitted to MAT within 12 months of the MAT decision 	<p>Worker's Rehabilitation and Compensation Tribunal (the Tribunal) includes up to three stages:</p> <ul style="list-style-type: none"> • Conciliation • Arbitration • Appeal to Supreme Court on a question of law <p>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 determination of the medical panel is binding on the Tribunal.</p>	<p>Steps are:</p> <p>(a) Mediation (b) Work Health Court</p> <p>(Conciliation and directions conferences before Registrar; hearing by Magistrate if dispute unresolved.)</p> <p>Before making an application to the Work Health Court, the worker must first apply for and complete the mediation process.</p>	<p>Parts 6 and 7 of the <i>The Workers' Compensation Regulations 2002</i> prescribe procedures for conciliation and dispute resolution. The function of conciliation is to help injured workers and their employers resolve issues arising from workers' claims for compensation.</p> <p>The primary function of conciliation is to encourage and support the continuance of injury management whilst issues related to the claim are addressed. Regulation 37</p> <p>After conciliation, an injured worker or employer may file an application for arbitration. Regulation 48</p>	<p>Steps are:</p> <ul style="list-style-type: none"> • review by an independent review official engaged by ACC or the Residual Insurer • appeal to the District Court • appeal to the High Court, if leave is granted by the District Court to do so

PREMIUM SETTING

PREMIUM SETTING - INDUSTRY RATES COMPARISON TABLE ¹							
INDUSTRY AS AT 1 JULY 2005	VIC ² %	NSW ³ %	SA ⁴ %	WA ⁵ %	QLD ⁶ %	TAS %	NZ %
Average levy/premium rate	1.800	2.57	3.00	2.32	1.43	2.59	0.88
Highest (published) rate	11.790	16.20	7.50	12.78	6.922	9.95	5.95
Highest (experience rate) rate	N/A	N/A	11.25	N/A	13.844	Unlimited	N/A
Lowest (published) rate	0.310	0.31	0.40	0.40	0.160	0.62	0.08
Lowest (experience rate) rate	N/A	N/A	0.28	N/A	0.036	N/A	N/A
House construction	2.787	7.45	3.30	1.96	2.733	4.52	2.71
Non-residential construction	2.895	5.80	3.60	3.39	2.733	3.98	2.71
Meat products	11.790	4.89-10.78	7.50	8.8-9.38	6.592	8.86	5.88
Rubber products manufacturing	2.891-4	6.04-8.87	7.50	3.34-4.61	3.324	2.25	1.54
Plastic products	3.796	5.31	5.90	3.89-4.87	2.247	3.00	1.22
Basic iron and steel products	4.890	6.17	7.50	5.71	2.870	3.44	1.89
Steel casting	4.263	6.09	7.50	4.64	2.870	4.96	3.96
Steel pipes and tubes	5.073	6.11	4.80	4.07	2.870	3.44	1.89
Pulp paper and paperboard	2.565	4.42	5.10	6.04	2.247	1.92	1.12
Paints	3.009	3.93	3.20	2.59	1.759	1.92	0.76
Soap and detergents	3.819	3.92	2.50	2.08	1.759	1.92	0.66
Glass and glass products	3.000	5.86	5.20	5.02	2.478	2.79	0.93
Cement	2.118	4.22	4.70	6.82	2.038	2.25	1.61
Clothing manufacturing	4.891-6	4.99-5.33	3.50	3.26-4.11	1.311	3.44	0.77
Beer	3.067	3.93	3.00	2.29	1.675	2.57	0.64
Hotels	1.948	3.95	2.90	2.97	1.377	2.14	0.78
Bread manufacturing	4.461	4.91	7.50	5.57	2.602	4.52	0.66
Footwear manufacturing	8.226	5.53	4.90	3.82	1.311	3.44	1.05
Nursing homes	4.394	6.98	7.50	4.97	2.733	4.31	1.63
Department stores	3.278	2.70	2.40	3.06	1.248	1.70	0.38
Medical practice	0.493	0.79	0.60	0.4-0.77	0.217	0.73	0.11
Secondary schools - Private	0.896	1.00	1.30	1.08	0.440	2.68	0.19
Secondary schools - Government	1.191	N/A	1.30	1.08	0.440	2.68	0.19

Notes

¹ Apart from WA and TAS (ie NT/ACT), Industry Rates not provided for States with full private insurance underwriting.

² VIC - Industry rates are effective rates. Gazetted rates were approximately 35% lower due to transition to a new premium formula and the reduction in scheme rate.

³ NSW - Average levy/premium rate excludes GST and additional costs arising from The New Tax System.

⁴ SA - All listed rates are exclusive of GST. All other listed rates include GST and The New Tax System effects.

⁵ WA - All published and premium rates are exclusive of GST.

⁶ QLD - Published rates exclude stamp-duty and GST. Average premium rates include stamp-duty and exclude GST.

In the Comcare jurisdiction industry rates are not applicable as all employers are experience rated.

PREMIUM SETTING

NOTES TO THE INDUSTRY RATES COMPARISON TABLE

1. It is difficult to make exact comparisons between states, as such the following qualifications should be noted:
 - Industry classifications vary from jurisdiction to jurisdiction. For example, Victorian industry classifications are based on the Australian Bureau of Statistics ASIC code, and Western Australian and NSW on ANZSIC. South Australian industry classifications are based on the Australian Bureau of Statistics code and are progressively being aligned to ANZSIC, with some alterations designed specifically for SA localised conditions.
 - On 1 July 1997, Queensland introduced an industry classification system based on the ANZSIC system, with some alterations specifically designed for Queensland. The classifications have been named the WorkCover Industry Classifications. Current rates were published in an Industrial Gazette notice on 1 July 2004.
 - On 30 June 2001, NSW introduced an industry classification system based on the ANZSIC system, with some alterations specifically designed for NSW. In 2004-2005 the maximum WIC rate is capped at 15% and increases/decreases in the WIC rate are capped at 15%. Current industry classes and rates were published in a NSW Gazette notice on 24 June 2004. Refer to the Insurance Premiums order on WorkCover NSW's website, www.workcover.nsw.gov.au
 - Levy/Premium category comparisons are done on a 'best match' basis and should not be regarded as exact equivalents
 - The number of self-insurers - those companies which fund their own liability for workers' compensation claims separately from the central system - varies across the different jurisdictions. Both South Australia and New South Wales have large numbers of self-insurers, which means that the coverage of these schemes is smaller than in some other jurisdictions; New South Wales: 48 self-insurers, 18 group self-insurers, 6 specialised (or industry specific) insurers and separate arrangements covering most public sector employers; South Australia: 69 self-insurers plus most Government public service and Government instrumentalities; Victoria: 39 self-insurers; Queensland: 26 self-insurers; Western Australia: 28 self-insurers; Self insurers are not part of the premium setting process in WA.

In some jurisdictions, particular industries have traditionally been excluded from the central system. For example, in New South Wales the coal industry is excluded.

- Charges in addition to the workers' compensation premium may be levied in some jurisdictions. An example, is the Dust Diseases surcharge in New South Wales, which is levied from time to time as funding requirements for these diseases warrant. An occupational health and safety loading on assessed premium is applicable in South Australia.
 - Jurisdictions vary in their application of GST to premiums. NSW's published industry rates include the 10% GST. Other jurisdictions generally exclude GST from their published industry premium rates.
2. 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 (i.e. based on claims rate in a given period).
 - the bonus and penalty system in South Australia, which generally comprises a bonus of up to 30% of levy and a penalty of up to 50% of levy
 - the experience rating in New South Wales and Victoria is based on the size of the employer's tariff premium.
 - the extent to which insurance companies may discount or load premiums according to experience may vary. For example, amendments to Western Australia's legislation, effective from 5 October 1999, mean that recommended premium rates can be surcharged up to 100%, and with the Commission's approval can be surcharged in excess of 100%. 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, and; the lowest experience rate in Queensland, represents theoretical limits that would only rarely be reached in practice.

CALCULATION OF INDUSTRY RATES

VICTORIA

Each industry's rate is calculated based on claim cost rates and claim frequency rates over a five year period with 12 months of development. The rates are calibrated to achieve the average premium rate.

NEW SOUTH WALES

In 2004-2005, NSW had 536 industry classes. Rates are calculated by external actuaries using objective, data-based rating methodology, based on recent wages declared and claims costs. An actuarial credibility model is applied to small industry classes.

SOUTH AUSTRALIA

Each class of industry levy rate is calculated on rate relativities taking account of an employer's individual experience over a 30-month period to produce rates (within a rate scale between 0.4% and 7.5%, increasing in increments of 0.10 percentage points) that weigh claims cost and claim frequency in a ratio of 3 to 1, aligned to an overall target average levy rate.

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;
- the 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.

QUEENSLAND

The industry rates are published in an Industrial Gazette as WorkCover Industry Classification (WIC) Rates. These rates are actuarially calculated taking the industry aggregate claims performance into account, and also include a provision for outstanding claims liabilities. The average rate paid by all employers in a particular industry is used as a base rate for new employers.

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.

NEW ZEALAND

In New Zealand, there are 550 industry groups and 129 premium pools. For each industry group, the premium relativities are compared by year for the last four years. As a result of this comparison (and taking into account such things as the impact of large claims, the number of years' experiences for a new industry group, the volume of claims, etc.) the industry group will either stay within the same premium pool or be moved up or down a pool.

The premium relativity of each premium pool is the expected ultimate cost of claims expressed as a percentage of wages for the premium pool, compared with the expected ultimate cost of claims as a percentage of wages for all premium pools. The absolute level of the premium rates is set so that the expected costs of the Scheme will be met.

The premium rates shown are the fully-funded premium rates.

RECENT DEVELOPMENTS

SUMMARY OF SIGNIFICANT LEGISLATIVE CHANGES

VICTORIA

The Accident Compensation (Amendment) Act 2005 was passed in June 2005. The main objective of the Act was to protect the viability of the WorkCover scheme from the possible exit of employers to the Commonwealth's Comcare scheme. The Act amends both the Accident Compensation Act 1985 and the Occupational Health and Safety Act 2004 to allow the VWA to:

- collect a fee for the OHS regulation, education and prevention services that the VWA provides to the Victorian community, (the VWA remains responsible for the OHS regulation of those employers which exit to Comcare);
- collect data from employers which exit to Comcare to allow the targeting of OHS regulatory activity; and
- keep the liability and management of 'tail' claims for employers exiting to Comcare, but ensure that the employer bears the financial risks relating to its tail claims.

Further amendments were also made to improve the efficiency of the scheme. These include:

- amendments to allow the Court to consider a worker's ongoing entitlement to weekly payments in the absence of a formal notice from the agent;
- amendments to the hearing loss provisions which provide that a worker who suffers from a further hearing loss (above the 10% threshold) has the prior percentage hearing loss deducted from the current hearing loss before it is converted to a compensation amount. This ensures that these workers do not receive a windfall gain by virtue of the indexation of compensation amounts since their initial or prior hearing loss;
- binding the Crown to the criminal liability provisions of the Accident Compensation Act 1985;
- removing the inconsistency between the cross border treatment of claims and the liability for premium; and
- other technical amendments.

The amendments are consistent with the broad thrust of Government policy to continue a soundly administered and fully funded workers' compensation scheme.

The VWA recently conducted a review of benefits in consultation with a range of stakeholders. The scope of the review was to ensure that priority was given to issues that related directly to circumstances where injured workers could be considered to be disadvantaged by the current benefits arrangements. This review identified priority issues for legislative change.

The issues identified by stakeholders generally followed VWA's logic in identifying three areas where improvements to benefits are most deserved:

- the experience of the recently injured worker who can return to work part-time;
- the impact of the withdrawal of benefits on a long-term injured worker; and,
- the transient but increased needs of those families affected by a workers' death or very serious injury.

The VWA considered how best to respond to these issues whilst ensuring that the VWA's sound financial position was maintained.

As a result, proposals for legislative change have been developed and endorsed by the VWA Board and the Minister for WorkCover. Details of the package include:

- an increase in the level of weekly benefits for injured workers who return to work initially part-time, from 60 per cent to 75 per cent of their pre-injury salary;
- quicker access to impairment benefits for seriously injured workers;
- support for injured workers of up to an additional six months of benefits beyond the present 104 weeks (two years);
- an 18 per cent increase in death benefits to affected families;
- improved counselling services and a new case-management approach with WorkCover helping families in dealing with the Coroners Court and other agencies;

- A \$10 million return-to-work fund to support partnership programs involving employer and union groups to focus on return to work opportunities for injured workers; and,
- Up to 13 weeks in weekly benefits for workers aged 65 and older who require time off work because of medical treatment related to an earlier injury.

It is anticipated that these legislative changes will be in operation by 1 July 2006.

NEW SOUTH WALES

Workers Compensation and Other Legislation Amendment Act 2004

The Sections 163B amendment to the Workers Compensation Act 1987 commenced on 16 September 2005. This new section gives authorised officers of WorkCover power to order employers to stop work when they have a reasonable suspicion that the employer does not have a workers compensation policy that covers all employees. An employer has five working days from the issue of the order to provide a Certificate of Currency as evidence of a workers compensation policy. Employers can obtain a certificate of currency from their workers compensation agent. If a certificate is not provided within this time then the employer must cease work until such time as the certificate is provided to WorkCover and the stop work order is withdrawn.

Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005

This legislation was passed by the NSW Parliament on 30 November, 2005. To provide clarity on who is a 'worker' for the purposes of workers compensation and to improve the wage audit system, the following amendments, as contained in the Bill, commenced on and from January 2006:

Deemed Workers – Where an outworker obtains assistance to complete work and does not earn a profit from the work share arrangement, the outworker is a deemed worker. A worker who is employed under a labour hire service arrangement is a worker of the labour hire agency, even if they have signed a contract of service, unless they are conducting a genuine business or trade.

Premium Compliance – All wage audits will be conducted for the three most recently completed policy periods, where no serious non-compliance issues are identified (this policy arrangement already exists). Wage audits can only be extended beyond the three most recently completed policy periods with the approval of WorkCover. Where serious non-compliance issues are identified WorkCover may approve the conduct of an audit over a 7-year period. The late payment fee rate is to be reviewed annually and provided in the Insurance Premium Order, to ensure consistency is maintained with current market penalty rates.

Increases in Lump Sum Compensation – For 'spinal injuries' that result in permanent impairment sustained on or after 1 January 2006, an additional 5 per cent lump sum in dollar terms of benefit is payable. 'Spinal injuries' are those injuries assessed in accordance with the Spine Chapter in the WorkCover Guides.

Further amendments in the Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005, are expected to be proclaimed in 2006.

These amendments allow for the establishment of a system for WorkCover to make prospective determinations on the status of workers to improve certainty for employers, particularly small business. The determination will be a binding decision for premium purposes as to whether a person is properly classified as a worker but will not impact on whether or not a person is entitled to claim workers compensation benefits and will be inadmissible in proceedings concerning entitlement to benefit.

In legislation passed by the NSW Parliament on 30 November 2005 amendments have been made to the NSW workers compensation legislation to improve the dispute resolution process.

Cross Border Legislation, consistent with the HWCA model, has been proclaimed in NSW effective from January 1, 2006. This means that there is no entitlement to compensation in NSW other than in respect of employment that is 'connected' with NSW. Connection is determined by the following series of tests:

- A the State in which the worker usually works in that employment;
- B if no State is identified by Test A, the State in which the worker is usually based for the purposes of that employment;
- C if no State is identified by test A or B, the State in which the employer's principal place of business in Australia is located.

Once the 'State of Connection' is determined, a worker may work temporarily for the same employer under the same

term or contract of employment in another State or Territory. These arrangements do not necessarily mean that every employer will only require one policy of insurance in one state for all their workers.

WESTERN AUSTRALIA

The Workers' Compensation Reform Act (the Reform Act) was passed by the WA Parliament in October 2004 and was introduced in two stages. The first changes came into effect on 4 January 2005 and the remaining changes became effective from 14 November 2005.

Changes have been made to six main areas of the workers' compensation system, these being statutory benefits, injury management, common law, dispute resolution, medical assessments and a governing body.

The amendments served to introduce a host of legislative reforms, as well as establishing a new statutory body known as the WorkCover Western Australia Authority.

The Workers' Compensation (Common Law Proceedings) Act 2004 (the Common Law Act) was passed by the WA Parliament in October 2004 and received royal assent and proclamation on 25 October 2004. The Common Law Act addressed the unintended consequences of legal decisions through the introduction of specific retrospective amendments, to ensure workers are not disadvantaged by the effect of certain Court decisions

Some of the changes to Western Australia's workers' compensation scheme that took place on 14 November 2005 include:

Medical and Hospital – limits

A further amount of up to \$250,000 for medical and hospital costs may be granted by the Dispute Resolution Directorate in exceptional circumstances.

Death benefits

Death benefits of \$200,000 are available. Introduced on 14 November 2005, this legislative provision has been backdated to provide for claims dating from 1 July 2005.

Maximum Claim

For workers with a whole person impairment (WPI) not less than 25%, damages are not limited by statute. For workers with a 'significant disability' (injury assessed as not less than 15% but less than 25%) a maximum of \$306,375 applies.

Amendments were made to provide that a worker will not be constrained from seeking common law damages against a principal contractor described in section 175 of the Act. Effectively the provisions of the act restricting access to common law do not apply to actions against a principal contractor, even though they could be deemed an employer for statutory purposes under section 175 of the Act

Threshold for Common Law

Disability level is assessed in accordance with The WorkCover WA Guides for the Evaluation of Permanent Impairment.

In calculating the level of WPI, secondary sexual, psychological and psychiatric conditions are excluded.

Access to common law is available if:

- a) The claimant can demonstrate a degree of WPI not less than 15% but less than 25%. The claimant must elect to pursue the common law claim within 12 months of making the claim on their employer. After election, workers may continue to receive payments for a period of up to six months on the following basis:
 - Claimant receives 70 per cent of weekly earnings for the first three months.
 - Claimant receives 50 per cent of weekly payments for a further three months thereafter.
 - Weekly payments cease after six months.

OR

- b) Claimant can demonstrate a degree of WPI not less than 25%. In this case, the claimant must elect to pursue a common law claim within 12 months of making the claim on the employer. Weekly payments and any other statutory entitlements continue after election.

Statutory Responsibilities – Return to Work

- Employers must establish and implement injury management systems and return to work programs for individual workers. Injury management systems and return to work program must be in accordance with the Workers' Compensation Code of Practice (Injury Management) 2005.
- In the event the injured worker's employment is to be terminated, the employer is required to give the injured worker 28 days notice and notify WorkCover WA.
- Employees who are taken into legal custody may have any weekly payments suspended.
- Worker may have payments suspended for failure to participate in return to work program.

Dispute Resolution

A new Dispute Resolution Directorate is in operation. Under the new system, arbitrators undertake both conciliation and arbitration and a Commissioner hears appeals against decisions of arbitrators on matters of law.

Legal practitioners are to represent parties at any stage in the process in most cases.

The Dispute Resolution Rules are much more extensive than those that operated prior to November 14 2005. There are now approved forms for applications and replies to applications. There are clear filing requirements and timelines applicable to the progress of applications. The intention is to establish full and frank exchange of information between the parties as early as possible in the proceedings so as to promote early settlement and reduce the need for adjournments.

There is a completely new scheme for the awarding and suspension of interim weekly payments and statutory allowances and for the expedited determination of minor claims. These applications are now made and determined under Part XII of the Act. The intention is that separate, much simpler procedures will apply to these type of applications.

QUEENSLAND

End notes

- 1 From 1 July 2006, the premium rate is \$1.20.
- 2 From 2 November 2005, for licence renewal the net tangible assets is a minimum of \$90M, provided self-insurer can demonstrate they have a strategy to regain the NTA requirement
- 3 From 2 November 2005, OHS performance criteria aligns with AS4801, rather than TriSafe.
- 4 From 2 November 2005, a licence may be renewed for up to 4 years.
- 5 From 2 November 2005: ≤ 26 weeks: workers not under industrial instrument – the greater of:
 - (a) 85% of NWE
 - (b) 80% of QOTE
- 6 From 2 November 2005: > 26 weeks to <52 weeks: workers under industrial instrument – the greater of:
 - (a) 75% of NWE
 - (b) 70% of QOTE
- 7 From 2 November 2005: workers not under industrial instrument – the greater of:
 - (a) 75% of NWE
 - (b) 70% of QOTE
- 8 From 2 November 2005: >52 weeks < 104 weeks: all workers – the greater of:
 - (a) 65% of NWE
 - (b) 60% of QOTE
- 9 From 2 November 2005, the total amount payable for weekly benefits was increased to \$200,000.
- 10 From 2 November 2005, the total statutory maximum payable amount was increased to \$200,000.
- 11 From 2 November 2005, the entitlement to lump sum compensation was increased to \$200,000.
- 12 From 2 November 2005, the lump sum payment for impairment/non-economic loss was increased to \$200,000.
- 13 From 2 November 2005, the additional lump sum payment for work-related injury of 50% or more was increased to \$200,000.
- 14 From 2 November 2005, the maximum death benefit was increased to \$374,625.
- 15 From 2 November 2005, the lump sum death benefit payment for each dependent child increased to \$20,000.

- 16 From 2 November 2005, the weekly death benefit payment if child (under 16) or student (under 21) was increased to 10% of QOTE.
- 17 From 2 November 2005, the lump sum death payment if deceased under the age of 21 with no dependents was increased to \$22,500.
- 18 From 2 November 2005, the following additional death benefits were introduced:
- Lump sum payment – totally dependent spouse - \$10,000;
 - Lump sum payment - non dependent spouse, issue, or next of kin – \$37,462.50 (10% of totally dependent entitlement).
- 19 From 1 January 2006 an employer must appoint a Rehabilitation and Return to Work Coordinator if:
- they employ 30 or more workers at a workplace in a high risk industry (as specified in Schedule 5A of the Regulation); or
 - the annual payroll of the employer in Queensland exceeds \$4.9M.
- 20 From 2 November 2005, the prescribed minimum period an employer is allowed before dismissing an employee was increased to 12 months. In May 2006 this employment security provision was moved from the Industrial Relations Act 1999 to the Workers' Compensation and Rehabilitation Act 2003.

Industrial Relations and Other Acts Amendment Act 2005 – assented 1 April 2005

The Amendment Act changed the Workers' Compensation and Rehabilitation Act 2003 (WCR Act) to prohibit the practice of persons obtaining and using any personal workers' compensation claims information for employment or prospective employment purposes, due to the potential for a worker or prospective worker to be treated unfavourably if they have had a workers' compensation claim.

The Act achieved the above objective primarily by making an amendment which introduced an offence provision to prohibit the practice of persons obtaining and using any documents that relate to a person's application for compensation or claims for damages in relation to employment or prospective employment purposes.

Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004 - assented 18 November 2004

The Amendment Act achieved its objectives for the workers' compensation scheme primarily by:

- aligning the definition of 'wages' for calculating workers' compensation premiums to include superannuation contributions with most other jurisdictions in line with the federal move for greater consistency between state workers' compensation schemes;
- increasing efficiency in the administration of workers' compensation policies and claims management practices by allowing employers five days to comply with their obligation to insure, and simplifying the employer excess period;
- improving worker benefits, through providing an additional step down in benefits for injured workers between 26 and 39 weeks, removing the link between weekly and lump sum compensation and increasing the compensation payable to dependent family members on the death of a worker;
- making consequential amendments resulting from the Queensland Court of Appeal decisions thereby increasing certainty in worker's entitlements and minimising unnecessary litigation;
- facilitating early settlement of common law claims by fine-tuning pre-proceeding processes, and introducing new procedures for allowing the early participation of third parties in the common law claims process consistent with the Personal Injuries Proceedings Act 2002;
- enhancing the ability of the workers' compensation scheme regulator to enforce the Act through introducing Codes of Practice that state the ways insurers may meet their obligations under the Act; and
- ensuring a fair and effective review and appeal process which includes allowing workers, claimants, and employers to elect certain appeals to be heard before the Queensland Industrial Relations Commission or an Industrial Magistrate.

Changes to the Workers' Compensation and Rehabilitation Act 2003 effective from 2 November 2005

The amendments to the Workers' Compensation and Rehabilitation Act 2003 Assented on 2 November 2005 include:

- changing the self-insurance licensing criteria to allow flexibility in relation to prudential matters and occupational health and safety performance as recommended by the Review of Certain Aspects of the Workers' Compensation and Rehabilitation Act 2003;
- clarifying rehabilitation terminology and definitions;
- extending the provisions for security of employment after injury in the Industrial Relations Act 1999 from 6 months to 12 months;

- improving workers' benefits through increasing statutory lump sum payments, extending the step-down in benefits for injured workers from 39 to 52 weeks, increasing compensation payable to dependent family members on death of a worker and introducing new benefits for totally dependent spouses and non-dependent family members;
- providing greater certainty on the payment of workers' compensation for latent onset injuries and aligning the calculation of these benefits with the method used by the Courts;
- addressing the impact of employers exiting to the Commonwealth scheme by providing for a contribution towards funding ongoing workplace health and safety services, requiring access to data from exiting employers, and providing for the payment of outstanding liabilities for pre-exit claims of exiting employers;
- ensuring fair and effective review and appeal processes by clarifying timeframes for applying for a review of a decision and arrangements for appeals to be heard before the Queensland Industrial Relations Commission; and
- facilitating flexibility in the composition of medical assessment tribunals.

ACT

The Workers Compensation Amendment Act 2006 has been passed. The workers' compensation scheme has two safety net arrangements to ensure that all injured workers have access to benefits on injury. The Bill combines the arrangements for both safety net schemes in the Workers Compensation Act 1951 and repeals the Workers Compensation Supplementation Fund Act 1980.

The Amendment Act supports the use of injury management and return to work processes for injured workers who need to access the safety net arrangements.

The changes will:

- improve accountability and transparency for the safety net arrangements;
- allow injury management processes to be applied for all workers' compensation claims; and
- clarify the roles and responsibilities of the Government, insurers, employers and injured workers.

The Act will also establish a scheme for certificates of currency, which will provide information about the coverage of a compulsory insurance policy held by an employer. Employers will be able to ask insurers for an up to date certificate of currency every six months. An authorised person, including an inspector or workers' representative, will be able to ask an employer for the certificate. Principals entering into subcontracting arrangements will also be able to ask for the certificate of currency. These provisions will ensure that parties with an interest in the scope of an employer's insurance coverage will be able to access information in a timely way.

A number of minor policy amendments to improve the operation of the scheme are also included in the amending Act. These include: improving consistent use of language and terms in the Act, treating all periods of absence from work due to an injury as cumulative, ensuring that arbitration costs associated with individual workers' compensation claims are charged to insurers as part of a claim; introducing publicity orders against persons convicted of offences against the Act, and repealing provisions for infringement notices under the Act and creating a new schedule under the general infringement notice provisions of the Magistrates Court Act 1930.

SOUTH AUSTRALIA

The Occupational Health, Safety and Welfare (SafeWork SA) Amendment Act 2005 received Assent on 14 July 2005. The Act amended the Occupational Health, Safety and Welfare Act 1986 and transferred the OHS responsibilities from WorkCover to a new body – SafeWork SA. The transfer of responsibilities and staff occurred with effect from 1 January 2006.

OTHER SIGNIFICANT DEVELOPMENTS

COMMONWEALTH

Comcare:

During the year Optus Administration Pty Ltd was granted a self insurance licence which commenced on 30 June 2005. Optus is the first self insurer to commence a licence under the SRC Act following a Ministerial declaration made under the competition criterion of the legislation.

Seacare:

The Seacare Authority has agreed to revoke its existing Permanent Impairment Guide and introduce a new, revised Guide on 1 March 2006.

VICTORIA

The Victorian WorkCover Authority (VWA) is committed to the early, successful and sustainable return to work of all injured workers. Achieving this requires the support of employers and skilled return to work coordinators.

A training program was developed to ensure return to work coordinators have the right skills and knowledge to perform their role effectively. The program was developed in consultation with key employer associations, the Victorian Trades Hall Council and representatives from the Self Insurers Association of Victoria. It is endorsed by the VWA and conducted by training providers approved by the VWA.

The broader duty to consult employees under the Occupational Health and Safety Act 2004 commenced on 1 January 2006. Publications on the consultation duty, representation and issue resolution are 'Talking Safety Together', 'Information for Health and Safety Representatives' and 'Information for Employees'. These documents were developed in consultation with stakeholders and are available on WorkSafe's website.

Building on these publications, further information such as checklists and case studies are being developed to provide tailored and practical advice to workplace parties on OHS consultation, in particular small to medium employers.

The Dangerous Goods and Equipment (Public Safety) Acts (Amendment) Act 2005 commenced 1 July 2005. The purpose of this act is to amend the parts of Dangerous Goods Act and Equipment (Public Safety) Act dealing with Inspector's powers and related matters with the equivalent provisions of the OHS Act 2004.

NEW SOUTH WALES

Scheme Transition

WorkCover NSW has announced the successful tenderers to provide workers compensation services to employers and injured workers in NSW. Seven organisations, including two new entrants to the NSW workers compensation system, will operate as agents in the scheme, and deliver claims and policy services under commercial contracts. The contracts between WorkCover NSW representing the Nominal Insurer, and all seven Scheme Agents, were signed in December 2005. Agents operating in the scheme will need to produce tangible results and will be paid on their ability to meet various performance outcomes and service standards.

To implement the new scheme arrangements, a portion of policies and claims, are being transferred from existing agents to the two new agents. This is planned to occur between January 2006 and June 2006.

WorkCover NSW Premium Review

As part of the NSW Government's wider reform program, WorkCover NSW is currently implementing a series of changes to the workers compensation premium system.

An amended Insurance Premiums Order 2005/06 (IPO) was released on 14 December 2005 and took effect from 31 December 2005. The revised IPO included a five per cent reduction in premium rates across all of the Work Industry Classification rates. A further ten per cent reduction was announced on 29 March 2006, effective from 30 June 2006. The late payment fee rate was also reduced from 1.2% to 1.074% per month, for policies incepting on or after 31 December 2005.

The first phase of reforms commenced on 30 June 2005 and included:

- changes to who is experience adjusted for premium calculations; and,
- refunds to businesses for fraudulent claims

Closure of the Premium Discount Scheme

The second phase of reforms is effective for all policies commencing on or after 31 December 2005 and includes changes to the following areas:

- the experience premium cut off for small employers was changed to a base tariff premium of \$10,000 or wages of \$300,000 (previously the base tariff premium was \$3000);
- introduction of a simpler, fairer experience premium formula;
- the premium formula for new employers;
- claims excess arrangements;
- claims cost used in experience premium calculation; and,
- premium administration.

SOUTH AUSTRALIA

Contract 2006

Claims management in the SA scheme is undertaken by Agents under a contract arrangement. The WorkCover Board early in 2006 approved new arrangements for claims management with the decision to appoint a single claims agent to operate from 1 July 2006. The single agent is Employers Mutual Limited. As part of an orderly handover supported by WorkCover's current agents, EML has commenced operations in South Australia (from 5.00pm, 31 March 2006), assuming responsibility for all claims managed by Vero and Allianz on WorkCover's behalf. The new contract will drive changes designed to improve the outcomes for injured workers in rehabilitation and return to work.

Contracts for rehabilitation providers

From July 2006, WorkCover will introduce new contracts for rehabilitation providers focused on improving recovery and return to work outcomes. Development of the new contracts was part of a number of reforms underway to make the WorkCover system better for everyone. WorkCover is committed to putting in place a system that ensures better value and outcomes for injured workers and employers who fund the scheme by achieving earlier, safe return to work.

Reforms in the provision of rehabilitation services are as recommended in the Clayton report. These recommendations included:

- appropriate performance measurement and reward;
- development of best-practice guidelines for rehabilitation practitioners;
- workplace-based rehabilitation models; and,
- improving provider qualifications and education streams.

Implementation of the recommendations of the Clayton review is being undertaken with the close co-operation of the Australian Rehabilitation Providers Association. The focus on outcomes, best-practice guidelines and improvements to education requirements will lead to a rise in the professionalism and standing of the rehabilitation sector which has an important role to play in recovery and return to work for injured workers. The new contracts, commencing on 1 July 2006, will help deliver the best-possible rehabilitation support for injured workers and ensure that providers are recognised and rewarded for the outcomes they achieve.

Injury Management

A review of the injury management model (the Clayton report) was completed in June 2005. The review's principal recommendations included establishing a rehabilitation unit with policy, consultation and advisory functions and development of a new claims management framework. These are being considered and are expected to be implemented through administrative changes and through Contract 2006 – the new contract arrangements for claims management Agents. Other recommendations related to rehabilitation and return to work will be progressed in consultation with service providers and claims agents.

Cross border amendments

It is expected that the South Australian Parliament will consider amendments based on the agreed national model following the March 2006 state election.

QUEENSLAND

Medical fee Review.

In 2004-2005, Q-COMP, the Workers' Compensation Regulatory Authority of Queensland, undertook a review of the Schedules of Fees for Medical Services with the aim of establishing fair and affordable schedules of fees that will support the provision of:

- quality and timely diagnosis and treatment, including facilitation of rehabilitation of injured workers to assist in early return to work;
- relevant and timely communication with insurers and employers in relation to the management of the worker's compensation claim; and
- quality and timely issuing of workers' compensation medical certificates and reports to insurers regarding the worker's injury, to assist in the proactive management of the workers' compensation claim.

From 1 July 2005, fees for workers' compensation medical services comprise three parts:

- the market rate as a base;
- a factor to recognise the complexities involved in treating workers with a compensable injury; and,
- a factor to recognise the need for priority access for injured workers.

FURTHER INFORMATION

For clarification on any details included in this report, please contact:

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ACT	For information regarding policy and legislative development: Margaret Cotton margaret.cotton@act.gov.au	Director, Office of Industrial Relations, Chief Minister's Department	(02) 6207 9944
	For information regarding regulatory and enforcement action: Phil Ulrich phil.ulrich@act.gov.au	Manager, Workers' Compensation	(02) 6205 0200
Comcare	Alex O'Shea o'shea.alex@comcare.gov.au	Group Manager, Compensation and Injury Management Policy	1300 366 979
NSW	Rob Thomson rob.thomson@workcover.nsw.gov.au	General Manager Workers' Compensation	(02) 4321 5383
NT	Ros Miller ros.miller@nt.gov.au	Senior Compensation and Rehabilitation Advisor	(08) 8999 5015
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	For further information regarding policy and legislative development: Paul Goldsborough paul.goldsborough@dir.qld.gov.au	A/Assistant General Manager, Workplace Health and Safety Queensland Department of Industrial Relations	(07) 3247 4652
SA	For general enquiries:	Customer Centre	131855
	For specific policy questions: Paul McEvoy pmcevoy@workcover.com	Manager, Policy and Government Relations, Public Affairs	(08) 8233 2544
Seacare	Phillip Beaumont beaumont.phillip@comcare.gov.au	Manager, Seacare Authority	(02) 6275 0082
TAS	Rod Lethborg rod.lethborg@dier.tas.gov.au	Principal Policy Adviser (Workers' Compensation)	(03) 6233 3182
VIC	For general enquiries:	WorkCover Advisory Service	1800 136 089 (03) 9641 1444
	For specific policy questions: Elizabeth McDowall elizabeth_mcdowall@workcover.vic.gov.au	Manager, Scheme Policy	(03) 9641 1292
WA	For workers' compensation enquiries:	WorkCover WA Infoline	(08) 9388 5555
	For questions of a policy nature: Paul Brookes paulb@workcover.wa.gov.au	Principal Policy Officer, Scheme Development	or 1300 794 744 (08) 9388 5569

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	Work Safety & Labour Policy Chief Minister's Department GPO Box 158 CANBERRA ACT 2601	02 6207 6775
Comcare	Policy and Support Comcare GPO Box 9905 CANBERRA ACT 2601	02 6257 5634
NSW	WorkCover NSW Locked Bag 2906 Lisarow NSW 2252	02 9287 5200
New Zealand	Accident Compensation Corporation Levy and Scheme Management PO Box 242 WELLINGTON NEW ZEALAND	64 4 918 4295
NT	Rehabilitation and Compensation Unit NT WorkSafe GPO Box 4821 DARWIN NT 0801	08 8999 5141
QLD	Q-COMP PO Box 10119 Brisbane Adelaide Street QLD 4000	07 3238 3080
	Department of Industrial Relations GPO Box 69, Brisbane Qld 4001	07 3404 3550
SA	Policy and Government Relations WorkCover Corporation GPO Box 2668 ADELAIDE SA 5000	08 8233 2044
Seacare	Seafarers' Safety, Rehabilitation and Compensation Authority GPO Box 9905 CANBERRA ACT 2601	02 6275 0067
TAS	Workplace Standards Tasmania PO Box 56 ROSNY PARK TAS 7018	03 6233 8338
VIC	Policy Research and Development Victorian WorkCover Authority GPO Box 4306 MELBOURNE VIC 3001	03 9641 1227
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Australian Capital Territory	www.cmd.act.gov.au	South Australia	www.workcover.com
Comcare	www.workcover.act.gov.au www.comcare.gov.au	Seacare	www.seacare.gov.au
New South Wales	www.workcover.nsw.gov.au	Tasmania	www.dier.tas.gov.au
New Zealand	www.acc.co.nz	Victoria	www.workcover.vic.gov.au
Northern Territory	www.worksafe.nt.gov.au	Western Australia	www.workcover.wa.gov.au
Queensland	www.dir.qld.gov.au www.qcomp.com.au	HWCA	www.hwca.org.au

PREMIUM SETTING

NOTES TO THE INDUSTRY RATES COMPARISON TABLE

1. It is difficult to make exact comparisons between states, as such the following qualifications should be noted:
 - Industry classifications vary from jurisdiction to jurisdiction. For example, Victorian industry classifications are based on the Australian Bureau of Statistics ASIC code, and Western Australian and NSW on ANZSIC. South Australian industry classifications are based on the Australian Bureau of Statistics code and are progressively being aligned to ANZSIC, with some alterations designed specifically for SA localised conditions.
 - On 1 July 1997, Queensland introduced an industry classification system based on the ANZSIC system, with some alterations specifically designed for Queensland. The classifications have been named the WorkCover Industry Classifications. Current rates were published in an Industrial Gazette notice on 1 July 2004.
 - On 30 June 2001, NSW introduced an industry classification system based on the ANZSIC system, with some alterations specifically designed for NSW. In 2004-2005 the maximum WIC rate is capped at 15% and increases/decreases in the WIC rate are capped at 15%. Current industry classes and rates were published in a NSW Gazette notice on 24 June 2004. Refer to the Insurance Premiums order on WorkCover NSW's website, www.workcover.nsw.gov.au
 - Levy/Premium category comparisons are done on a 'best match' basis and should not be regarded as exact equivalents
 - The number of self-insurers - those companies which fund their own liability for workers' compensation claims separately from the central system - varies across the different jurisdictions. Both South Australia and New South Wales have large numbers of self-insurers, which means that the coverage of these schemes is smaller than in some other jurisdictions; New South Wales: 48 self-insurers, 18 group self-insurers, 6 specialised (or industry specific) insurers and separate arrangements covering most public sector employers; South Australia: 69 self-insurers plus most Government public service and Government instrumentalities; Victoria: 39 self-insurers; Queensland: 26 self-insurers; Western Australia: 28 self-insurers; Self insurers are not part of the premium setting process in WA.

In some jurisdictions, particular industries have traditionally been excluded from the central system. For example, in New South Wales the coal industry is excluded.

- Charges in addition to the workers' compensation premium may be levied in some jurisdictions. An example, is the Dust Diseases surcharge in New South Wales, which is levied from time to time as funding requirements for these diseases warrant. An occupational health and safety loading on assessed premium is applicable in South Australia.
 - Jurisdictions vary in their application of GST to premiums. NSW's published industry rates include the 10% GST. Other jurisdictions generally exclude GST from their published industry premium rates.
2. 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 (i.e. based on claims rate in a given period).
 - the bonus and penalty system in South Australia, which generally comprises a bonus of up to 30% of levy and a penalty of up to 50% of levy
 - the experience rating in New South Wales and Victoria is based on the size of the employer's tariff premium.
 - the extent to which insurance companies may discount or load premiums according to experience may vary. For example, amendments to Western Australia's legislation, effective from 5 October 1999, mean that recommended premium rates can be surcharged up to 100%, and with the Commission's approval can be surcharged in excess of 100%. 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, and; the lowest experience rate in Queensland, represents theoretical limits that would only rarely be reached in practice.

CALCULATION OF INDUSTRY RATES

VICTORIA

Each industry's rate is calculated based on claim cost rates and claim frequency rates over a five year period with 12 months of development. The rates are calibrated to achieve the average premium rate.

NEW SOUTH WALES

In 2004-2005, NSW had 536 industry classes. Rates are calculated by external actuaries using objective, data-based rating methodology, based on recent wages declared and claims costs. An actuarial credibility model is applied to small industry classes.

SOUTH AUSTRALIA

Each class of industry levy rate is calculated on rate relativities taking account of an employer's individual experience over a 30-month period to produce rates (within a rate scale between 0.4% and 7.5%, increasing in increments of 0.10 percentage points) that weigh claims cost and claim frequency in a ratio of 3 to 1, aligned to an overall target average levy rate.

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;
- the 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.

QUEENSLAND

The industry rates are published in an Industrial Gazette as WorkCover Industry Classification (WIC) Rates. These rates are actuarially calculated taking the industry aggregate claims performance into account, and also include a provision for outstanding claims liabilities. The average rate paid by all employers in a particular industry is used as a base rate for new employers.

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.

NEW ZEALAND

In New Zealand, there are 550 industry groups and 129 premium pools. For each industry group, the premium relativities are compared by year for the last four years. As a result of this comparison (and taking into account such things as the impact of large claims, the number of years' experiences for a new industry group, the volume of claims, etc.) the industry group will either stay within the same premium pool or be moved up or down a pool.

The premium relativity of each premium pool is the expected ultimate cost of claims expressed as a percentage of wages for the premium pool, compared with the expected ultimate cost of claims as a percentage of wages for all premium pools. The absolute level of the premium rates is set so that the expected costs of the Scheme will be met.

The premium rates shown are the fully-funded premium rates.

RECENT DEVELOPMENTS

SUMMARY OF SIGNIFICANT LEGISLATIVE CHANGES

VICTORIA

The Accident Compensation (Amendment) Act 2005 was passed in June 2005. The main objective of the Act was to protect the viability of the WorkCover scheme from the possible exit of employers to the Commonwealth's Comcare scheme. The Act amends both the Accident Compensation Act 1985 and the Occupational Health and Safety Act 2004 to allow the VWA to:

- collect a fee for the OHS regulation, education and prevention services that the VWA provides to the Victorian community, (the VWA remains responsible for the OHS regulation of those employers which exit to Comcare);
- collect data from employers which exit to Comcare to allow the targeting of OHS regulatory activity; and
- keep the liability and management of 'tail' claims for employers exiting to Comcare, but ensure that the employer bears the financial risks relating to its tail claims.

Further amendments were also made to improve the efficiency of the scheme. These include:

- amendments to allow the Court to consider a worker's ongoing entitlement to weekly payments in the absence of a formal notice from the agent;
- amendments to the hearing loss provisions which provide that a worker who suffers from a further hearing loss (above the 10% threshold) has the prior percentage hearing loss deducted from the current hearing loss before it is converted to a compensation amount. This ensures that these workers do not receive a windfall gain by virtue of the indexation of compensation amounts since their initial or prior hearing loss;
- binding the Crown to the criminal liability provisions of the Accident Compensation Act 1985;
- removing the inconsistency between the cross border treatment of claims and the liability for premium; and
- other technical amendments.

The amendments are consistent with the broad thrust of Government policy to continue a soundly administered and fully funded workers' compensation scheme.

The VWA recently conducted a review of benefits in consultation with a range of stakeholders. The scope of the review was to ensure that priority was given to issues that related directly to circumstances where injured workers could be considered to be disadvantaged by the current benefits arrangements. This review identified priority issues for legislative change.

The issues identified by stakeholders generally followed VWA's logic in identifying three areas where improvements to benefits are most deserved:

- the experience of the recently injured worker who can return to work part-time;
- the impact of the withdrawal of benefits on a long-term injured worker; and,
- the transient but increased needs of those families affected by a workers' death or very serious injury.

The VWA considered how best to respond to these issues whilst ensuring that the VWA's sound financial position was maintained.

As a result, proposals for legislative change have been developed and endorsed by the VWA Board and the Minister for WorkCover. Details of the package include:

- an increase in the level of weekly benefits for injured workers who return to work initially part-time, from 60 per cent to 75 per cent of their pre-injury salary;
- quicker access to impairment benefits for seriously injured workers;
- support for injured workers of up to an additional six months of benefits beyond the present 104 weeks (two years);
- an 18 per cent increase in death benefits to affected families;
- improved counselling services and a new case-management approach with WorkCover helping families in dealing with the Coroners Court and other agencies;

- A \$10 million return-to-work fund to support partnership programs involving employer and union groups to focus on return to work opportunities for injured workers; and,
- Up to 13 weeks in weekly benefits for workers aged 65 and older who require time off work because of medical treatment related to an earlier injury.

It is anticipated that these legislative changes will be in operation by 1 July 2006.

NEW SOUTH WALES

Workers Compensation and Other Legislation Amendment Act 2004

The Sections 163B amendment to the Workers Compensation Act 1987 commenced on 16 September 2005. This new section gives authorised officers of WorkCover power to order employers to stop work when they have a reasonable suspicion that the employer does not have a workers compensation policy that covers all employees. An employer has five working days from the issue of the order to provide a Certificate of Currency as evidence of a workers compensation policy. Employers can obtain a certificate of currency from their workers compensation agent. If a certificate is not provided within this time then the employer must cease work until such time as the certificate is provided to WorkCover and the stop work order is withdrawn.

Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005

This legislation was passed by the NSW Parliament on 30 November, 2005. To provide clarity on who is a 'worker' for the purposes of workers compensation and to improve the wage audit system, the following amendments, as contained in the Bill, commenced on and from January 2006:

Deemed Workers – Where an outworker obtains assistance to complete work and does not earn a profit from the work share arrangement, the outworker is a deemed worker. A worker who is employed under a labour hire service arrangement is a worker of the labour hire agency, even if they have signed a contract of service, unless they are conducting a genuine business or trade.

Premium Compliance – All wage audits will be conducted for the three most recently completed policy periods, where no serious non-compliance issues are identified (this policy arrangement already exists). Wage audits can only be extended beyond the three most recently completed policy periods with the approval of WorkCover. Where serious non-compliance issues are identified WorkCover may approve the conduct of an audit over a 7-year period. The late payment fee rate is to be reviewed annually and provided in the Insurance Premium Order, to ensure consistency is maintained with current market penalty rates.

Increases in Lump Sum Compensation – For 'spinal injuries' that result in permanent impairment sustained on or after 1 January 2006, an additional 5 per cent lump sum in dollar terms of benefit is payable. 'Spinal injuries' are those injuries assessed in accordance with the Spine Chapter in the WorkCover Guides.

Further amendments in the Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005, are expected to be proclaimed in 2006.

These amendments allow for the establishment of a system for WorkCover to make prospective determinations on the status of workers to improve certainty for employers, particularly small business. The determination will be a binding decision for premium purposes as to whether a person is properly classified as a worker but will not impact on whether or not a person is entitled to claim workers compensation benefits and will be inadmissible in proceedings concerning entitlement to benefit.

In legislation passed by the NSW Parliament on 30 November 2005 amendments have been made to the NSW workers compensation legislation to improve the dispute resolution process.

Cross Border Legislation, consistent with the HWCA model, has been proclaimed in NSW effective from January 1, 2006. This means that there is no entitlement to compensation in NSW other than in respect of employment that is 'connected' with NSW. Connection is determined by the following series of tests:

- A the State in which the worker usually works in that employment;
- B if no State is identified by Test A, the State in which the worker is usually based for the purposes of that employment;
- C if no State is identified by test A or B, the State in which the employer's principal place of business in Australia is located.

Once the 'State of Connection' is determined, a worker may work temporarily for the same employer under the same

term or contract of employment in another State or Territory. These arrangements do not necessarily mean that every employer will only require one policy of insurance in one state for all their workers.

WESTERN AUSTRALIA

The Workers' Compensation Reform Act (the Reform Act) was passed by the WA Parliament in October 2004 and was introduced in two stages. The first changes came into effect on 4 January 2005 and the remaining changes became effective from 14 November 2005.

Changes have been made to six main areas of the workers' compensation system, these being statutory benefits, injury management, common law, dispute resolution, medical assessments and a governing body.

The amendments served to introduce a host of legislative reforms, as well as establishing a new statutory body known as the WorkCover Western Australia Authority.

The Workers' Compensation (Common Law Proceedings) Act 2004 (the Common Law Act) was passed by the WA Parliament in October 2004 and received royal assent and proclamation on 25 October 2004. The Common Law Act addressed the unintended consequences of legal decisions through the introduction of specific retrospective amendments, to ensure workers are not disadvantaged by the effect of certain Court decisions

Some of the changes to Western Australia's workers' compensation scheme that took place on 14 November 2005 include:

Medical and Hospital – limits

A further amount of up to \$250,000 for medical and hospital costs may be granted by the Dispute Resolution Directorate in exceptional circumstances.

Death benefits

Death benefits of \$200,000 are available. Introduced on 14 November 2005, this legislative provision has been backdated to provide for claims dating from 1 July 2005.

Maximum Claim

For workers with a whole person impairment (WPI) not less than 25%, damages are not limited by statute. For workers with a 'significant disability' (injury assessed as not less than 15% but less than 25%) a maximum of \$306,375 applies.

Amendments were made to provide that a worker will not be constrained from seeking common law damages against a principal contractor described in section 175 of the Act. Effectively the provisions of the act restricting access to common law do not apply to actions against a principal contractor, even though they could be deemed an employer for statutory purposes under section 175 of the Act

Threshold for Common Law

Disability level is assessed in accordance with The WorkCover WA Guides for the Evaluation of Permanent Impairment.

In calculating the level of WPI, secondary sexual, psychological and psychiatric conditions are excluded.

Access to common law is available if:

- a) The claimant can demonstrate a degree of WPI not less than 15% but less than 25%. The claimant must elect to pursue the common law claim within 12 months of making the claim on their employer. After election, workers may continue to receive payments for a period of up to six months on the following basis:
 - Claimant receives 70 per cent of weekly earnings for the first three months.
 - Claimant receives 50 per cent of weekly payments for a further three months thereafter.
 - Weekly payments cease after six months.

OR

- b) Claimant can demonstrate a degree of WPI not less than 25%. In this case, the claimant must elect to pursue a common law claim within 12 months of making the claim on the employer. Weekly payments and any other statutory entitlements continue after election.

Statutory Responsibilities – Return to Work

- Employers must establish and implement injury management systems and return to work programs for individual workers. Injury management systems and return to work program must be in accordance with the Workers' Compensation Code of Practice (Injury Management) 2005.
- In the event the injured worker's employment is to be terminated, the employer is required to give the injured worker 28 days notice and notify WorkCover WA.
- Employees who are taken into legal custody may have any weekly payments suspended.
- Worker may have payments suspended for failure to participate in return to work program.

Dispute Resolution

A new Dispute Resolution Directorate is in operation. Under the new system, arbitrators undertake both conciliation and arbitration and a Commissioner hears appeals against decisions of arbitrators on matters of law.

Legal practitioners are to represent parties at any stage in the process in most cases.

The Dispute Resolution Rules are much more extensive than those that operated prior to November 14 2005. There are now approved forms for applications and replies to applications. There are clear filing requirements and timelines applicable to the progress of applications. The intention is to establish full and frank exchange of information between the parties as early as possible in the proceedings so as to promote early settlement and reduce the need for adjournments.

There is a completely new scheme for the awarding and suspension of interim weekly payments and statutory allowances and for the expedited determination of minor claims. These applications are now made and determined under Part XII of the Act. The intention is that separate, much simpler procedures will apply to these type of applications.

QUEENSLAND

End notes

- 1 From 1 July 2006, the premium rate is \$1.20.
- 2 From 2 November 2005, for licence renewal the net tangible assets is a minimum of \$90M, provided self-insurer can demonstrate they have a strategy to regain the NTA requirement
- 3 From 2 November 2005, OHS performance criteria aligns with AS4801, rather than TriSafe.
- 4 From 2 November 2005, a licence may be renewed for up to 4 years.
- 5 From 2 November 2005: ≤ 26 weeks: workers not under industrial instrument – the greater of:
 - (a) 85% of NWE
 - (b) 80% of QOTE
- 6 From 2 November 2005: > 26 weeks to <52 weeks: workers under industrial instrument – the greater of:
 - (a) 75% of NWE
 - (b) 70% of QOTE
- 7 From 2 November 2005: workers not under industrial instrument – the greater of:
 - (a) 75% of NWE
 - (b) 70% of QOTE
- 8 From 2 November 2005: >52 weeks < 104 weeks: all workers – the greater of:
 - (a) 65% of NWE
 - (b) 60% of QOTE
- 9 From 2 November 2005, the total amount payable for weekly benefits was increased to \$200,000.
- 10 From 2 November 2005, the total statutory maximum payable amount was increased to \$200,000.
- 11 From 2 November 2005, the entitlement to lump sum compensation was increased to \$200,000.
- 12 From 2 November 2005, the lump sum payment for impairment/non-economic loss was increased to \$200,000.
- 13 From 2 November 2005, the additional lump sum payment for work-related injury of 50% or more was increased to \$200,000.
- 14 From 2 November 2005, the maximum death benefit was increased to \$374,625.
- 15 From 2 November 2005, the lump sum death benefit payment for each dependent child increased to \$20,000.

- 16 From 2 November 2005, the weekly death benefit payment if child (under 16) or student (under 21) was increased to 10% of QOTE.
- 17 From 2 November 2005, the lump sum death payment if deceased under the age of 21 with no dependents was increased to \$22,500.
- 18 From 2 November 2005, the following additional death benefits were introduced:
- Lump sum payment – totally dependent spouse - \$10,000;
 - Lump sum payment - non dependent spouse, issue, or next of kin – \$37,462.50 (10% of totally dependent entitlement).
- 19 From 1 January 2006 an employer must appoint a Rehabilitation and Return to Work Coordinator if:
- they employ 30 or more workers at a workplace in a high risk industry (as specified in Schedule 5A of the Regulation); or
 - the annual payroll of the employer in Queensland exceeds \$4.9M.
- 20 From 2 November 2005, the prescribed minimum period an employer is allowed before dismissing an employee was increased to 12 months. In May 2006 this employment security provision was moved from the Industrial Relations Act 1999 to the Workers' Compensation and Rehabilitation Act 2003.

Industrial Relations and Other Acts Amendment Act 2005 – assented 1 April 2005

The Amendment Act changed the Workers' Compensation and Rehabilitation Act 2003 (WCR Act) to prohibit the practice of persons obtaining and using any personal workers' compensation claims information for employment or prospective employment purposes, due to the potential for a worker or prospective worker to be treated unfavourably if they have had a workers' compensation claim.

The Act achieved the above objective primarily by making an amendment which introduced an offence provision to prohibit the practice of persons obtaining and using any documents that relate to a person's application for compensation or claims for damages in relation to employment or prospective employment purposes.

Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004 - assented 18 November 2004

The Amendment Act achieved its objectives for the workers' compensation scheme primarily by:

- aligning the definition of 'wages' for calculating workers' compensation premiums to include superannuation contributions with most other jurisdictions in line with the federal move for greater consistency between state workers' compensation schemes;
- increasing efficiency in the administration of workers' compensation policies and claims management practices by allowing employers five days to comply with their obligation to insure, and simplifying the employer excess period;
- improving worker benefits, through providing an additional step down in benefits for injured workers between 26 and 39 weeks, removing the link between weekly and lump sum compensation and increasing the compensation payable to dependent family members on the death of a worker;
- making consequential amendments resulting from the Queensland Court of Appeal decisions thereby increasing certainty in worker's entitlements and minimising unnecessary litigation;
- facilitating early settlement of common law claims by fine-tuning pre-proceeding processes, and introducing new procedures for allowing the early participation of third parties in the common law claims process consistent with the Personal Injuries Proceedings Act 2002;
- enhancing the ability of the workers' compensation scheme regulator to enforce the Act through introducing Codes of Practice that state the ways insurers may meet their obligations under the Act; and
- ensuring a fair and effective review and appeal process which includes allowing workers, claimants, and employers to elect certain appeals to be heard before the Queensland Industrial Relations Commission or an Industrial Magistrate.

Changes to the Workers' Compensation and Rehabilitation Act 2003 effective from 2 November 2005

The amendments to the Workers' Compensation and Rehabilitation Act 2003 Assented on 2 November 2005 include:

- changing the self-insurance licensing criteria to allow flexibility in relation to prudential matters and occupational health and safety performance as recommended by the Review of Certain Aspects of the Workers' Compensation and Rehabilitation Act 2003;
- clarifying rehabilitation terminology and definitions;
- extending the provisions for security of employment after injury in the Industrial Relations Act 1999 from 6 months to 12 months;

- improving workers' benefits through increasing statutory lump sum payments, extending the step-down in benefits for injured workers from 39 to 52 weeks, increasing compensation payable to dependent family members on death of a worker and introducing new benefits for totally dependent spouses and non-dependent family members;
- providing greater certainty on the payment of workers' compensation for latent onset injuries and aligning the calculation of these benefits with the method used by the Courts;
- addressing the impact of employers exiting to the Commonwealth scheme by providing for a contribution towards funding ongoing workplace health and safety services, requiring access to data from exiting employers, and providing for the payment of outstanding liabilities for pre-exit claims of exiting employers;
- ensuring fair and effective review and appeal processes by clarifying timeframes for applying for a review of a decision and arrangements for appeals to be heard before the Queensland Industrial Relations Commission; and
- facilitating flexibility in the composition of medical assessment tribunals.

ACT

The Workers Compensation Amendment Act 2006 has been passed. The workers' compensation scheme has two safety net arrangements to ensure that all injured workers have access to benefits on injury. The Bill combines the arrangements for both safety net schemes in the Workers Compensation Act 1951 and repeals the Workers Compensation Supplementation Fund Act 1980.

The Amendment Act supports the use of injury management and return to work processes for injured workers who need to access the safety net arrangements.

The changes will:

- improve accountability and transparency for the safety net arrangements;
- allow injury management processes to be applied for all workers' compensation claims; and
- clarify the roles and responsibilities of the Government, insurers, employers and injured workers.

The Act will also establish a scheme for certificates of currency, which will provide information about the coverage of a compulsory insurance policy held by an employer. Employers will be able to ask insurers for an up to date certificate of currency every six months. An authorised person, including an inspector or workers' representative, will be able to ask an employer for the certificate. Principals entering into subcontracting arrangements will also be able to ask for the certificate of currency. These provisions will ensure that parties with an interest in the scope of an employer's insurance coverage will be able to access information in a timely way.

A number of minor policy amendments to improve the operation of the scheme are also included in the amending Act. These include: improving consistent use of language and terms in the Act, treating all periods of absence from work due to an injury as cumulative, ensuring that arbitration costs associated with individual workers' compensation claims are charged to insurers as part of a claim; introducing publicity orders against persons convicted of offences against the Act, and repealing provisions for infringement notices under the Act and creating a new schedule under the general infringement notice provisions of the Magistrates Court Act 1930.

SOUTH AUSTRALIA

The Occupational Health, Safety and Welfare (SafeWork SA) Amendment Act 2005 received Assent on 14 July 2005. The Act amended the Occupational Health, Safety and Welfare Act 1986 and transferred the OHS responsibilities from WorkCover to a new body – SafeWork SA. The transfer of responsibilities and staff occurred with effect from 1 January 2006.

OTHER SIGNIFICANT DEVELOPMENTS

COMMONWEALTH

Comcare:

During the year Optus Administration Pty Ltd was granted a self insurance licence which commenced on 30 June 2005. Optus is the first self insurer to commence a licence under the SRC Act following a Ministerial declaration made under the competition criterion of the legislation.

Seacare:

The Seacare Authority has agreed to revoke its existing Permanent Impairment Guide and introduce a new, revised Guide on 1 March 2006.

VICTORIA

The Victorian WorkCover Authority (VWA) is committed to the early, successful and sustainable return to work of all injured workers. Achieving this requires the support of employers and skilled return to work coordinators.

A training program was developed to ensure return to work coordinators have the right skills and knowledge to perform their role effectively. The program was developed in consultation with key employer associations, the Victorian Trades Hall Council and representatives from the Self Insurers Association of Victoria. It is endorsed by the VWA and conducted by training providers approved by the VWA.

The broader duty to consult employees under the Occupational Health and Safety Act 2004 commenced on 1 January 2006. Publications on the consultation duty, representation and issue resolution are 'Talking Safety Together', 'Information for Health and Safety Representatives' and 'Information for Employees'. These documents were developed in consultation with stakeholders and are available on WorkSafe's website.

Building on these publications, further information such as checklists and case studies are being developed to provide tailored and practical advice to workplace parties on OHS consultation, in particular small to medium employers.

The Dangerous Goods and Equipment (Public Safety) Acts (Amendment) Act 2005 commenced 1 July 2005. The purpose of this act is to amend the parts of Dangerous Goods Act and Equipment (Public Safety) Act dealing with Inspector's powers and related matters with the equivalent provisions of the OHS Act 2004.

NEW SOUTH WALES

Scheme Transition

WorkCover NSW has announced the successful tenderers to provide workers compensation services to employers and injured workers in NSW. Seven organisations, including two new entrants to the NSW workers compensation system, will operate as agents in the scheme, and deliver claims and policy services under commercial contracts. The contracts between WorkCover NSW representing the Nominal Insurer, and all seven Scheme Agents, were signed in December 2005. Agents operating in the scheme will need to produce tangible results and will be paid on their ability to meet various performance outcomes and service standards.

To implement the new scheme arrangements, a portion of policies and claims, are being transferred from existing agents to the two new agents. This is planned to occur between January 2006 and June 2006.

WorkCover NSW Premium Review

As part of the NSW Government's wider reform program, WorkCover NSW is currently implementing a series of changes to the workers compensation premium system.

An amended Insurance Premiums Order 2005/06 (IPO) was released on 14 December 2005 and took effect from 31 December 2005. The revised IPO included a five per cent reduction in premium rates across all of the Work Industry Classification rates. A further ten per cent reduction was announced on 29 March 2006, effective from 30 June 2006. The late payment fee rate was also reduced from 1.2% to 1.074% per month, for policies incepting on or after 31 December 2005.

The first phase of reforms commenced on 30 June 2005 and included:

- changes to who is experience adjusted for premium calculations; and,
- refunds to businesses for fraudulent claims

Closure of the Premium Discount Scheme

The second phase of reforms is effective for all policies commencing on or after 31 December 2005 and includes changes to the following areas:

- the experience premium cut off for small employers was changed to a base tariff premium of \$10,000 or wages of \$300,000 (previously the base tariff premium was \$3000);
- introduction of a simpler, fairer experience premium formula;
- the premium formula for new employers;
- claims excess arrangements;
- claims cost used in experience premium calculation; and,
- premium administration.

SOUTH AUSTRALIA

Contract 2006

Claims management in the SA scheme is undertaken by Agents under a contract arrangement. The WorkCover Board early in 2006 approved new arrangements for claims management with the decision to appoint a single claims agent to operate from 1 July 2006. The single agent is Employers Mutual Limited. As part of an orderly handover supported by WorkCover's current agents, EML has commenced operations in South Australia (from 5.00pm, 31 March 2006), assuming responsibility for all claims managed by Vero and Allianz on WorkCover's behalf. The new contract will drive changes designed to improve the outcomes for injured workers in rehabilitation and return to work.

Contracts for rehabilitation providers

From July 2006, WorkCover will introduce new contracts for rehabilitation providers focused on improving recovery and return to work outcomes. Development of the new contracts was part of a number of reforms underway to make the WorkCover system better for everyone. WorkCover is committed to putting in place a system that ensures better value and outcomes for injured workers and employers who fund the scheme by achieving earlier, safe return to work.

Reforms in the provision of rehabilitation services are as recommended in the Clayton report. These recommendations included:

- appropriate performance measurement and reward;
- development of best-practice guidelines for rehabilitation practitioners;
- workplace-based rehabilitation models; and,
- improving provider qualifications and education streams.

Implementation of the recommendations of the Clayton review is being undertaken with the close co-operation of the Australian Rehabilitation Providers Association. The focus on outcomes, best-practice guidelines and improvements to education requirements will lead to a rise in the professionalism and standing of the rehabilitation sector which has an important role to play in recovery and return to work for injured workers. The new contracts, commencing on 1 July 2006, will help deliver the best-possible rehabilitation support for injured workers and ensure that providers are recognised and rewarded for the outcomes they achieve.

Injury Management

A review of the injury management model (the Clayton report) was completed in June 2005. The review's principal recommendations included establishing a rehabilitation unit with policy, consultation and advisory functions and development of a new claims management framework. These are being considered and are expected to be implemented through administrative changes and through Contract 2006 – the new contract arrangements for claims management Agents. Other recommendations related to rehabilitation and return to work will be progressed in consultation with service providers and claims agents.

Cross border amendments

It is expected that the South Australian Parliament will consider amendments based on the agreed national model following the March 2006 state election.

QUEENSLAND

Medical fee Review.

In 2004-2005, Q-COMP, the Workers' Compensation Regulatory Authority of Queensland, undertook a review of the Schedules of Fees for Medical Services with the aim of establishing fair and affordable schedules of fees that will support the provision of:

- quality and timely diagnosis and treatment, including facilitation of rehabilitation of injured workers to assist in early return to work;
- relevant and timely communication with insurers and employers in relation to the management of the worker's compensation claim; and
- quality and timely issuing of workers' compensation medical certificates and reports to insurers regarding the worker's injury, to assist in the proactive management of the workers' compensation claim.

From 1 July 2005, fees for workers' compensation medical services comprise three parts:

- the market rate as a base;
- a factor to recognise the complexities involved in treating workers with a compensable injury; and,
- a factor to recognise the need for priority access for injured workers.

FURTHER INFORMATION

For clarification on any details included in this report, please contact:

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	For further information regarding policy and legislative development: Paul Goldsborough paul.goldsborough@dir.qld.gov.au	A/Assistant General Manager, Workplace Health and Safety Queensland Department of Industrial Relations	(07) 3247 4652
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New South Wales	www.workcover.nsw.gov.au	Tasmania	www.dier.tas.gov.au
New Zealand	www.acc.co.nz	Victoria	www.workcover.vic.gov.au
Northern Territory	www.worksafe.nt.gov.au	Western Australia	www.workcover.wa.gov.au
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