

FOREWORD

This publication is an initiative of the Heads of Workplace Safety and Compensation Authorities (HWSCA).

The HWSCA 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.

Workers' Compensation Arrangements in Australia and NZ Jurisdictions has been compiled from information supplied by the HWSCA jurisdictions and is revised yearly in November. The information in this edition is current as at 1 October 2001.

The current publication can be accessed via the Internet on the HWSCA website at www.hwsca.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 HWSCA website or by writing to the workers' compensation body in your jurisdiction (contact details on page 50).

I would also like to draw your attention to some recent publications which have been produced under the auspices of the Workplace Relations Ministers' Council (formerly the Labour Ministers' Council). *Comparative Performance Monitoring: Occupational Health and Safety and Workers' Compensation (August 2001)* and *Comparison of Occupational Health and Safety Arrangements in Australian Jurisdictions (May 1999)*¹ will provide readers interested in Australian workers' compensation schemes and authorities with a useful and informative supplement to this publication.

Keith Brown

Convenor, Heads of Workplace Safety & Compensation Authorities

¹Both publications can be accessed through the Department of Employment, Workplace Relations and on their website www.dewr.gov.au

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STATISTICAL INFORMATION

STATISTICAL INFORMATION	AUSTRALIA	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Area (Square kilometres)	7,682,000	228,000	802,000	984,000
Population (June 2000)	19,157,037	4,765,856	6,463,455	1,497,634
Population, 15 years & over (August 2001)	15,441,900	3,881,900	5,209,700	1,212,900
Labour force (August 2001)	9,768,200	2,455,100	3,242,300	726,000
Unemployment rate (August 2001)	6.6%	6.2%	5.9%	7.2%
Gross earnings (June Qtr 2001)	\$65,581.7M	\$18,140M	\$22,678.2M	\$4,230.5M
Average weekly earnings (All Employees - October 2001)	\$660.30	\$644.10	\$703.50	\$628.90

STATISTICAL INFORMATION

	WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
	2,525,000	1,727,000	68,000	1,346,000	2,000	268,021
	1,833,860	3,566,357	470,376	195,463	310,839	3,849,000 (June 2001)
	1,514,000	2,863,800	373,700	142,300	244,700	2,975,800 (June 2001)
	1,003,000	1,848,000	214,600	105,200	173,900	1,820,000 (March 2001)
	6.5%	7.9%	10.2%	7.4%	4.6%	5.2% (June 2001)
	\$6,641.6M	\$10,944.3M	\$1,194.5M	\$782.4M	\$1,609M	\$13,497M
	\$638.90	\$636.20	\$576.60	\$679.00	\$758.00	\$NZ731.20 (All employees - June 2001)

SCHEME DETAILS

SCHEME DETAILS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA																																																
Scheme name	Comcare, Seacare	Victorian WorkCover Authority	WorkCover NSW	WorkCover Corporation																																																
'WorkCover' legislation	<p>Safety, Rehabilitation and Compensation Act 1988; Defence Act 1903 (allows for additional compensation for the Australian Defence Force from 07/04/94)</p> <p>Seacare: Seafarers Rehabilitation and Compensation Act 1992</p>	<p>Accident Compensation Act 1985; Accident Compensation (WorkCover Insurance) Act 1993</p>	<p>Workplace Injury Management and Workers Compensation Act 1998; Workers Compensation Act 1987; Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987; Workers' Compensation (Dust Diseases) Act 1942; Sporting Injuries Insurance Act 1978</p>	<p>Workers Rehabilitation and Compensation Act 1986</p>																																																
Responsibility held for OHS legislation and related legislation	<p>Yes</p> <p>Occupational Health and Safety (Commonwealth Employment) Act 1991</p> <p>Seacare: Occupational Health and Safety (Maritime Industry) Act 1993</p>	<p>Yes</p> <p>Occupational Health and Safety Act 1985; Dangerous Goods Act 1985; Equipment (Public Safety) Act 1994; Road Transport (Dangerous Goods) Act 1995</p>	<p>Yes</p> <p>Occupational Health and Safety Act 2000; Factories, Shops & Industries Act 1962; Dangerous Goods Act 1975</p>	<p>Yes</p> <p>Occupational Health, Safety and Welfare Act 1986</p>																																																
Fund type	<p>Central Fund</p> <p>Seacare: Authorised Insurers (No set rates - a private system)</p>	<p>Central Fund</p>	<p>Managed Fund</p>	<p>Central Fund</p>																																																
Scheme's funding position at 30 June 2001 and/or 30 June 2000	<p>30/06/01:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$838.8M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$643.3M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">130.4%</td> </tr> </table> <p>30/06/00:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$827.0M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$622.6M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">132.8%</td> </tr> </table> <p>NB: Excludes pre-premium claims</p> <p>Seacare: N/A</p>	Assets:	\$838.8M	Liabilities:	\$643.3M	Funding Ratio:	130.4%	Assets:	\$827.0M	Liabilities:	\$622.6M	Funding Ratio:	132.8%	<p>30/06/01</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$4,855M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$5,538M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">87.7%</td> </tr> </table> <p>30/06/00:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$4,410M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$4,834M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">91.2%</td> </tr> </table>	Assets:	\$4,855M	Liabilities:	\$5,538M	Funding Ratio:	87.7%	Assets:	\$4,410M	Liabilities:	\$4,834M	Funding Ratio:	91.2%	<p>30/06/01:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">6,443M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">9,199M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">70%</td> </tr> </table> <p>30/06/00:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">6,317M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">7,956M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">79%</td> </tr> </table>	Assets:	6,443M	Liabilities:	9,199M	Funding Ratio:	70%	Assets:	6,317M	Liabilities:	7,956M	Funding Ratio:	79%	<p>30/06/00:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$814M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$836M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">97.3%</td> </tr> </table> <p>30/06/99:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Assets:</td> <td style="text-align: right;">\$715M</td> </tr> <tr> <td>Liabilities:</td> <td style="text-align: right;">\$744M</td> </tr> <tr> <td>Funding Ratio:</td> <td style="text-align: right;">96%</td> </tr> </table>	Assets:	\$814M	Liabilities:	\$836M	Funding Ratio:	97.3%	Assets:	\$715M	Liabilities:	\$744M	Funding Ratio:	96%
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Employer excess	<p>No excess - scheme coverage from first day of incapacity</p> <p>Seacare: Employer excess varies between employers</p>	<p>First 10 days of incapacity, and first \$466 of medical costs. Buy out option also exists (25% of premium)</p>	<p>Category A employers (annual premiums > \$3,000): first \$500 of weekly payments for each claim. Category B employers (annual premiums < \$3,000): first \$500 or payment of excess surcharge on premiums of 3%</p>	<p>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 2000/2001)</p>																																																

* 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</p> <p><i>Workers' Compensation and Rehabilitation Act 1981</i></p>	<p>WorkCover Queensland</p> <p><i>WorkCover Queensland Act 1996</i></p>	<p>WorkCover Tasmania</p> <p><i>Workers Rehabilitation and Compensation Act 1988</i></p>	<p>Work Health</p> <p><i>Work Health Act 1986</i></p>	<p>WorkCover</p> <p><i>Workers' Compensation Act 1951 (updated 21 December 2000)</i></p>	<p>Accident Compensation Corporation</p> <p><i>Accident Insurance Act 1998</i></p>
No	No	Monitoring, promotional and advisory functions only. <i>Workplace Health and Safety Act 1995</i>	Yes	Yes <i>Occupational Health and Safety Act 1989; Dangerous Goods Act 1984</i>	No
Approved Insurers (Essentially private insurance. Loading of 100% allowable on set premium and full discounting allowed. The Workers' Compensation and Rehabilitation Commission 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)	Approved Insurers. (No set rates - a private system)	Central Fund (between 1/7/99 and 30/6/00 approved insurers; no set rates - a private system)
N/A	30/06/01:	N/A	N/A	N/A	30/06/01 (\$NZM)
	Assets: 2,444M				Assets: 1,381
	Liabilities: \$1,844M				Liabilities: 2,822
	Funding Ratio: 132.5%				Funding Ratio: 49%
	30/06/00				30/06/00 (\$NZM)
	Assets: 2,547M				Assets: 1,171
	Liabilities: \$2,028M				Liabilities: 2,634
	Funding Ratio: 125.6%				Funding Ratio: 44%
No excess - scheme coverage from first day of incapacity	4 days excess plus day of injury. Option to 'buy-out' excess at the greater rate of 8.5% of premium or \$10	First 5 working days of each injury and first \$200.00 of other benefits	Day of injury only No medical costs	No excess - scheme coverage from first day of incapacity No medical costs	For work injuries, the employer is liable to cover first week after incapacity for work begins

SCHEME DETAILS

SCHEME DETAILS	COMMONWEALTH*		VICTORIA		NEW SOUTH WALES		SOUTH AUSTRALIA	
Number of reported claims per financial year	2000-01:	19,317	00-01:	32,539	99-00:	53,224	99-00:	31,200
	1999-00:	19,512	99-00:	31,592	98-99:	55,492	98-99:	30,720
	1998-99:	21,170	98-99:	31,242	97-98:	58,604	97-98:	32,450
	1997-98:	24,532	97-98:	30,113	96-97:	60,109	96-97:	34,350
	1996-97:	28,807	96-97:	31,809	95-96:	62,469	95-96:	37,180
	1995-96:	32,796	95-96:	32,632	94-95:	62,840	94-95:	39,630
	1994-95:	34,979	94-95:	32,346	NB: Revised to Conform to National Data Set, i.e. excludes claims less than 5 days			
	NB: Includes Self-Administrators & Delegated Authority							
	Seacare:							
	2000-01:	203						
1999-00:	182							
1998-99:	220							
1997-98:	381							
1996-97:	519							
1995-94:	704							
1994-95:	593							
Average premium rate per financial year	2001-02:	1.00% ¹	01-02:	2.22%	01-02:	2.80% ¹	01-02:	2.46%
	2001-02:	3.36% ²	00-01:	2.22%	00-01:	2.80% ¹	00-01:	2.86%
	2000-01:	0.98% ¹	99-00:	1.90%	99-00:	2.80%	99-00:	2.86%
	2000-01:	3.12% ²	98-99:	1.90%	98-99:	2.80%	98-99:	2.86%
	1999-00:	1.03% ¹	97-98:	1.80%	97-98:	2.80%	97-98:	2.86%
	1999-00:	2.77% ²	96-97:	1.80%	96-97:	2.80%	96-97:	2.86%
	1998-99:	1.00% ¹	95-96:	1.98%	95-96:	2.50%	95-96:	2.86%
	1998-99:	2.60% ²	¹ Excludes New Tax System effects					
	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							
	² ACT Government Service							
Seacare:								
2001-02:	N/A							
2000-01:	N/A							
1999-00:	3.48%							
Do provisions for self-insurance exist?	Yes	Yes	Yes	Yes	Yes (known as exempt status)			
Number	10 self-insurers (including 8 self-administrators, 5 of which have outsourced claims processing) 1 delegated authority	35 self-insurers	50 self-insurers 12 group self-insurers 6 specialised insurers (i.e. insurers restricted to particular industry clauses) and a state public sector insurer (the Treasury Managed Fund)	66 self-insurers plus Government Departments and Authorities				
Criteria	Prudential Requirements, Claims administrators; capacity to meet prescribed conditions of licence	Prudential Requirements	≥1000 NSW workers Prudential Requirements	≥200 workers Prudential Requirements				
* Unless otherwise stated, information provided applies to both Comcare and Seacare								
Seacare: N/A								

SCHEME DETAILS

WESTERN AUSTRALIA		QUEENSLAND		TASMANIA		NORTHERN TERRITORY		A.C.T.		NEW ZEALAND	
99-00:	24,140	00-01:	85,340	00-01:	11,323	00-01:	3,946	99-00:	3,775	00-01:	19,074
98-99:	24,788	99-00:	82,335 ¹	99-00:	11,833	99-00:	4,349	98-99:	3,804	99-00:	15,413
97-98:	27,462	98-99:	80,089 ¹	98-99:	12,398	98-99:	4,529	97-98:	4,297	98-99:	28,199
96-97:	27,902	97-98:	79,859 ¹	97-98:	13,253	97-98:	4,334	96-97:	4,193	97-98:	37,819
95-96:	28,453	96-97:	85,110	96-97:	14,822	96-97:	4,272	95-96:	4,317	96-97:	45,427
94-95:	28,594	95-96:	93,008	95-96:	16,973	95-96:	4,070	94-95:	4,326	95-96:	49,636
		94-95:	100,530			94-95:	3,847			94-95:	48,140
NB: This data represents the number of lost time claims (one day/shift or more)		¹ This data represents all reported claims, including those of less than 5 days, and includes self-insurer claims								NB: From 1/7/99 to 30/6/00 Employers were insured by the private market and Self Employed had the option of being insured by the private market or by ACC. These numbers include only claims made by employees and self employed covered by ACC.	
NB: Snapshot figure taken on 31/12/00										Data relates to new work injury claims for all categories of earner (employee, self-employed etc). lodged with ACC each year; for claims that required more than minor medical fee reimbursements. Figures	
01-02:	2.63%	01-02:	1.55% ⁴	01-02:	N/A	01-02:	N/A	01-01:	N/A	31/3/02	0.90%
00-01:	2.97%	00-01:	1.75%	00-01:	3.04%	00-01:	N/A	00-01:	N/A	9 mths to	
99-00:	3.09% ¹	99-00:	1.85% ³	99-00:	2.9%	99-00:	2.33%	99-00:	3.1%	31.03.01	1.16%
98-99:	2.73%	98-99:	2.145% ¹	98-99:	2.7%	98-99:	1.90%	98-99:	2.6%	Year to	
97-98:	2.40%	97-98:	2.145% ¹	97-98:	3.1%	97-98:	1.53%	97-98:	2.12%	30/06/00	1.26%
96-97:	2.67%	96-97:	2.023%	96-97:	3.2%	96-97:	1.50%	96-97:	2.50%	30/06/99	1.55%
95-96:	2.61%	95-96:	1.85% ²	95-96:	3.02%	95-96:	1.60%	95-96:	2.41%	30/06/98	1.81%
¹ 3.44% between 1/7/99 and 31/10/99		¹ This is the target rate inclusive of 10% surcharge		NB: Average rates calculated by scheme actuary		NB: Figures supplied by approved insurers		NB: There is no stamp duty payable on workers compensation premiums		30/06/97	2.24%
3.09% between 1/11/99 and 30/6/00		² 10% surcharge introduced 01/01/96								30/06/96	1.51%
		³ Surcharge removed for periods of insurance after 1/7/99								NB: An additional levy is added to ensure full funding by 30/06/2014. In 2000/01 it was 0.40%, in 2001/02 the average levy is 0.35%	
		⁴ Excludes GST									
		NB: All rates are inclusive of stamp duty									
Yes		Yes		Yes		Yes		Yes		Yes	
24 self-insurers		23 self-insurers		18 self-insurers		5 self-insurers		7 self-insurers		183 self-insured	
		≥2000 full-time workers for new applicants		including state service						accredited employers	
Prudential Requirements		Prudential Requirements		Prudential Requirements		Prudential Requirements		Prudential Requirements		Prudential, Systems and	
										Procedure Requirements	

COVERAGE

COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
<p>Definition of 'remuneration' for the purpose of defining premium</p>	<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 holidays 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>Gross wages; salaries (including overtime and all pay loadings); bonuses; commissions; allowances; items included as part of employment package; any other fringe benefits and any superannuation benefits</p> <p>The following are exempt: apprentice & trainee remuneration; workers' compensation payments; shareholder dividends; partners' drawings; payments for Construction Industry Long Service Leave Board and Redundancy Payments Central Fund (only if not taxable as fringe benefits); termination payments; and exempt benefits under the <i>Fringe Benefits Tax Assessment Act 1986</i></p>	<p>Includes salary; overtime; shift and other allowances; over-award payments; bonuses; commissions; payments to working directors; payments for public and annual holiday (including loadings); sick leave payments; value of board and lodgings provided by employer for worker; any other consideration in money or money's worth given to the worker under a contract of service or apprenticeship</p> <p>It does not include: any sum that the employer has been accustomed to pay the worker because of the nature of the employment; any allowance to reimburse costs arising out of any obligation incurred under a contract; any amount expended on behalf of the worker; director's fees; compensation under the Act; any payment for long service leave or any payment under the <i>Building and Construction Industry Long Service Payments Act 1986</i></p>	<p>As a guideline: Payments made to or for the benefit of a worker (quantified in monetary terms) but excluding: workers' compensation 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>Number of workers covered</p>	<p>2001-02: N/A 2000-01: 309,069 1999-00: 306,767 1998-99: 362,930 ¹ ¹ Includes self-insurers and the delegated authority</p> <p>Seacare: 2000-01: 2,895 1999-00: 2,800</p>	<p>01-02: N/A 00-01: 1,960,400 ¹ ¹ Estimate based on ABS data for March quarter 2000</p>	<p>01-02: N/A 00-01: N/A 99-00: 2,497,660</p>	<p>01-02: N/A 00-01: N/A 99-00: 679,674 98-99: 671,870 ¹ ¹ Approx. 36% of all SA workers are employed by Self insurers</p>
<p>Definition of 'worker' for purpose of coverage relationship to employment</p>	<p>Contract of service</p>	<p>Contract of service</p>	<p>Contract of service</p>	<p>Contract of service</p>
<p>Deemed workers</p>	<p>Included Seacare: N/A</p>	<p>Included</p>	<p>Included</p>	<p>Included</p>

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

COVERAGE

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<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>	<p>Wages; salary; other earnings by way of money or entitlements having monetary value, but does not include: allowances for travelling; car; removal; meal; education; living away from home or in the country; clothing; tools; vehicle expenses; employer contributions to superannuation; lump sum payments on termination; an amount payable under section 70 of the <i>WorkCover Queensland Act 1996</i> - employer's liability for excess period</p> <p>Any benefits and allowance, such as additional superannuation, motor vehicle usage, etc., provided under salary sacrifice arrangements are declarable</p>	<p>The <i>Workers Rehabilitation and Compensation Act 1988</i> refers to 'wages' for the purpose of defining premium. Wages includes 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 <i>Fringe Benefits Tax Assessment Act 1986</i> 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>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>Salary; overtime; shift and other allowances; bonuses; commissions; payments to working directors; public and annual holiday payments (including loadings); sick leave payments; value of board and lodging for worker; and any other money or money's worth given to the worker under a contract of service or apprenticeship</p> <p>Also includes: payment (whether commission, fee, reward otherwise) under a contract (whether termed a contract, agreement, arrangement or engagement) to a person deemed to be a worker</p> <p>Does not include any payments for special expenses incurred by the worker because of the nature of the employment; reimbursement allowances for costs arising from obligations incurred under a contract; amount expended on behalf of the worker; directors' fees, compensation under the <i>Workers Compensation Act 1951</i>; or payment for long service leave; a lump sum payment instead of long service leave or any payment under the Long Service Leave (Building & Construction Industry)</p>	<p>The Accident Insurance Act 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</p>
<p>01-02: N/A 00-01: N/A 99-00: 772,693 ¹</p> <p>¹ From ABS data</p>	<p>01-02: N/A 00-01: 1,583,500 ¹</p> <p>¹ Based on ABS data (employed wage and salary earners, QLD) as at February 2000</p>	<p>01-02: N/A 00-01: approx. 160,000</p>	<p>01-02: N/A 00-01: N/A 99-00: approx. 74,000</p>	<p>01-02: N/A 00-01: N/A 99-00: N/A 98-99: 73,700</p> <p>NB: ACT Public Service covered under Comcare</p>	<p>1,820,000 as at March 2000</p> <p>(Approx. 263,000 full-time employees are covered by self-managing accredited employers)</p>
<p>Contract of service</p> <p>Contract for service In some situations contractors and sub-contractors also may be defined as 'workers', depending on the circumstances of their working arrangement</p>	<p>As of 1 July 2000, a worker is an individual under a 'contract of service'. Schedule 2 of the Act mentions persons who are and are not 'workers'. Workplace Personal Injury Insurance is available for Eligible Persons (not deemed workers).</p>	<p>Contract of service</p>	<p>Contract of service</p> <p>Exclusion applies where ABN has been provided</p>	<p>Contract of service</p>	<p>An 'earner' is an employee, self-employed person, shareholder employee or private domestic worker</p>
Included	Not included	Included	Included	Included	N/A

COVERAGE

COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Definition of 'Injury' for the purpose of coverage – Relationship to employment	'... 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 ...'
– Contribution of employment	To a material degree (for disease only)	A significant contributing factor	A substantial contributing factor	A substantial cause (for stress only)
– Aggravation, acceleration, etc.	Included	Included	Included	Included
– Diseases	Included	Included	Included	Included
– Recess claims	On/off worksite	On/off worksite	On/off worksite	On worksite only
– Journey claims - to/from work	Included	Not Included	Included (with some restrictions)	Not included unless there is a real and substantial connection between the employment and the accident
– Stress specific exclusion factors	Included	Included	Included	Included
– Industrial deafness threshold	20% Amendments to the SRC Act mean that for claims after the date of effect for the amendments, the threshold will be 5% binaural loss	10%	6%	5%

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

	WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
	'... a personal injury by accident arising out of or in the course of the employment ...'	'... 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 ...'	'... personal injury arising out of, or in the course of employment ...'	'... a personal injury that the insured suffers while he or she is at any place for the purposes of his or her employment'
	To a significant degree (for disease only)	A significant contributing factor	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	Not included	Workplace must have been a cause or a contributing factor in cases of gradual process, disease and infection injuries
	Included	Included	Included	Included	Included	Included unless original claim resolved, in which case treated as a new injury
	Included	Included	Included	Included	Included	Included, subject to the criteria of section 33 of the AIA
	On/off worksite	On/off worksite	On worksite only	On/off worksite	On/off worksite	At place of employment
	Not included, however workers are covered for injury during journeys in the course of employment or at the direction of the employer	Included (with some restrictions)	Not included	Included (with some restrictions)	Included	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, however certain requirements must be met	Included	Included	Included	Included	Claims only allowed for <ul style="list-style-type: none"> • Stress caused by physical injury • Stress caused by sexual abuse
	10% (Above baseline hearing loss previously assessed)	5% 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)	Nil	No threshold is specified. Covered under the 'gradual process' provisions

COVERAGE

COVERAGE	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
<p>Retirement Provisions</p>	<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 <i>Seafarers Rehabilitation and Compensation Act 1992</i>, 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>Section 5 of <i>Accident Compensation Act 1985</i> 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 52 weeks of attaining retirement age or after attaining retirement age, the worker is entitled to weekly payments for the not more than the first 52 weeks (whether consecutive or not) of incapacity for work</p>	<p>Section 52 of the <i>Workers' Compensation Act 1987</i> provides that a worker's entitlement to weekly compensation benefits continues only 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 <i>Workers Rehabilitation and Compensation Act 1986</i> 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 have passed the normal retirement age for the industry 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>

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

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 - Entitlements to weekly payments ceasing on account of age</p> <p>Section 68 - Calculation of lump sum</p> <p>Section 198 - Weekly payments after the age of 64</p> <p>Schedule 5 - Where a worker attains the age of 65 she/he is entitled to receive the 'supplementary amount' if it can be proved the worker was going to work beyond the age of 65 (until age 70)</p> <p>Workers suffering disability after age 64 years have a period of one year for payment of weekly compensation from the date of disability</p> <p>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 - \$127,900¹ (this includes lump sum for permanent impairment and weekly compensation amounts); or</p> <p>(d) 28 days after an offer of lump sum compensation for permanent impairment is made; or</p> <p>(e) WorkCover and the worker agree on an amount that redeems WorkCover'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>¹ Refer to Queensland Recent Developments p.44</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 the question as the 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 may determine that weekly payments may be continued beyond the dates mentioned in subsection (1) and shall determine 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>No provisions in the Act that relate to retirement age</p> <p>Entitlement to benefits continues while the worker is totally unfit for work or cannot find work because of an incapacity due to a work related injury</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 within 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
<p>Cross border cooperative arrangements</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p> <p>Seacare: State/Territory Compensation Schemes have no application if Seacare applies</p>	<p>As a result of agreement between the New South Wales and Victorian WorkCover Boards of Management, the following applies:</p> <p>(a) Victorian employers, who have a significant workforce in NSW (where significant is defined as the equivalent of one or more full time workers in NSW or more that 25% of the workforce in NSW) must take out policies in both States but only pay the premium on remuneration paid for work performed in that State</p> <p>(b) Victorian employers who have a workforce in NSW which does not meet the significant test (see (a)) need only obtain a Victorian policy</p> <p>(c) Employers in (b) are expected to have a relatively limited risk exposure. Where claims against those employers occur in NSW jurisdiction they will tend to be lodged in the Victorian jurisdiction</p> <p>However where an injury was incurred in the NSW jurisdiction and the claim was pursued in that jurisdiction it would be met by the NSW Uninsured Employer Fund</p> <p>The reverse would hold for NSW employers with an insignificant workforce where an injury occurs in Victoria</p>	<p>As a result of agreement between the New South Wales and Victorian WorkCover Boards of Management, the following applies:</p> <p>(a) Victorian employers, who have a significant workforce in NSW (where significant is defined as the equivalent of one or more full time workers in NSW or more that 25% of the workforce in NSW) must take out policies in both States but only pay the premium on remuneration paid for work performed in that State</p> <p>(b) Victorian employers who have a workforce in NSW which does not meet the significant test (see (a)) need only obtain a Victorian policy</p> <p>(c) Employers in (b) are expected to have a relatively limited risk exposure. Where claims against those employers occur in NSW jurisdiction they will tend to be lodged in the Victorian jurisdiction</p> <p>However where an injury was incurred in the NSW jurisdiction and the claim was pursued in that jurisdiction it would be met by the NSW Uninsured Employer Fund</p> <p>The reverse would hold for NSW employers with an insignificant workforce where an injury occurs in Victoria</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p>

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COVERAGE

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities. Section 140 of the Act applies to interstate and overseas arrangements</p> <p>This section prescribes that the principal place of employment must be in Queensland to be eligible for compensation</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p>	<p>There are no formal cooperative arrangements with other jurisdictional compensation authorities</p>	<p>Cross border amendment to Workers Compensation Act 1951 commenced 13 January 1998</p> <p>This limits the liability of employers to pay compensation only in respect of injures suffered by a Worker of the Territory</p> <p>The amendment defines who is a worker of the Territory and provides coverage for ACT workers undertaking temporary employment in other jurisdictions, including outside Australia</p>	<p>N/A</p>

BENEFITS

BENEFITS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
<p>Weekly benefit rates</p>	<p>≤ 45 weeks: Normal weekly earnings (NWE)</p> <p>> 45 weeks: 75% of NWE</p> <p>Maximum: \$1,236.15</p> <p>(150% of Average Week Ordinary Time Earnings for Full-time Adults as published by ABS)</p> <p>Minimum: \$311.18</p> <p>Additional for dependent spouse \$77.04 and for each dependent child \$38.50</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: \$924.00), less notional earnings > 13 weeks: If no current work capacity 75% of PIAWE; or if some work capacity either: (a) 60% of PIAWE less 60% of notional earnings, or (b) \$554 less 60% of notional earning, whichever is the lesser > 104 weeks: Weekly benefits cease after 104 weeks of weekly payments unless: (a) worker is likely to have no current work capacity indefinitely 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 \$108 per week; and be employed/self-employed</p>	<p>≤ 26 weeks: Current weekly wage rate (maximum \$1,259.20) 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 \$296.20) Plus Dependants:</p> <ul style="list-style-type: none"> • spouse \$78.10 • 1 child \$55.80 • 2 children \$124.80 • 3 children \$206.70 • 4 children \$290.70 • For each additional dependant child in excess of 4: \$83.90 <p>> 52 weeks: The maximum period for which partially incapacitated workers 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>Persons receiving Section 38 benefits on or before 1 August 1998 are eligible to receive up to 104 weeks of special benefits</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>NB These amounts are indexed every 1 April and 1 October</p>	<p>≤ 52 weeks: Worker's Average Weekly Earnings (WAWWE) to a maximum of 2 x State average weekly earnings (AWE):</p> <p>Maximum: \$1,649.60 at 16/08/01 less actual earnings if partially incapacitated</p> <p>>52 weeks: (a) Total incapacity: 80% of WAWWE subject to a maximum of 80% of 2 x State AWE; Maximum: \$1,319.68 at 16/08/01 (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 \$1,229.76 at 18/05/00 less actual or potential earnings if partially incapacitated</p> <p>>104 weeks: If worker 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>

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

BENEFITS

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>A cap on weekly payments of \$927.40 applies for the duration of all claims. This amount is indexed annually (every 1 July)</p> <p>Workers whose earnings are prescribed by an industrial award</p> <p>First 4 weeks of claim: Weekly payments will consist of the rate of the worker's average weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis including overtime, bonuses or allowances up to a maximum of \$927.40. Overtime, bonuses or allowances are averaged over the 13 weeks before the disability occurred</p> <p>5th week onward: Weekly payments consist of the rate of weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis, but excluding overtime, bonuses or allowances. Maximum payment is \$927.40</p> <p>Minimum rate: Subject to the cap of \$927.40, the minimum rate of weekly earnings payable for the appropriate classification under the relevant award.</p> <p>Workers whose earnings are not prescribed by an industrial award</p> <p>First 4 weeks of claim: Weekly payments will consist of the worker's average weekly earnings (including overtime, bonuses or allowances) averaged over the year before the disability occurred up to a maximum of \$927.40</p> <p>5th week onward: Weekly payments 'step down' to 85% of the worker's average weekly earnings; maximum payment is \$927.40</p> <p>Minimum rate: Subject to the cap of \$927.40, the minimum rate of weekly earnings payable under the <i>Minimum Conditions of Employment Act 1993</i></p>	<p>≤ 26 weeks: Workers under award or industrial agreement - 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 award or agreement - the greater of:</p> <p>(a) 85% of NWE (b) 70% of QOTE</p> <p>QOTE (Queensland ordinary time earnings) is currently \$760.10</p> <p>> 26 weeks: All workers - the greater of:</p> <p>(a) 65% of NWE (b) 60% of QOTE</p> <p>>104 weeks to 5 years: Workers with work-related impairment (WRI) of more than 15% - the greater of:</p> <p>(a) 65% of NWE (b) 60% of QOTE</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 \$127,900¹</p> <p>¹ Refer to Queensland Recent Developments on page 44</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>> 52 weeks: 70% of weekly payment</p> <p>Entitlement to weekly payments ceases on the expiration of 10 years after the date of the incapacity; Minimum rate: \$310.00</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 it was 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 \$1,200.15; or</p> <p>(b) \$400.05 plus \$100.01 for a dependant spouse and \$50.01 for each dependent child; or 90% of NWE (whichever is the lesser)</p>	<p>≤ 26 weeks: Sick pay/normal weekly earnings</p> <p>> 26 weeks: Worker: \$295.02¹ Spouse: \$77.64¹ Each dependent child: \$36.23¹</p> <p>¹ Indexed in line with the CPI</p>	<p>For weeks 2-5 of incapacity, weekly compensation is paid at 80% of the short-term rate (defined on page 21).</p> <p>From the 5th week, weekly compensation is paid at 80% of the long-term rate (defined on page 21). Maximum weekly compensation is \$NZ1,341.31</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 \$NZ289.09, or 80% of \$NZ225.96 for people under the age of 20 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 • the upper age limit rules apply

BENEFITS

BENEFITS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
<p>Basis for determining weekly benefits</p>	<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>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 allowance 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>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>

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BENEFITS

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>The cap on weekly payments of \$927.40 is obtained by multiplying by 1.5 the average of the amounts that the ABS publish as all employees average weekly total earnings in Western Australia for pay periods ending in the months of May, August, November and February preceding the financial year. This amount is indexed annually (every 1 July)</p> <p>Workers whose earnings are prescribed by an industrial award</p> <p>First 4 weeks: Weekly earnings payable as per the relevant industrial award, plus any over award or service payment paid on a regular basis including overtime, bonuses or allowances. Overtime, bonuses or allowances are averaged over the 13 weeks before the disability occurred</p> <p>5th week onward: Weekly earnings payable as per the relevant industrial award, plus any over award or service payment paid on a regular basis, but excluding overtime, bonuses and allowances</p> <p>Workers whose earnings are not prescribed by an industrial award</p> <p>First 4 weeks: Average weekly earnings payable (including overtime, bonuses or allowances) are averaged over the year before the disability occurred</p> <p>5th week onwards: Weekly payments consist of 85% of the worker's average weekly earnings, which are averaged over the year before the disability occurred.</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 \$126,145 current until 30 June 2002).</p> <p>In certain circumstances, at the discretion of the Conciliation and Review Directorate, an additional amount of up to \$50,000 may be granted in weekly payments</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 \$127,900¹</p> <p>This includes lump sum and weekly compensation benefits. The total lump sum and weekly benefits, cannot be greater than the total statutory compensation payable</p> <p>Additional lump sum and gratuitous care lump sums are not included in this maximum</p> <p>¹ Refer to Queensland Recent Developments p44</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 it was worked in a regular and established pattern</p> <p>NWE also includes: climate; district; leading hand and qualification allowances and service grants</p>	<p>In the case of a worker who is, entitled to sick leave payments; an amount equal to the sick leave payment that the worker would receive for that week being on sick leave on full pay</p> <p>In any other case: an amount equal to earnings that would, but for the injury, be payable to the worker for that week</p> <p>It does not include overtime, allowances for special expenses or income from professional sporting activity</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 · 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 <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 • the long-term calculation is based on all non-permanent employee earnings in the 52 weeks prior to incapacity divided by 52 <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>

BENEFITS

BENEFITS	COMMONWEALTH*	VICTORIA	NEW SOUTH WALES	SOUTH AUSTRALIA
Medical and hospital - limits	No limits - all reasonable costs	Cease 52 weeks after weekly payments cease, or, if no time lost, 52 weeks after first entitlement May continue in specified circumstances	\$50,000.00 or such greater amount as is prescribed or as directed by the WorkCover Authority or by the Compensation Court Occupational Rehabilitation Service Cost (rehabilitation review point): \$1,888.80	No limit - all reasonable costs
Basis for medical and like service fees	Generally apply scales set by other jurisdictions. Also apply some scales recommended by professional associations Seacare: Appropriate amount having regard to nature of treatment	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 For all services, a loading on Medicare Schedule fee to reflect market rate and other factors associated with treatment of compensable patients Other medical and like services: by annual review	On 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

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

BENEFITS

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$37,843.50 (i.e. 30% of the prescribed amount)</p> <p>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>(a) Medical and rehabilitation: no limit - all reasonable costs</p> <p>(b) Private hospitalisation cost for any one incident: \$10,000.00 limit</p> <p>In special circumstances, a further \$10,000.00 may be granted</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>No limit - all reasonable costs</p>	<p>Full costs of public health acute services are met by ACC and Residual Insurers (see page 43) 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, then the actual cost is paid. Treatment must be necessary and appropriate</p>
<p>Rates are prescribed by regulation following negotiation with the relevant body</p>	<p>Medical Practitioners based on Medicare Benefits Schedule, and calculated as Scheduled Fee plus 27.5% 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>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>Reasonable fees; AMA and other professional associations rates used as guideline only</p> <p>Medical Fees: assessed having regard to the charges customarily made for similar medical treatment in the place where that treatment is obtained</p>	<ol style="list-style-type: none"> 1. Acute (Hospital) services: Annual levy payment to the Ministry of Health 2. Primary Care Rates: Prescribed by regulation 3. Elective Services: Contract with provider 4. Services not covered by regulation or contract: Full cost paid

BENEFITS

NEW SOUTH WALES

SOUTH AUSTRALIA

\$100,000 for permanent impairment (with a maximum of \$121,000 for 2 or more permanent impairments from one injury)

In addition, a maximum of \$50,000.00 for pain and suffering (NB. See section on Common Law)

Before being entitled to payment for pain and suffering worker must meet threshold which is 10% of maximum amount payable under Table of Disabilities

Medically assessed as a percentage of a maximum amount payable under the Table of Disabilities in the *Workers Compensation Act 1987*

Settlements of future entitlements to weekly benefits (known as 'commutations') are allowed, by agreement of the worker and the insurer. There are no legislative requirements regarding the nature or duration of weekly benefit claim that can be commuted.

Commutation agreements must be registered with the Compensation Court (or after 1 January 2002 with the new Workers' Compensation Commission)

For non economic loss \$113,000.00 in 2001

If the lump sum assessment exceeds 55% of the prescribed sum (\$113,000.00), a supplementary benefit of up to \$76,275 is available

5% (hearing loss only)

Assessed under 3rd Schedule (Table of Maims) based on medical opinion or; otherwise medically assessed under American Medical Association Guides (3rd edition revised)

Disability not listed in 3rd Schedule or in AMA guides not eligible for assessment

No assessment for psychiatric impairment

Liability for weekly payments and/or medical expenses may be redeemed by a capital payment to the worker

Redemptions require worker and Corporation collaboration agreement

BENEFITS

BENEFITS	WESTERN AUSTRALIA	QUEENSLAND
<p>Lump sum payments:</p> <p>Impairment / Non-economic loss</p> <p>– Maximum</p>	<p>\$126,145 (less any amount paid in weekly benefits) for workers with a permanent disability</p>	<p>Total amount payable for weekly benefits and lumps sum up to \$127,900¹ (except for payments for injuries resulting in death). After 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 \$127,900¹. Also entitled to a lump sum for gratuitous care if the injury results in a WRI of 50% and moderate/total level of dependency for daily care. Amount payable up to \$186,090</p> <p>¹ Refer to Queensland Recent Developments p.44</p>
<p>– Thresholds</p>	<p>No</p>	<p>No</p>
<p>– Method of calculating (assessing permanent impairment)</p>	<p>Medically assessed under Schedule 2 (Table of Compensation Payable) using the <i>Assessment of Disability Guide</i> published by the WA Branch of the Australian Medical Association</p> <p>The method of assessing the degree of disability may be undertaken in accordance with the American Medical Association's <i>Guide to the Evaluation of Permanent Impairment</i> (4th edition), but only to the extent that Schedule 2 nor the AMA Guide applies</p>	<p>Assessed in accordance with the AMA Guide (currently 4th edition); psychiatric and psychological injuries assessed by a Medical Assessment Tribunal; industrial deafness injuries by an audiologist</p> <p>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 <i>WorkCover Queensland Regulation 1997</i> having regard to the worker's degree of permanent impairment and the Table of Injuries</p>
<p>Settlement / Redemption / Communication</p>	<p>Schedule 1 Lump sum payments/ redemption</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 permanent partial incapacity; • the worker must have been in receipt of weekly payments for 6 months; • the worker and employer agree to the redemption and the amount of the lump sum; • the worker will automatically waive their common law rights; and • the Director of the Conciliation and Review Directorate is to ensure the worker is aware of the consequences of redeeming their claim <p>Schedule 2 Lump sum payments</p> <p>When an injury results in the permanent loss of use of a part of the body mentioned in the Table of Compensation Payable known as Schedule 2 of the Act, an injured worker may be entitled to a lump sum if settlement of the claim is required. The maximum benefit is the remainder of the prescribed amount. For example, a worker who has a permanent total loss of use of a middle finger is entitled to 13% of the prescribed amount.</p> <p>The acceptance of a lump sum terminates any further entitlement to weekly payments and medical benefits for that particular disability</p>	<p>WorkCover'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 state 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)

BENEFITS

TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$162,795.00 for permanent impairment</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 <i>Workers Rehabilitation and Compensation Act 1998</i> 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>\$166,420.80 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 to the American Medical Association's Guides (4th edition)</p> <p>Under NT legislation there is provision for lump sum payments for permanent impairment and commutation</p> <p>Section 71 of the Work Health Act provides that if an injury results in a permanent impairment, the injury when stabilised is assessed as a percentage loss of whole of bodily function</p> <p>The entitlement is calculated as a percentage of a maximum of 208 AWE (\$166,420.80)</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 x AWE (\$124,815.60)</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>\$103,514.26</p> <p>No</p> <p>No assessment methodology prescribed</p> <p>Amount calculated with reference with Table of Maims</p> <p>The lump sum settlement is based on the Table of Maims i.e. percentage loss or use of a body part or by agreed amounts between employers (insurers) and workers</p>	<p>There is no provision in the legislation for the payment of Lump Sum Compensation. Additionally the Act prevents any 'person from seeking to obtain compensatory damages for the personal injury through any New Zealand court's 7(2). There is a periodic independence allowance, payable every 13 weeks if a person has permanent impairment following any injury. The maximum weekly amount is \$NZ64.39 which is non-taxable</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: \$184,864.84 Plus: \$61.61 per week for each dependent child</p> <p>For Comcare only: Additional compensation payable under the <i>Defence Act 1903</i> to top up the <i>SRC Act 1988</i> death benefits to \$222,138.17 and additional \$55,534.55 for each dependent child</p>	<p>Pre 12/11/97: \$134,430.00 Plus: additional lump sum payments for dependent children</p> <p>Post 12/11/97: \$190,900.00 Plus: Pre-injury earnings related pensions to dependent spouse and children</p> <p>Payable to spouse for 3 years and children until age of 16 or 21, if in full-time study</p>	<p>\$266,800.00</p> <p>Plus: \$83.90 per week for each dependent child</p>	<p>\$189,275.00 in 2001</p> <p>NB: Lump sum available for spouse. Also available for dependent 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 WAWWE) • children (orphans, up to 25% of WAWWE; non-orphans up to 12.5%) <p>Dependent relatives 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 set out below</p> <p>Between these dates only available for the death of the worker under the <i>Wrongs Act</i></p>	<p>Election between Table of Disabilities/pain and suffering under the Act or modified common law for injuries after 30 June 1989</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>Pecuniary Loss: \$823,680</p> <p>Pain and Suffering: \$372,700 Pre 12/11/97 \$358,610 Post-19/10/99</p> <p>Wrongs Act: \$543,380</p>	<p>\$256,900 (non-economic loss)</p> <p>No maximum limit for economic loss (loss of past and/or future earnings)</p> <p>NB: This amount indexed every 1 April and 1 October</p>	<p>N/A</p>

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

BENEFITS

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>\$126,145.00 (i.e. 100% of the prescribed amount)</p> <p>Minus: amount paid as weekly payments prior to the worker's death</p> <p>Plus: \$33.15 per week for each dependent child until the age of 16 years (or 21 if a student)</p> <p>Funeral expenses of \$4,427 are also payable</p> <p>Common law rights are available in accordance with the thresholds and requirements outlined below and on page 31</p> <p>Unlimited for workers with a disability assessed as 30% or more</p> <p>For workers with 'significant disability' (16% or more but less than 30%), a maximum of \$264,903</p>	<p>Maximum of \$204,645.00</p> <p>Minus: amount paid for under weekly benefits or table of injuries</p> <p>Plus: lump sum payment of \$7,670.00 for dependent children and weekly payments of 7% of QOTE (currently \$53.20) until the age of 16 years (or 21 if student)</p> <p>Lump sum payment of \$14,150 payable to parents if deceased under 21 years of age with no dependants¹</p> <p>¹ Refer to Queensland Recent Developments on page 44</p> <p>Unlimited</p>	<p>\$162,795.00</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>Common law rights are available in accordance with the threshold and requirements outlined below</p> <p>Unlimited (less any amount received as compensation)</p>	<p>\$124,815.60</p> <p>Plus: \$80.01 per week for each dependent child (maximum of 10)</p> <p>Common law rights against employer or fellow worker abolished for injuries occurring after 1 January 1987</p> <p>N/A</p>	<p>\$103,514.26</p> <p>(Death after lingering: \$10,351.45)</p> <p>Funeral expenses: \$2,329.07</p> <p>Plus: \$36.23 per week for each dependent child</p> <p>Unlimited</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, in case where the total entitlement of the survivors exceeds 100% individual entitlements are reduced on a prorata basis</p> <p>Also payable:</p> <ul style="list-style-type: none"> • funeral grant of \$NZ3,284.03 • survivors grant of \$NZ4,702.86 to a spouse of the deceased • survivors grant of \$NZ2,351.40 to each child or other dependant • child care payments of \$NZ100 for a single child, \$NZ60 each if there are 2 children, and a total of \$NZ140 if there are 3 or more children <p>Abolished when the scheme was introduced in 1974</p> <p>N/A</p>

BENEFITS

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 and non-economic	N/A
Threshold for common law	Subject to state/territory legislation	<p>Impairment threshold Injury before 12/11/97 Actions available for 'seriously injured' workers whether through narrative test or \geq 30% impairment (AMA2)</p> <p>Injuries between 12/11/97 and 19/10/99 No common law available</p> <p>Injury after 19/10/99 Actions available for 'seriously injured' workers, whether through narrative test or \geq 30% impairment (AMA4)</p> <p>Minimum Monetary Threshold Pecuniary Loss: \$36,590</p> <p>Pain and Suffering: \$36,730 if injury before 12/11/97 \$35,340 if injury after 19/10/99</p>	<p>Economic loss: Awarded only for death or 'serious injury' where compensation under Table of Disabilities is greater than 25% of maximum amount or entitlement under non-economic loss is greater than \$45,350</p> <p>Non-economic loss: No award if loss assessed at less than \$60,450</p> <p>Award is reduced where the loss is between \$45,350 and \$60,450</p> <p>NB: These thresholds are indexed every 1 April and 1 October</p>	N/A

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

BENEFITS

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
Economic and non-economic	Economic and non-economic	Economic and non-economic	N/A	Economic and non-economic	N/A
<p>Common law access available only if it is agreed or determined the worker has either:</p> <ul style="list-style-type: none"> • A degree of permanent disability of 16% or more but less than 30% (a 'significant disability') and elected between statutory benefits and common law normally within 6 months from the date weekly payments commenced (statutory benefits cease as from date election is registered); or • A degree of permanent disability of 30% or more (a 'serious disability'). Workers with a serious disability are entitled to statutory benefits and access to common law 	<p>A worker who sustains a permanent impairment 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 permanent impairment of less than 20% of statutory maximum compensation must make an irrevocable election between accepting the lump sum 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 weekly payments first became payable. 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>Employer required to provide injured worker with suitable employment within Commonwealth until the date of separation and that employment is usually worker's original position</p> <p>Seacare: Employer required to take all reasonable steps to provide worker with suitable employment</p>	<p>Employer required to keep position open for injured worker for 12 months</p> <p>Employers with more than \$1,000,000 rateable remuneration must establish rehabilitation and risk management programs</p> <p>Requirement to prepare return to work (RTW) plans and nominate RTW coordinators</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>Worker required to make 'reasonable efforts' to return to work, including:</p> <ul 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>

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

STATUTORY RESPONSIBILITIES

NEW SOUTH WALES

The *Workplace Injury Management and Workers Compensation Act 1998* provides that an employer must:

- notify insurers of all significant injuries (i.e. when a worker is away from their normal duties for more than seven days) with 48 hours

All other injuries are to be notified with seven days

- 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
- provide suitable employment (if reasonably practicable to do so) on request from partially incapacitated workers

An employer may be in breach of the *Industrial Relations Act 1996* if he/she:

- (a) dismisses the employee due to a work-related incapacity; or
- (b) that the dismissal is within 6 months of the incapacity occurring

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

Workers must:

- 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
- make reasonable efforts to return to work with the pre-injury employer as soon as possible, having regard to the nature of the injury

Failure to unreasonably comply with any of the above, after being requested to do so by the insurer, can result in cessation of weekly payments

SOUTH AUSTRALIA

Employer with less than 10 employees required to keep position open for injured worker for 12 months

Employer with 10 or more employees required to keep position open indefinitely

If employer does not make suitable job offer, heavy penalties may apply

Employer to provide suitable duties for which the worker is fit and qualified to perform where reasonably practicable

Weekly benefits may be discontinued, reduced or suspended if the worker:

- (a) fails to submit to medical exam after written request by WorkCover Corporation
- (b) fails to supply prescribed medical certificate for continuing incapacity
- (c) fails to submit to proper medical treatment
- (d) refuses to participate in, or frustrates a rehabilitation or RTW plan, or
- (e) refuses to do suitable work or take reasonable steps to find suitable work, or unreasonably discontinues work
- (f) anything else that is recognised as a breach of mutuality

STATUTORY RESPONSIBILITIES

STATUTORY RESPONSIBILITIES	WESTERN AUSTRALIA	QUEENSLAND	TASMANIA
<p>Return to Work (RTW) Provisions: – Employer responsibilities</p>	<p>Employer required to keep position open if reasonably practicable for injured worker for 12 months and to take reasonable steps to rehabilitate worker</p> <p>If that job is no longer available, or worker can no longer perform it, employer must offer a similar position which worker is qualified for and capable of doing</p>	<p>Employers who employ 30 or more workers at a workplace must appoint a trained rehabilitation coordinator and have rehabilitation policy and procedures in place</p> <p>The rehabilitation coordinator and 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 6 months</p> <p>(Section 93 Industrial Relations Act 1999(QLD))</p>	<p>Employer required to keep position open for injured worker for 12 months, unless it is not practicable to do so, or reason for 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> <p>(a) worker does not undergo rehabilitation as specified by the Directorate; or</p> <p>(b) worker refuses to attend without reasonable excuse, or obstructs, a medical examination requested by the employer; benefits shall cease unless examination occurs within one month of the request during suspension of benefits</p>	<p>Worker may be required by WorkCover or self-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 to refuse 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</p> <p>But employer must take all reasonable steps to provide suitable employment and if unable to do so he/she must assist worker to find alternative employment</p>	<p>No requirement under the Act for employer to keep a position open for injured worker</p> <p>An injured worker may apply to the Australian Industrial Relations commission for arbitration of an unfair dismissal if dismissed while on workers' compensation</p> <p>Employer required to provide occupational rehabilitation at employer's expense</p> <p>Employer required to develop rehabilitation policy and to appoint a rehabilitation coordinator</p>	<p>There is no legislative requirement for an employer to hold a position open or otherwise provide rehabilitation opportunities</p>
<p>Benefits may be terminated if there is unreasonable refusal or failure</p> <p>(a) to undertake medical, surgical and rehabilitation treatment;</p> <p>(b) to undertake rehabilitation training or return to work program;</p> <p>(c) to attend medical exam, provided and paid for by employer;</p> <p>(d) to provide ongoing certification of incapacity</p>	<p>Worker, if so required by the employer, is to submit to examination by medical practitioner provided and paid for by employer</p> <p>If worker refuses, or obstructs, benefits may be suspended until examination has take place</p> <p>Under Regulation, frequency of such examination can be no greater than:</p> <ul style="list-style-type: none"> • 1st month – N/A • 2nd month – once a week • 3rd month – once a month • > 6 months – bi-monthly 	<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 • authorize 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 • 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 unreasonable refuses to 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
<p>Incentives for new employers of injured workers</p>	<p>Comcare: No direct financial subsidy scheme; the original employer subsidises any income loss</p> <p>Seacare: No direct financial subsidy scheme</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 former employer</p> <p>Includes the following incentives:</p> <p>(a) subsidy of up to \$14,860.00 plus \$1000 for workplace modifications to accommodate the worker</p> <p>(b) protection from premium impacts if the worker has a new injury</p> <p>(c) an exemption from costs if worker's original injury recurs and the new employment is not a contributing factor to the recurrence</p> <p>(d) up to \$1,500 for occupational rehabilitation providers who arrange durable placement</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</p> <p>(c) a waiver on the \$500.00 excess should injury be aggravated within 12 months</p> <p>(d) costs of any claim within 12 months relating to the existing injury, excluded from experience-based premium adjustments</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 greater 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</p> <p>(f) reasonable workplace modification cost</p>

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

STATUTORY RESPONSIBILITIES

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>No direct financial subsidy scheme</p>	<p>No direct financial subsidy scheme</p> <p>Suitable duties program</p> <p>(a) Total incapacity: When a worker returns to work on a graduated RTW program, WorkCover 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 and employer is responsible for wages paid for the hours worked, with WorkCover paying the difference</p> <p>Exempt employer policy: Host employer of injured worker is not responsible for aggravation or exacerbation of same injury for period of 6 months</p>	<p>No direct financial subsidy scheme</p>	<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 after the worker commences employment with the other employer</p> <p>(b) monetary incentives for the new employer</p>	<p>No direct financial subsidy scheme</p>	<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>Comcare: Internal review subject to referral to Administrative Appeals Tribunal (AAT)</p> <p>Seacare: Internal review by employer, assisted by Comcare officer (employer not bound by Comcare advice)</p> <p>Referral to AAT</p>	<p>Direct external review for employer levy objections and contribution be prior insurers (VCAT - see below) and premium disputes (Courts) Otherwise disputes must go to Conciliation first</p> <p>Proceed to courts only if worker has taken reasonable steps to settle and Certificate is issued to that effect by a conciliation officer:</p> <p>(a) Magistrates Court: cases involving a sum not greater than \$40,000.00 or not greater than 104 weeks arrears of weekly payments</p> <p>(b) County Court: cases involving greater than \$40,000.00 or greater than 104 weeks weekly payments</p> <p>(c) Appeal on matter of law to Supreme Court</p> <p>Medical Panels: give opinion on medical questions referred by conciliation officer or the court. Opinion of the Panel is final and binding on all parties including the courts.</p> <p>Other issues:</p> <p>Victorian Civil and Administrative tribunal (VCAT):</p> <p>(a) contribution disputes between self-insurers and between the Authority and self-insurers</p> <p>(b) contributing employer/self-insurer/insurer may apply to VCAT for review of a contribution assessment (in case of pre-1985 injuries which contribute to later injury)</p> <p>Premiums: employer may apply to WorkCover for review of premium calculation</p> <p>Contractual disputes in court of competent jurisdiction</p> <p>Service Providers: VCAT may hear appeals with respect to decision by WorkCover to review, suspend, etc., payments for services to workers</p>	<p>1. Disputed workers compensation claims Disputed workers compensation claims are handled by the Workers Compensation Resolution Service, attached to the Department of Industrial Relations</p> <p>Compensation court proceedings cannot commence unless the dispute has first been referred for conciliation and either:</p> <ul style="list-style-type: none"> . the conciliator issues a certificate of conciliation outcome; or . 35 days (for weekly benefit) or 42 days (for lump sum or medical expenses disputes) have elapsed since the dispute was first referred <p>A worker cannot refer disputes about lump sum compensation or medical expenses for conciliation unit either:</p> <ul style="list-style-type: none"> . 12 weeks lapses from the date the claim is duly made . the insurer denies liability - which-ever occurs first <p>A worker cannot refer disputes about weekly benefits for conciliation until either:</p> <ul style="list-style-type: none"> . 21 days (or 42 days with reasonable excuse) has elapsed from the date the claim is duly made . the insurer denies liability whichever occurs first <p>Any party to a dispute may refer the dispute to conciliation Medical Panels or Medical Referees may be used to assist in resolving disputes referred to conciliation</p> <p>2. Disputes about suitability of duties Disagreements about the suitability of duties offered to a worker can be referred to an Injury Management Consultant who is medical practitioner approved by the Workers Compensation Advisory Council to facilitate agreement about suitability of duties</p> <p>3. Disputes about a workers condition or fitness for employment Medical disputes about a worker's condition or fitness for employment may referred to an Approved Medical Specialist for determination</p> <p>Approved Medical Specialists are senior specialists (selected by the Advisory Council for their expertise) to be final arbiters in matters referred to them. Approved Medical Specialists' findings are conclusive in those matters which the parties agreed to be bound, and prima facie evidence in any other matters referred.</p> <p>NB: Major Changes due to commence January 2002 See Recent Developments section which provides more</p>	<p>Reconsideration Claim determinations may be reconsidered 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 may 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 may 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</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>

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

DISPUTE RESOLUTION

WESTERN AUSTRALIA	QUEENSLAND	TASMANIA	NORTHERN TERRITORY	A.C.T.	NEW ZEALAND
<p>Conciliation and Review Directorate</p> <p>Up to 4 stages:</p> <p>(a) Conciliation</p> <p>(b) Review</p> <p>(c) Compensation Magistrate's Court</p> <p>(d) Supreme Court</p> <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 and extent and the degree of permanency of any disability under Schedule 2</p>	<p>Steps are:</p> <ul style="list-style-type: none"> • Internal review by WorkCover or the self-insurer • Formal review by Review Unit that is separate from WorkCover's commercial insurance business • Appeal to industrial magistrate • Appeal to industrial court <p>Medical Issues: referral to Medical Assessment Tribunal (MAT)</p> <p>No appeal against a decision by MAT unless fresh medical evidence is submitted within 12 months of the MAT decision</p>	<p>Worker's Rehabilitation and Compensation Tribunal (the Tribunal)</p> <p>Up to 3 stages:</p> <p>(a) Conciliation</p> <p>(b) Arbitration</p> <p>(c) Appeal to Supreme Court on a question of law</p> <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>Step are:</p> <p>(a) Mediation</p> <p>(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>ACT Magistrates Court</p> <p>Internal resolution: A senior officer of an insurer will reexamine any claim by an injured worker upon request of the worker</p> <p>Voluntary Pre-Hearing Conciliation: The ACT Magistrates Court will provide a magistrate to conduct pre-hearing conciliations with the aim of encouraging and facilitating negotiations towards settlements (Effective 1 May 2000)</p>	<p>The 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 RATES AS AT 1 JULY 2001	VIC %	NSW ² %	SA %	WA %	QLD ³ %	NZ %
Average levy/premium rate	2.22	2.80	2.46	2.63	1.55	0.90
Highest (published) rate	8.4	15.0	7.50	11.77	12.144	6.31
Highest (experience rate) rate	Unlimited	36.0 (est)	11.25	N/A	18	N/A
Lowest (published) rate	0.33	0.54	0.40	0.04	0.212	0.19
Lowest (experience rate) rate	0.033	0.2 (est)	0.28	N/A	0.032	N/A
House construction	4.78	9.86	3.10	2.14	3.416	2.96
Non-residential construction	3.95	9.86	3.80	3.76	3.416	2.96
Meat products	8.4	3.12 - 15.0	6.90	10.27 - 10.82	8.631	2.54
Rubber products manufacturing	3.95 - 4.78	8.81	6.60	3.98 - 6.11	3.586	0.94
Plastic products	4.78	5.1 - 6.26	4.70	3.82 - 4.76	2.676	1.08
Basic iron and steel products	5.78	8.27	6.90	6.59	3.766	0.95
Steel casting	5.78	7.08	7.50	5.81	3.766	2.69
Steel pipes and tubes	5.78	7.74	3.90	4.87	3.766	0.95
Pulp paper and paperboard	2.23	4.73	3.80	5.92	2.427	1.31
Paints	2.70	3.12	2.80	3.18	1.812	0.72
Soap and detergents	3.26	3.12	1.70	3.05	1.901	0.72
Glass and glass products	4.78	5.07	4.40	6.34	2.676	0.87
Cement	5.78	6.67	3.70	6.11	2.202	1.93
Clothing manufacturing	4.78 - 5.78	4.11 - 5.21	2.70	3.62 - 3.83	1.420	1.22
Beer	4.78	5.10	2.20	1.91	1.997	0.50
Hotels	2.70	3.86 - 4.11	2.40	2.99	1.420	0.81
Bread manufacturing	4.78	6.41	5.70	6.04	2.427	1.61
Footwear manufacturing	5.78	5.87	3.90	4.65	1.420	1.22
Nursing homes	4.78	7.65	5.60	6.22	3.253	1.81
Department stores	1.84	3.81	1.40	2.77	1.351	0.37
Medical practice	0.40	0.96	0.40	0.51	0.245	0.19
Secondary schools - private	1.04	1.45	0.80	1.25	0.462	0.21
Secondary schools - Government	1.26	N/A	0.80	1.25	0.619	0.21

NOTES

- ¹ Rates applicable to policies issued or renewed on or after 30/06/01.
- ² NSW - Average levy/premium rate excludes GST and additional costs arising from The New Tax System. All other listed rates include GST and The New Tax System effects.
- ³ QLD - Published rates exclude stamp duty and GST. Average premium rates include stamp duty and exclude GST.
- ⁴ TAS/NT/ACT - Apart from WA, Industry Rates not provided for States with full private insurance underwriting.
- ⁵ VIC - Does not include 17% general premium increase introduced in 2000/01.

PREMIUM SETTING

NOTES TO THE INDUSTRY RATES COMPARISON TABLE

1. It is difficult to make exact comparisons between states. The following qualifications should be noted:
 - Industry classifications vary from jurisdiction to jurisdiction. For example, both Victorian and South Australian industry classifications are based on the Australian Bureau of Statistics ASIC code and Western Australian and NSW on ANZSIC.
 - 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 29 June 2001.
 - On 30 June 2001, NSW introduced an industry classification system based on the ANZSIC system, with some alterations specifically designed for NSW. The classification system has been named the WorkCover Industry Classification System (or WIC system). For the 2001-2002 premium year increases between previous and new industry rates were capped at 15% to mitigate adverse financial impacts on employers. Current industry classes and rates were published in a NSW Gazette notice on 22 June 2001.
 - 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: 50 self-insurers, 12 group self-insurers, 6 specialised (or industry specific) insurers and separate arrangements covering most public sector employers; South Australia: 66 self-insurers plus most Government public service and Government instrumentalities). Victoria has 35 self-insurers, while Queensland has 23 self-insurers. Western Australia has 24 self-insurers.

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), via:
 - the bonus and penalty system in South Australia generally comprises a bonus of up to 30% of levy and a penalty of up to 50% of levy
 - experience rating in New South Wales and Victoria is based on the size of the employer
 - 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, provide 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 and New South Wales represent actual maximums and minimums; those for Victoria, and the lowest experience rate in Queensland, represent theoretical limits which would only rarely be reached in practice.

CALCULATION OF INDUSTRY RATES

VICTORIA

Each industry's True Risk Rate is calculated based on the ratio of the industry's costs (payments made over the last three years, outstanding liabilities and a proportion of the Authority's operating expenses) to remuneration over the last three years. The final industry rate is the point on a predetermined scale which is next above the true risk rate.

NEW SOUTH WALES

In NSW there are 529 industry classes. Industry premium rates are based on last three years claims experience of each class. Rates are calculated by external actuaries using objective, data-based rating methodology. 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) which weigh claims cost and claim frequency in a ratio of 3 to 1.

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:

- 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 expected cost of claims
- a calculation of the implied uniform percentage variation in the relative premium rates to generate the required premium income

The objectives of the actuarial assessment are to provide broad equity across industry classes, to provide relative stability in the rating structure and to minimise the cross subsidy of rates.

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 includes 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.

NEW ZEALAND

In New Zealand there are 546 industry groups and 121 premium pools. For each industry group, the premium and experience relativities are compared by individual year as well as a 5 year weighted average. 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 rate will either stay 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 industry, compared with the expected ultimate cost of claims for all industries. 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, together with a 0.05% Occupational Safety and Health Levy.

RECENT DEVELOPMENTS - JULY 2001

LEGISLATIVE

SEACARE

There have been no amendments to the *Seafarers Rehabilitation and Compensation Act 1992* (the Seafarers Act), the *Occupational Health and Safety (Maritime Industry) Act 1993*, or the *Occupational Health and Safety (Maritime Industry) Regulations 1995* (as amended by the *Occupational Health and Safety (Maritime Industry) Amendment Regulations 1999*).

An increase in the prescribed fee for a Comcare officer's services under section 141 of the Seafarers Act was amended by Executive Counsel on 24 July 2000 in the *Seafarers Rehabilitation and Compensation Amendment Regulations*.

The rate per kilometre for return journeys of 50km or more under subsections 28(6A)(b), 49(6B)(b), 20(2B)(b), 66(4B) and 83A(5) of the Seafarers Act was amended by the Minister for Employment, Workplace Relations and Small Business on 13 December 2000 to 34 cents (effective from 17 January 2001) and again on 25 June 2001 to 42 cents (effective from 1 July 2001).

COMCARE

Changes to the SRC Act: Summary

The *Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2000* has been passed by parliament. The bill makes a number of amendments to the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act), primarily of a housekeeping nature. It is expected that the bill will receive the royal assent in October 2001.

The major amendments:

- allow the annual indexation of normal weekly earnings of employees who have ceased to be employed by the Commonwealth or a licensed corporation
- enable determining authorities to take into account actual earnings in any employment (including self-employment)
- restore the original intention of the legislation that employees who suffered permanent impairments before 1 December 1988 not have access to non-economic loss payments under section 27 of the SRC Act. This will have effect for any claims lodged after 7 December 2000.
- extend to all employees over the age of 63 the provision of a maximum of 104 weeks' incapacity payments in specified circumstances
- define a process for approving rehabilitation program providers
- clarify that dependants of deceased employees can sue the Commonwealth
- rationalise the classes of licence into one generic licence
- reduce the level at which compensation for permanent impairment is payable from 20% binaural hearing loss to 5% binaural hearing loss. No additional payment is available after the initial determination until there is a further 5% binaural hearing loss. This amendment applies only to impairments resulting from injury suffered after the date of Royal Assent.

NORTHERN TERRITORY

To meet the unfunded liability from the HIH collapse legislation was passed in May 2001 to enable funding of the Nominal Insurer through a levy on employers. This legislation is flexible in that it gives the Minister the power to set the levy, the rate of the levy and the option for a levy on premium or wages. As yet no levy has been set.

QUEENSLAND

National Competition Policy Legislative Review

On 18 July 2001, the Queensland government announced the outcomes of the National Competition Policy Legislative Review of the *WorkCover Queensland Amendment Act 1996*.

The results found that WorkCover Queensland should remain a public monopoly. The extensive consultation undertaken as part of the review process revealed a majority of stakeholders were satisfied with the scheme's operation, especially the stability and strong performance of the current arrangements.

Changes to be implemented as a result of the Review include:

- The separation of WorkCover Queensland's regulatory arm, Q-COMP, from the commercial operations to

RECENT DEVELOPMENTS

formalised independence in the regulation and administration of the scheme. As yet no model has been determined.

- Self-insurers will be able to outsource their claims management function. Any further changes to the licensing criteria for self-insurers will not be considered for three years.

The full report can be viewed at www.dir.qld.gov.au/publications/ncpwcreview.pdf

WorkCover Queensland Amendment Act 2001

The *WorkCover Queensland Amendment Act 2001* was passed by Parliament on 18 October 2001. Relevant amendments to the *WorkCover Queensland Regulation 1997* were also approved.

The amendments apply to injuries sustained on or after 1 July 2001. The main aims of the amendments were to increase statutory lump sums and change a number of common law provisions. The more significant changes introduced include:

Statutory claims:

- Maximum statutory compensation benefit increased to \$150,000;
- Additional lump sum compensation for injuries resulting in WRI of 50% or more increased up to \$150,000;
- Threshold for gratuitous care reduced from 50% WRI to 15% WRI;
- Lump sum benefits for dependents for the death of a worker increased to \$250,000;
- Clarifying that only medical matters may be referred to the Medical Assessment Tribunal (MAT) and that decisions of the MATs are final;
- Amendments to the appeals process; and
- Abolition of 'certificate injury' and 'non-certificate injury' definitions but still preserving the irrevocable election provisions where WRI is less than 20%.

Common Law:

- Abolition of damages certificates;
- Court awards for costs and interest on general damages;
- Common law principles only apply for mitigation of loss and contributory negligence;
- 51% threshold removed for future economic loss or diminution of future earning capacity;
- New rehabilitation provisions in addition to statutory compensation provisions;
- Preservation of right to claim for loss of consortium outside the Act; and
- Insurer timeframes tightened.

The *WorkCover Queensland Amendment Act 2001* and explanatory notes are available at: www.qcomp.com.au/scheme_development/legislation/html/index.htm

WESTERN AUSTRALIA

In response to the collapse of HIH Insurance the *Employers' Indemnity Supplementation Fund Amendment Act 2001* was prepared to amend the *Employers' Indemnity Supplementation Fund Act 1980*. As a result of this amendment the levy to be paid by employers and self insurers was reactivated and the level of the levy was raised from 1% to 5% of the amount of premium payable in respect of an employer's workers' compensation policy.

The levy is required in order to raise sufficient funds to cover the cost of claims paid by employers who had current Employer Indemnity Policies with HIH Insurance up to and including 14 March 2001.

The size of the levy will be reviewed and reset annually following an actuarial analysis of outstanding claims to minimise the financial impact on employers. Depending on the level of outstanding HIH liabilities, it is hoped the percentage of the surcharge may be reduced each year. After 30 June 2006, the percentage will not be able to exceed 1%.

TASMANIA

Workers Rehabilitation and Compensation Amendment Act 2000

The *Workers Rehabilitation and Compensation Amendment Act 2000* (the Amendment Act 2000) commenced on 1 July 2001. The Amendment Act 2000 makes a number of amendments to the *Workers Rehabilitation and Compensation Act 1988* (the Act). Amendments to the benefits model, and the dispute resolution process, are of particular significance. The abolition of the Workplace Safety Board of Tasmania and establishment of the new WorkCover Tasmania Board is also of significance.

Changes to the benefits model

The amendments increase the size of the step-downs in weekly payments of compensation, and the period for which those step-downs apply. The new step-downs are as follows:

- 0 to 13 weeks of actual incapacity - 100% of the weekly payment
- 14 to 52 weeks of actual incapacity - 85% of the weekly payment
- 53 weeks to 10 years of actual incapacity - 70% of the weekly payment.

The period for which a worker can receive 100% weekly payment has been increased from 6 to 13 weeks. A safety net provision has been inserted to protect low-income workers.

Prior to the amendments, there was a dollar cap on weekly payments, and a worker receiving 'average' wages would generally reach this limit within approximately four and a half years. The Amendment Act 2000 has replaced the dollar cap to provide an entitlement to weekly benefits for up to ten years. This provides for a substantial increase in the maximum amount of weekly payments available to workers suffering long term incapacity.

The Amendment Act 2000 provides for the payment of weekly payments on a 'without prejudice' basis from the date of the claim until liability is accepted or the Workers Rehabilitation and Compensation Tribunal (the Tribunal) makes a genuine dispute finding. These payments can be subsequently recovered from the worker in certain circumstances, e.g., fraud; obstruction or delay of determination of the claim; serious and wilful misconduct; intentional or self-inflicted injury etc.

Medical and Rehabilitation

A worker who suffers from a work-related injury or disease is entitled to payment of reasonable medical and rehabilitation expenses. The Amendment Act 2000 limits payment of these expenses to ten years (in line with the maximum period for weekly payments).

Lump Sum Compensation for Permanent Impairment

The amendments replace the Table of Maims with a concept of whole person impairment. The amendments provide that the assessment of the degree of permanent impairment is to be made in accordance with guidelines issued by the WorkCover Tasmania Board, or if no applicable guidelines have been issued, the Australian Medical Association Guides to the Evaluation of Permanent Impairment (Fourth Edition, Third Printing) 1995, or such other method as may be prescribed. Assessment of permanent impairment is to be undertaken by a medical practitioner accredited by the Board as a medical assessor.

Lump sum compensation is payable where the degree of whole person impairment is at least 5% in the case of a physical injury other than an injury involving the loss of a finger or toe (where compensation is payable for a degree of whole person impairment less than 5%), and at least 10% in the case of psychiatric impairment. In the case of industrial deafness, lump sum compensation may be awarded where the level of binaural hearing impairment exceeds 5%.

Common Law Claims

The amendments restrict access to common law. Under the new scheme, a worker can only access common law damages where his or her degree of whole person impairment is at least 30%. There is no limit on the amount of common law damages that can be awarded. The amendments also provide that a worker who wishes to pursue a common law action must lodge with the Tribunal an election to claim damages within two years after the date on which weekly payments first became payable. Statutory benefits continue to be paid after the election.

Death Benefits

Dependants are entitled to lump sum compensation in relation to the work-related death of a worker. The maximum lump sum compensation available has been substantially increased under the amendments. The amendments also provide an entitlement to payment of weekly payments to dependent spouse for two years, and payment of a weekly allowance to dependent children.

Redemption of Statutory Benefits

Prior to the commencement of the Amendment Act 2000, the redemption of statutory benefits was not permitted. As a result of the amendments, redemption of statutory benefits is permitted where 12 months has elapsed from the lodgment of the claim, and the injury is stable and stationary. A redemption may be reviewed and allowed or disallowed by the Tribunal.

Dispute Resolution

The amendments give conciliators increased powers and make conciliation mandatory for all types of disputes (except genuine dispute hearings).

RECENT DEVELOPMENTS

Parties are required to exchange relevant information prior to conciliation and may only introduce new evidence at arbitration where the Tribunal allows.

The definition of 'medical question' has been amended. Where a medical question is referred to a medical panel, the determination of the panel is binding on the Tribunal and all parties.

WorkCover Tasmania Board

The Amendment Act 2000 abolishes the Workplace Safety Board of Tasmania and establishes a new Board - The WorkCover Tasmania Board. The WorkCover Tasmania Board (the Board) consists of the Secretary of the Department of Infrastructure Energy and Resources (or a person nominated by the Secretary) as the Chairperson of the Board, two employer representatives, two worker representatives, a legal practitioner with experience in workers rehabilitation and compensation matters, a person with extensive experience in workers compensation insurance business, and a medical practitioner. Only the employer and worker representatives are entitled to vote on issues to be determined by the Board.

The major functions of the Board are to:

- make recommendations on the policy and objectives of the workers compensation and occupational health and safety legislation;
- make recommendations on amendments or replacement of the legislation;
- monitor performance;
- promote injury prevention and effective injury management;
- review premium rates;
- issue guidelines for assessment of permanent impairment.

Workers Rehabilitation and Compensation Amendment Act 2001

The *Workers Rehabilitation and Compensation Amendment Act 2001* (the Amendment Act 2001) commenced on 1 August 2001.

The Amendment Act 2001 establishes an alternative funding mechanism to meet the liability created by the collapse of the HIH Insurance Group.

The amendments allow the Minister to determine a special contribution payable by all policyholders and self-insurers where the Nominal Insurer is required to meet the cost of claims arising from the insolvency of a licensed insurer.

The amendments also prescribe the manner in which these payments are to be paid and permit the Nominal Insurer to borrow money to meet any cash flow deficit.

NEW ZEALAND

New accident compensation legislation will replace the Accident Insurance Act 1998, and associated amendments, on 1 April 2002. The Injury Prevention, Rehabilitation and Compensation Act makes injury prevention a priority of ACC.

The Act includes provisions for the establishment of an injury information manager to collect and report on injuries from throughout the health sector.

The Act makes a number of entitlement changes, including:

- the introduction of lump sum compensation for permanent impairment; and,
- more favourable weekly compensation calculation for those in marginal employment situations (such as temporary and seasonal workers) and those who have recently changed their employment status (such as from employee to self-employed).

The Act gives ACC greater flexibility to develop products for the self-employed, and introduces and Code of ACC Claimants' Rights.

The rehabilitation process has also been revised introducing early occupational and medical assessments that will more closely align with assessments at the end of the rehabilitation process. This change was made to ensure greater targeting towards realistic and achievable rehabilitation.

NEW SOUTH WALES

In June 2000, the Minister, the Hon J Della Bosca, announced a series of reform measures for the NSW workers compensation scheme. These reforms included more emphasis on injury management and return to work strategies, improving dispute resolution mechanisms, a focus on compliance measures, removing cross-subsidies in premium rate setting and reducing the Scheme's deficit.

Premium Reform

From 30 June 2001, the Government adopted a modified ANZSIC system. The new system, known as the

RECENT DEVELOPMENTS

WorkCover Industry Classification (WIC) System replaces the previous 110 classes with 529 industry classes arranged into 17 broad industry divisions. This allows a closer link between an industry sector's OHS and injury management performance and its premium rate.

Transitional measures have been adopted to ensure that employers are not adversely affected by significant increases in their industry premium rate due to the adoption of the WIC System. The new System will mean lower industry premium rates for about half of NSW employers, and higher (but capped) rates for the others.

Premium Discount Scheme

A Premium Discount Scheme is available for NSW employers from 30 June 2001.

The Premium Discount Scheme (PDS) provides incentives to employers to implement programs to improve workplace safety and return-to-work strategies for injured workers. The incentive the scheme provides is a discount on the employer's workers compensation premium. The discounts that are available are up to 15% (maximum \$75,000) in the first year an employer participates, up to 10% (maximum \$50,000) in the second year an employer participates, and up to 5% (maximum \$25,000) in the third year an employer participates.

The Scheme is voluntary - an employer can choose whether or not to participate. The PDS is an ongoing scheme for employers with a NSW workers compensation policy.

The premium discounts will be verified in an audit conducted by Premium Discount Advisers who are approved by WorkCover. Those Advisers may also play a consulting role, helping employers to develop and implement the occupation health and safety (OHS) and return-to-work/injury management (IM) - strategies or systems that best suits their business. WorkCover equips the Advisers with guidance material and an 'audit' tool.

Dispute Prevention and Resolution

Legislation passed by the NSW Parliament in July 2001 will, amongst other things, improve dispute resolution in the NSW workers compensation scheme. The reforms are expected to be implemented with effect from 1 January 2002.

Key features are:

- A streamlined and simplified procedure for making workers compensation claims, including payment of weekly benefits and medical expenses before liability for claims is formally accepted ('provisional liability'). The insurer will be required to commence weekly benefits and medical treatment payments within 7 days on a 'without prejudice' basis, before liability for the claims is formally accepted.
- A new Claims Assistance Service will be set up within WorkCover NSW, to give more assistance and information to employers and injured workers and help the parties to navigate the worker compensation.
- Establishment of a Workers Compensation Commission, a new independent body to provide a range of claims assessment and dispute resolution services. The new Commission generally replaces the functions of the existing Workers Compensation Resolution Service and the NSW Compensation Court. The new Workers Compensation Commission, will hear and resolve all disputed workers compensation claims and issues, including disputes over liability, payment levels, extent of permanent impairment, medical treatment and suitable duties. It is expected to start operation from January 2002.
- The Act provides for the adoption of standard permanent impairment assessment guidelines to ensure that permanent injuries are assessed in a consistent way and a new scale for determining statutory compensation for permanent impairment. The Guidelines will replace the current Table of Disabilities. Under this new system, statutory lump sums will be available for a broader range of injuries and conditions, including permanent psychological injuries caused by a direct event in the workplace (eg an armed hold-up).

Common Law

The NSW Government established an Inquiry to consider issues related to common law. The inquiry delivered its report at the end of August 2001. Agreed recommendations are expected to be implemented through legislation in late 2001 and take effect from 1 January 2002.

OTHER SIGNIFICANT DEVELOPMENTS

SEACARE

There are several Bills currently before Parliament that could have a consequential effect to the legislation administered by the Seacare Authority. These include:

- Crimes Code (Consequential Amendments) Bill 2000
- Insurance (Amendment) Bill 2001
- Administrative Review Tribunal Bill 2000
- Maritime Legislation Amendment Bill 2000

WESTERN AUSTRALIA

Review of the Western Australian Workers' Compensation System

In May 2001 Mr Robert Guthrie, Senior Lecturer with Curtin University of Technology, was seconded by the Commission to assist with the implementation of the newly elected Government's reforms to workers' compensation in Western Australia. Mr Guthrie's role was to advise the Government on strategies for implementing the Government's policy statement on workers' compensation and recommendations from the two previous reviews of the workers' compensation system.

Mr Guthrie's report has recently been completed and released for public comment.

Fees for compensable medical and allied health services

Negotiations occurred with medical and allied health representative bodies in the development of a revised fee methodology for compensable medical and allied health services based on a private patient model.

As a key component of the process, providers have been asked to demonstrate how they can add value to the system in return for any future fee increases.

A.C.T.

The ACT Workers' Compensation Act 1951 underwent a review in 1999/2000. On 28 August 2001 the ACT Legislative Assembly passed significant amendments to the Act. These amendments will come into effect on 1 July 2002.

NORTHERN TERRITORY

With the introduction of a new federal taxation system on 1 July 2000 the new Pay as You Go (PAYG) taxation arrangements replaced eleven existing systems, including the PAYE tax system. This change made the Northern Territory pre 1 July worker definition defunct.

From 1 July, the new definition for workers' compensation purposes provides that a worker is a person who provides work or service for another person and does not provide that other person with an Australian Business Number (ABN) in writing.

The new definition is designed to ensure coverage that is as close as practicable to that of the previous definition, yet remains clear and concise. The new definition no longer has any relationship to the type of taxation paid.

SOUTH AUSTRALIA

Business Transformation

In recognition of the need to continue to improve the way in which we deliver our services to customers, and to emphasise the crucial importance of focusing on safe work in our State's workplaces, WorkCover South Australia has invested in a business transformation program. This program focuses on five key areas: Customer Relationship Development, Knowledge Management, Streamlined Customer Systems, Access and Equity and the Community.

Injury Treatment and Rehabilitation

In partnership with the University of Adelaide Medical School, a specific workers compensation component has been introduced into the medical undergraduate curriculum, designed to complement existing education initiatives for medical providers.

A service fee and package for medical practitioners was developed in consultation with the Australian Medical Association that links fee increases to value added strategies. The strategies focus on improved communication methods, education and the adoption of enabling technology.

A pilot program focussing on early identification of psychosocial issues has been instigated which is expected to contribute to improved claims outcomes by facilitating the early identification of high risk claims and barriers to return to work.

A detailed study into suicides and depression within the workers compensation environment was undertaken. As a result, a 'Crisis Intervention Plan' was developed to assist case managers and members of the medical profession to better deal with claimants at risk.

An 'Early Intervention Strategy' has commenced with Claims Agents, aimed at intervening as early as possible in 'time lost' injuries, involving the employer, injured worker and treating doctor to assist the injured worker in early return to work.

Long term claims were reviewed (injury dating from 1987 to 1993) resulting in approximately 20% of claims still receiving income payments in 1999-2000 being finalised.

FURTHER INFORMATION

The table below is a list of contact people in each Jurisdiction who can be contacted for clarification or further information on the details included in this report.

JURISDICTION	CONTACT	POSITION	PHONE NUMBER
ACT	Phil Ulrich phil.ulrich@act.gov.au	Manager, Workers' Compensation Section	(02) 6205 0200
Comcare	Helen Bull bull.helen@comcare.gov.au	Manager, Policy and Co-ordination	(02) 6275 0600
NSW	WorkCover Information Centre		13 10 50 or (02) 9370 5301
New Zealand	Darrin Goulding Goulding@acc.co.nz	General Manager, Business Development	+64 4 918 7077
NT	Guna Rice guna.rice@nt.gov.au	Senior Rehabilitation and Compensation Officer	(08) 8999 5015
QLD	Debra Duncan debra.duncan@qcomp.com.au	Scheme Development Manager	(07) 3235 9650
SA	Emma Hosking ehosking@workcover.com	Manager, Policy	(08) 8233 2544
Seacare	Rod Pickette rod.pickette@dewrsb.gov.au	Secretariat	(02) 6121 7189
TAS	Rod Lethborg rod.lethborg@dier.tas.gov.au	Principal Policy Adviser (Workers Compensation)	(03) 6233 3182
VIC	For general enquiries: For specific policy questions: Michael Harold michael_harold@workcover.vic.gov.au	WorkCover Advisory Service Principal Policy Officer	1800 136 089 (03) 9641 1427
WA	For Workers Compensation enquiries: postmaster@workcover.wa.gov.au For questions of a policy nature: Donna Haney donna@workcover.wa.gov.au	WorkCover WA Infoline Acting Manager; Scheme Development	(08) 9388 5555 (08) 9388 5569

SCHEME WEB ADDRESSES

JURISDICTION	ADDRESS
Australian Capital Territory	www.workcover.act.com
Comcare	www.comcare.gov.au
New South Wales	www.workcover.nsw.gov.au
New Zealand	www.acc.co.nz
Northern Territory	www.nt.gov.au
Queensland	www.workcoverqld.com.au www.qcomp.com.au
South Australia	www.workcover.com
Seacare	www.seacare.gov.au
Tasmania	www.dier.tas.gov.au
Victoria	www.workcover.vic.gov.au
Western Australia	www.workcover.wa.gov.au

Jurisdiction	Address	Fax Number
ACT	Workers' Compensation Section ACT WorkCover PO Box 224 CIVIC SQUARE ACT 2608	02 6205 0797
Comcare	Policy and Co-ordination Comcare GPO Box 211 CANBERRA ACT 2601	02 6257 5634
NSW	Insurance Strategic Management Group WorkCover NSW GPO Box 5364 SYDNEY NSW 2001	02 9370 6114
New Zealand	Accident Compensation Corporation Business Development PO Box 242 WELLINGTON NEW ZEALAND	64 4 918 4295
NT	Rehabilitation and Compensation Unit GPO Box 4821 DARWIN NT 0801	08 8999 5141
QLD	Scheme Development Q-Comp Level 12, 30 Makerston Street BRISBANE QLD 4000	07 3238 3080
SA	Policy and Research WorkCover Corporation GPO Box 2668 ADELAIDE SA 5000	08 8238 5817
Seacare	Seafarers Safety, Rehabilitation and Compensation Authority GPO Box 9879 CANBERRA ACT 2601	02 6121 7907
TAS	Workplace Standards Tasmania PO Box 56 ROSNY PARK TAS 7018	03 6233 8338
VIC	Comparison of Jurisdictions Rehabilitation and Compensation Business Unit Victorian WorkCover Authority GPO Box 4306 MELBOURNE VIC 3001	03 9641 1293
WA	Comparison of Jurisdictions WorkCover Western Australia 2 Bedbrook Place SHENTON PARK WA 6008	08 9388 5550

If you do not have access to the internet and are not on the mailing list for this publication and would like to be, please fill out the details and forward your request via fax or email to the Workers' Compensation Jurisdiction in your state

Name:

Title:

Organisation:

Address:

Please tick here if this a change of address