

# Submission To The Productivity Commission's Inquiry Into The National Long-Term Disability Care And Support Scheme

<b>Submission To The Productivity Commission's Inquiry Into The National Long-Term Disability Care And Support Scheme.....</b>	<b>1</b>
Introduction .....	2
Background to Australian Workers' Compensation Arrangements .....	2
Common Law .....	3
Definition of Injury .....	4
Workers' Compensation for Permanent Impairment .....	4
Data on People with Brain Injury, Quadriplegia and Paraplegia .....	5
A Permanent Incapacity Scenario .....	6
<b>Appendix A .....</b>	<b>9</b>
Definition of a Worker.....	9
Professional Sports .....	11
Common law provisions .....	14
Work relatedness .....	18
Benefits .....	19
Income Replacement .....	20
Medical Treatment .....	22
Definition of Permanent Impairment.....	23
Determining the Degree of Impairment .....	25
Waiting periods .....	28
Maximum lump sum compensation payments .....	29
Other Benefits: Attendant Care .....	30
Other Benefits: Home help.....	35
Other Benefits: Other assistance .....	41

## **Introduction**

The introduction of a National Disability Scheme (NDS) will potentially have significant implications for the design and operation of Australian workers' compensation systems. However, the nature and extent of these will not become fully apparent until the Productivity Commission (PC) releases a proposed scheme design in February 2011.

This submission is limited to the provision of information on the current operating arrangements for workers who have a work related injury or disease and does not propose policy positions on the validity or design of a NDS. Safe Work Australia will provide further specific comments in response to the NDS design report when this is released in February 2011.

Safe Work Australia is an independent statutory body with primary responsibility for developing national policies and strategies, collecting and reporting data and undertaking research to improve work health and safety and workers' compensation arrangements in Australia.

Safe Work Australia has 15 members, including an independent Chair, nine members representing the Commonwealth and each State and Territory, two members representing the interests of workers, two representing the interests of employers and the Chief Executive Officer of Safe Work Australia.

Safe Work Australia has convened a tripartite Strategic Issues Group (SIG) on Workers' Compensation which provides policy proposals to improve sustainable response to work related deaths, injuries and illness and their management for:

- a) Employers with workers in more than one jurisdiction, and
- b) The Commonwealth, States and Territories.

The SIG on Workers' Compensation matters will develop policy proposals which identify and assess sustainable opportunities for improving workers' compensation arrangements across Australia. This will be the principal group which will provide advice on the implications of a NDS on its stakeholders.

The introduction of a NDS will potentially have significant implications for the design and operation of Australian workers' compensation systems. To inform the PC's deliberations, Safe Work Australia has provided the following information on the current operating arrangements for workers who have a work related injury or diseases.

It will be important that if the proposed NDS is to include workers who are catastrophically injured, it should not reduce the level of support currently provided by the workers' compensation systems. Depending on the design of the NDS there may be significant issues associated with duplication of workers' compensation arrangements, cost shifting and cost recovery. Safe Work Australia will make specific comments on scheme design options once these are released.

## **Background to Australian Workers' Compensation Arrangements**

Workers' compensation in Australia is the responsibility of the Commonwealth as well as individual states and territories. There are eleven major and several minor workers' compensation systems. All Australian States and both the Territories have their own workers' compensation laws and the Commonwealth has three schemes: the first is for Australian Government employees and the employees of licensed authorities, the second for certain seafarers, and the third for military forces.

Workers' compensation is funded by a compulsory levy imposed by government on employers to fund employers' potential liabilities associated with work related injury as well as to act as an incentive for employers to take safety precautions. The principle

behind Australian workers' compensation is that workers injured in the workplace should be adequately compensated for any loss of earnings and, if necessary, rehabilitated so that they can make a safe and durable return to work. Injury in this sense and as used in this submission includes the *full* range of physical injuries, ailments, illnesses, aggravation or acceleration of pre-existing injuries and diseases. This includes compensation for work related severe and catastrophic injuries and illnesses.

Before the implementation of modern workers' compensation arrangements, an injured worker's only means of receiving compensation was to sue their employer for negligence at common law.

The information in this submission is derived from the February 2010 *Comparison of Workers' Compensation Arrangements in Australia and New Zealand* and the information was accurate at the time of that publication. However, since this publication there have been substantial changes to Victoria's workers' compensation arrangements. These changes will be incorporated into Safe Work Australia's second submission to this inquiry in February 2011.

All Australian jurisdictions have workers' compensation laws which are 'no fault'. That is, a worker does not need to prove negligence on the part of their employer, they are entitled to workers' compensation if:

- the worker is an employee as defined in the law in their jurisdiction;
- they have a medical condition that was diagnosed by a qualified practitioner who stated that the condition arose out of or in the course of employment or employment contributed; and
- they have suffered a financial loss (such as loss of income or medical costs).

Table A.1 in [Appendix A](#) shows the definition of a worker for each jurisdiction.

Workers' compensation provides income replacement and coverage of medical cost to eligible workers and currently covers about 90 per cent of workforce ( ~ 9.7 million workers). The schemes do not cover the self employed, sole traders and independent contractors ( ~ 1.2 million people) who need to take out personal injury insurance through private sector insurance.

Sportspersons can sustain serious or catastrophic injuries. [Appendix A](#) Table A.2 shows the arrangements for sportspersons. Virtually all jurisdictions exclude professional sportspersons from obtaining workers' compensation, unless their work (and their remuneration) is unrelated to the main sporting activity, e.g. administrative or promotional activities, or they deem sportspersons to be workers under their Act. Injuries received from participation in amateur sporting activities that are related to the workplace either through venue, timing or support can be compensated where the injury 'arises out of or in the course of employment' or similar qualification.

## **Common Law**

With the introduction of statutory 'no fault' workers' compensation schemes, and with the benefit of reducing costs for all parties involved, access to common law has been abolished or significantly restricted through the introduction of threshold tests. These are summarised below:

- abolished the right to access common law (SA, NT), or
- introduced permanent impairment threshold tests (NSW, VIC, WA, TAS), and/or
- introduced a serious injury narrative test that bypasses the impairment assessment process (VIC), and/or



- placed restrictions on types of damages that an injured worker can receive (NSW, VIC, Commonwealth, QLD – excludes gratuitous services), and/or
- placed caps on the amount of damages that can be awarded (Commonwealth, VIC, WA, TAS – if WPI under 30%).

Injured workers may still pursue common law, however they must then prove employer negligence and reimburse their employer or WorkCover Authority for any statutory benefits paid out. The levels of access to common law, thresholds, and caps are described in Table A.3 in [Appendix A](#).

## Definition of Injury

Table A.4 in [Appendix A](#) shows the definition of injury and contribution of employment test in each jurisdiction. In workers' compensation, 'injury' is an all-encompassing term that is taken to include the full range of physical injuries, illness and disease. It is usually easy to establish the work relatedness of a physical injury, such as a fracture, cut and amputation, because there is a clear temporal connection between employment and changes to the 'state' of the person's body. On the other hand, establishing the work relatedness of a 'disease' is more problematic because there is a question to what extent work and non-work related factors cause changes to the 'function' of the person's body.

Table A.5 in [Appendix A](#) briefly illustrates the current benefit package for each jurisdiction. All schemes impose limits on compensation entitlements to strike a balance between providing reasonable support for the injured and the cost of that support to governments, employers and the community as a whole. The limits to benefits may be age, time or cost related.

Table A.6 in [Appendix A](#) shows the income replacements packages on offer across Australia. Income replacement, is the most expensive part of compensation, accounting for more than half of scheme costs, and is linked to pre-injury earnings.

Table A.7 in [Appendix A](#) notes the how each workers' compensation scheme reimburses injured workers for the reasonable costs of medical treatment and other services that are related to workplace injuries. Services typically include all medical, ambulance, surgical and hospital, pharmaceuticals, aids and appliances, and household help costs.

## Workers' Compensation for Permanent Impairment

Of direct relevance to the NDS are the workers' compensation provisions provided for people who acquire permanent impairment. All jurisdictions consider permanent impairment as those conditions which are considered medically stable, will not improve with further medical treatment, and are likely to continue indefinitely. However each jurisdiction defines permanent impairment slightly differently, as demonstrated in Table A.8 in [Appendix A](#).

All workers' compensation legislation allows for statutory lump sum payments to compensate workers for permanent impairment suffered as a result of a work-related injury. Lump sum compensation for permanent impairment including for the loss of: limb, function (eyes and ears), body function such as walking, amenity of life, disfigurement, and of life expectancy and pain and suffering.

Jurisdictions use various guides to assist in determining the degree of clinical loss arising from permanent impairment. Table A.9 in [Appendix A](#) shows a degree of consistency across the jurisdictions. All use the American Medical Association's guide to assess impairment, albeit in different editions, and use supplementary tables for hearing loss, vision loss and psychological impairment. Several jurisdictions have their own guides which are largely modelled on the American guides.



Some jurisdictions impose a waiting period before a claim for permanent impairment can be lodged. This is to ensure that the injury has stabilised. Table A.10 in [Appendix A](#) includes waiting periods where prescribed.

Each jurisdiction has a predetermined statutory maximum lump sum payment for injuries causing permanent impairment. Maximum amounts are payable in cases of full and permanent impairment.

As shown in Table A.11 in [Appendix A](#), maximum payments range from around \$168 000 in Western Australia to more than \$420 000 in South Australia. It is worth noting that very few claims for permanent impairment actually receive the maximum amount. Although detailed figures are not available, experience suggests that most claims are in the range of ten to twenty per cent loss.

Lump sum payments for permanent impairment can also include compensation for economic loss, non-economic loss, or a mixture of both. Non-economic loss covers the pain and suffering component of a permanent impairment. Currently payment of the Disability Support Pension is affected by the economic loss component of lump sum payments.

There are instances where services are provided that are outside the scope of medical and incapacity benefits. These types of payments are referred to as 'other' benefits and are provided by some schemes in Australia and New Zealand. For example, an injured worker may be entitled to reimbursement for other expenses, such as *attendant care* or *home help*. Where reimbursement is provided, it is generally provided for expenses which are reasonably necessary. Tables A.12 and A.13 in [Appendix A](#) show which jurisdictions provide these benefits, how they are calculated and any limits that may apply to the provision of these benefits.

Injured workers can obtain other assistance in the form of home or vehicle modifications. Table A.14 in [Appendix A](#) highlights the other assistance available in the jurisdictions.

### **Data on People with Brain Injury, Quadriplegia and Paraplegia**

Safe Work Australia gathers data on compensated injuries and diseases from each of the State and Territory workers' compensation authorities to form the Australian National Data Set for Compensation-based Statistics (NDS 2004). Data is coded under the Type of Occurrence Classification System (TOOCS 3, 2004), which records the nature, bodily location, mechanism, breakdown agency and agency of injury or disease.

Producing definitive data on the incidence of Australian workers' injuries resulting in 'severe or profound disability' is restricted by these coding limitations, so for the purposes of this exercise Safe Work Australia has used the following three types of injury as a proxy:

- Code No. 101 - brain injury. The category covers all types of brain injury resulting from trauma. It excludes concussions and fractured skulls where there is no brain injury
- Code No. 181 - quadriplegia involving spinal cord injury, and
- Code No. 182 - paraplegia involving spinal cord injury.

The data has also been factored to adjust for NSW and WA, who do not yet use TOOCS 3, and therefore provides only indicative information. However, notwithstanding the coding anomalies, the NDS only gathers direct costs, and the nature of these injuries is that expenditure tends to increase each year, so the costs indicated are in all probability conservative.



## **Number of claims**

Nationally, over the last four years (from 2005–06 to 2008–09) there have been between 50 to 69 claims accepted within these 3 codes each year (249 in total). Quadriplegia and paraplegia are relatively rare occurrences with not more than 10 combined each year (27 in total). Brain injury is more commonly recorded (between 50 and 60 cases per year, and 222 in total). It is possible that some of the brain injury cases have not have resulted in a 'severe or profound disability'.

## **Costs**

For claims lodged in the four years from 2005–06 to 2008–09, the total direct cost was \$47.5 million. This figure is comprised of:

- \$27.9 million in compensation payments—includes permanent injury lump sums and weekly benefits
- \$15.1 million in goods & services—includes medical treatments, hospital and rehab services etc, and
- \$4.5 million in non-compensation payments—includes damages and common law & legal costs.

Approximately 65% (\$31.2 million) of the costs occurred in the brain injury category, 20% (\$10.2 million) in paraplegia claims, and the remaining 15% in quadriplegia claims (\$6.1 million). However, in terms of the proportion of claims by the total cost, only 7% of the brain injury claims are above \$500 000, whereas 13% of the paraplegia claims and 67% of the quadriplegia claims are above \$500 000.

## **Mechanism of injury and occupation**

The five main mechanisms of injury causing these conditions were falling from a height, falling on the same level, and being hit by moving objects, closely followed by hitting stationary objects and being hit by falling objects. The two main occupations affected were truck drivers, farm hands, followed by miscellaneous labourers and professionals, and electricians.

## **A Permanent Incapacity Scenario**

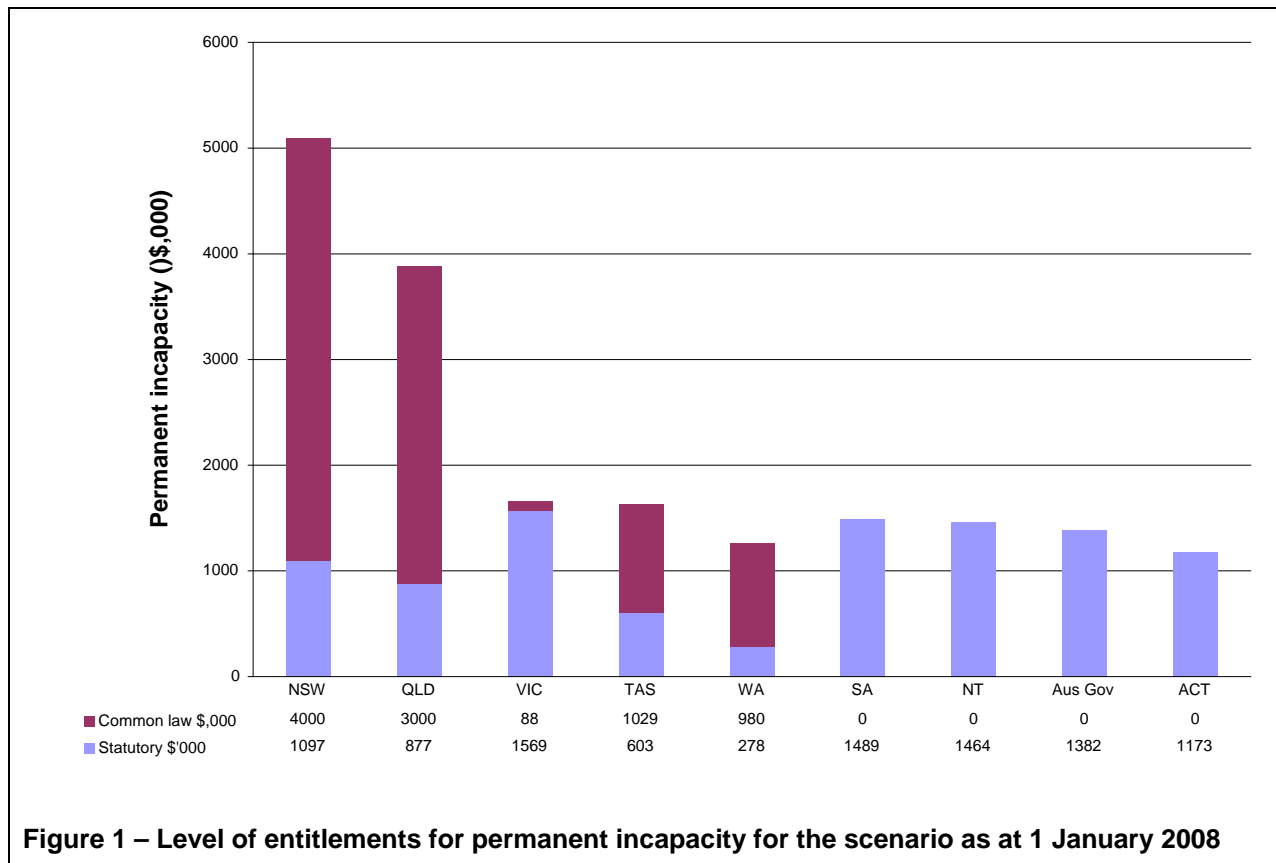
A scenario can illustrate the entitlements payable for a degree of permanent incapacity caused by a workplace injury. The following scenario which was published in the Comparative Performance Monitoring Report 11th edition in December 2009, is indicative only for cases of full and permanent impairment that are compensated with a maximum lump sum payment.

As a result of the workplace incident, the employee was diagnosed with quadriplegia below the 6th cervical neurological segment. This resulted in paralysis of his hands, impaired upper body movement and paralysis of the trunk and lower limbs. He lost all lower body function and was wheelchair-bound. Incapacity was total and permanent and there was no real prospect of returning to work.

The employee's pre-injury earnings were \$1000 gross per week. The employee is 35 years of age and has a dependent spouse and two children aged 7 and 8—the younger child entered the workforce at 16 and the older child remained in full-time education until age 25. The employee contributed to a superannuation fund. There was no contributory negligence on his part, however there was negligence on the part of the employer.

Figure 1 below shows the entitlements payable to the injured employee. The statutory component includes the weekly benefits payable for the remainder of the employee's working life (30 years in this instance) and all lump sum payments for permanent incapacity. The common law component is an estimate of the additional payment available under a common law settlement, where applicable. All figures exclude medical and like services such as attendant care.





As at 1 January 2008, total entitlements ranged from \$1.2 million in the Australian Capital Territory to \$5.1 million in New South Wales.

In the Australian Capital Territory, if a worker obtains damages (i.e. common law) in relation to an injury then either the lesser of the compensation benefits received prior to the damages being awarded or the damages will be recovered by the employer, hence no common law amount is shown. Similarly workers for the Australian Government are more likely to accept the statutory lump sum payment than to pursue a common law settlement.

In New South Wales, Queensland<sup>1</sup>, Tasmania and Western Australia there is no upper limit on compensation that could be expected from a common law claim under this scenario. A figure of \$4 million was provided by New South Wales and is considered to be entitlements payable under common law for a similar scenario. Queensland provided a figure of \$3 million, which is based on claims similar to this scenario. Tasmania provided a figure of \$1 million. Western Australia provided a figure for this scenario of \$979 838, which is based on estimates from approved insurers within the Western Australian workers compensation scheme. Statutory benefits are repaid by the worker to compensation schemes if common law damages are awarded. Common law access is readily available to injured workers in Western Australia, whilst access in New South Wales is somewhat restricted.

Further detail on the levels of access to common law, thresholds, and caps in each jurisdiction can be found in Table A.3 in [Appendix A](#).

<sup>1</sup> Until introduction of statutory caps in Queensland on 1 July 2010.

**Safe Work Australia Contact Details****Principal Contact**

Ms Amanda Grey: Branch Manager Strategic Policy Branch

Email: [amanda.grey@safeworkaustralia.gov.au](mailto:amanda.grey@safeworkaustralia.gov.au)

Executive Assistant: Fleur Ashley (02) 6240 9616

**Secondary Contact**

Dr Peta Miller: Director Policy

Email: [peta.miller@safeworkaustralia.gov.au](mailto:peta.miller@safeworkaustralia.gov.au)

Telephone: (02) 61219253; Mobile: 0421 585 128

Address GPO Box 641, Canberra ACT 2601

Locations: Level 3, 220 Northbourne Avenue, Braddon ACT

For more information see

- Safe Work Australia <http://www.safeworkaustralia.gov.au/>
- Workers' compensation <http://www.safeworkaustralia.gov.au/swa/WorkersComp/>



# Appendix A

## Definition of a Worker

Table A.1 – Definition of worker as at 30 June 2009

Jurisdiction	Definition of 'worker'
New South Wales	<p>A person who has entered into or works under a contract of service or a training contract with an employer (whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, and whether the contract is oral or in writing): – s4(1) (1998 Act) but excluding:</p> <ul style="list-style-type: none"> <li>a) certain members of the Police Force covered by the Police Superannuation Fund;</li> <li>b) a person whose employment is casual, that is, for 1 period only of not more than 5 working days, and who is employed otherwise than for the purposes of the employer's trade or business;</li> <li>c) certain officers of religious or voluntary associations where remuneration is less than \$700 per year;</li> <li>d) certain registered participants in a sporting organisation covered under the <i>Sporting Injuries Insurance Act 1978</i></li> </ul> <p>but also including certain classes of persons who are deemed to be workers.</p>
Victoria	<ul style="list-style-type: none"> <li>a) a person (including a domestic servant or an outworker) who has entered into or works under a contract of service or apprenticeship or otherwise with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is express or implied, is oral or is in writing</li> <li>b) a person who is deemed to be working under a contract of service</li> <li>c) a person deemed to be a worker</li> <li>d) a school student undertaking work experience or workplace training;</li> <li>e) a TAFE student undertaking practical placement: – s5(1)</li> </ul>
Queensland	<p>A worker is an individual who works under a contract of service. Schedule 2 of the Act mentions persons who are or are not workers. In particular, any person who works for another person under a contract (regardless of whether the contract is a contract of service) is a "worker" unless the person can satisfy all three elements of a results test, or it can be shown that a personal services business determination is in effect for the person under the Income Tax Assessment Act 1997 (Cth). The three elements of the results test to be satisfied are that:</p> <ul style="list-style-type: none"> <li>• The person performing the work is paid to achieve a specified result or outcome</li> <li>• The person performing the work has to supply the plant and equipment or tools of trade needed to perform the work, and</li> <li>• The person is, or would be, liable for the cost of rectifying any defect in the work performed.</li> </ul>
Western Australia	<p>Any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing. The meaning of worker also includes:</p> <ul style="list-style-type: none"> <li>a) any person to whose service any industrial award or industrial agreement applies, and</li> <li>b) any person engaged by another person to work for the purpose of the other person's trade or business under a contract with him for service, the remuneration by whatever means of the person so working being in substance for his personal manual labour or services: – s5(1)</li> </ul>
South Australia	<ul style="list-style-type: none"> <li>a) a person by whom work is done under a contract of service (whether or not as an employee)</li> <li>b) a person who is a worker by virtue of section 103A</li> <li>c) a self-employed worker, and includes a former worker and the legal personal representative of a deceased worker</li> </ul>

Jurisdiction	Definition of 'worker'
Tasmania	<ul style="list-style-type: none"> <li>Any person who has entered into, or works under, a contract of service or training agreement with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is express or implied, or is oral or in writing, and</li> <li>Any person or class taken to be a worker for the purposes of the Act: – s3(1)</li> </ul>
Northern Territory	<p>Contract or agreement of any kind to perform work or a service.</p> <p>Exclusions apply for people who supply an ABN: – s3</p>
Australian Capital Territory	<p>Individual who has entered into or works under a contract of service with an employer, whether the contract is expressed or implied, oral or written: – s8(1)</p> <p>The Act devotes an entire chapter (Chapter 3) to defining and identifying a worker in general and certain categories of workers. The Minister may additionally make a declaration to deem persons in certain occupations to be workers.</p> <p>Note: From 30 June 2010 amendments clarifying the broad definition of worker will commence.</p>
Commonwealth	<p>“employee” - a person employed by the Commonwealth or by a Commonwealth Authority whether the person is so employed under a law of the Commonwealth or of a Territory or under a contract of service or apprenticeship.</p> <p>Also a person who is employed by a licensed corporation if a person performs work for that corporation under a law or a contract and the person would, if the corporation were not licensed, be entitled to workers' compensation in connection of that work: – s4 &amp; s5</p>

# Professional Sports

Table A.2 – Treatment of sportspersons and sporting injuries as at 30 June 2009

Jurisdiction	Treatment of Sportsperson and Sporting Injuries
New South Wales	<p><i>The Sporting Injuries Insurance Act 1978</i> provides coverage for serious injury while participating in an authorised activity to persons who are not workers and who are registered members of a sporting organisation that is recognised by the Sporting Injuries Committee. This coverage does not apply to the following "deemed workers":</p> <ul style="list-style-type: none"> <li>• Jockeys and harness racing drivers</li> <li>• Boxers, wrestlers, referees and entertainers</li> <li>• Caddies and others employed through a club for the purposes of any game or recreation.</li> </ul> <p>If the sportsperson is a worker or deemed worker, coverage under the workers compensation legislation would be applicable.</p>
Victoria	<p><i>Accident Compensation Act 1985 s16(1)</i> Except as provided in sub-section (4), where a person is engaged by an employer to participate as a contestant in a sporting or athletic activity, neither the employer or self-insurer nor the Authority or authorised insurer is liable to pay compensation for an injury received by the person if—</p> <p>a) the injury is received while the person is—</p> <ul style="list-style-type: none"> <li>(i) participating as a contestant in a sporting or athletic activity;</li> <li>(ii) engaged in training or preparation with a view to so participating; or</li> <li>(iii) travelling between a place of residence and the place at which the person is so participating or so engaged.</li> </ul> <p>(4) A person—</p> <p>a) engaged to participate as a rider in a horse race at a race meeting held under the Rules of Racing of Racing Victoria; or</p> <p>b) who, not being an apprentice or the owner or trainer of the horse to be ridden, holds a licence, permit or approval to ride granted in accordance with the Rules of Racing of Racing Victoria and who agrees to do ride work on a horse at any racecourse or training track or in the environs of a racecourse or training track - shall be deemed for the purposes only of this Act while participating as such a rider or doing such riding work to be a worker solely employed by Racing Victoria and the amounts paid to the person in respect of so participating or doing shall be deemed to be remuneration.</p>
Queensland	<p><i>Workers Compensation and Rehabilitation Act 2003</i></p> <p><b>Schedule 2 Part 2 – Persons who are not workers</b></p> <p>2 A person who performs work under a contract of service as a professional sportsperson is not a worker while the person is—</p> <ul style="list-style-type: none"> <li>a) participating in a sporting or athletic activity as a contestant; or</li> <li>b) training or preparing for participation in a sporting or athletic activity as a contestant; or</li> <li>c) performing promotional activities offered to the person because of the person's standing as a sportsperson; or</li> <li>d) engaging on any daily or other periodic journey in connection with the participation, training, preparation or performance.</li> </ul>
Western Australia	<p><i>Workers Compensation and Injury Management Act 1981</i></p> <p><b>11. Exclusion of certain persons who are contestants in sporting or athletic activities</b></p> <p>Notwithstanding anything in section 5 and subject to section 11A, a person is deemed not to be a worker within the meaning of the Act while he is, pursuant to a contract</p> <ul style="list-style-type: none"> <li>a) participating as a contestant in any sporting or athletic activity;</li> <li>b) engaged in training or preparing himself with a view to his so participating;</li> <li>c) engaged in promotional activities in accordance with the contract pursuant to which he so participates; or</li> </ul>

Jurisdiction	Treatment of Sportsperson and Sporting Injuries
	<p>d) engaged on any regular journey, daily, or other periodic journey, or other journey in connection with his so participating or being so engaged,</p> <p>if, under that contract, he is not entitled to any remuneration other than remuneration for the doing of those things.</p> <p><b>11A. Jockeys</b></p> <p>1. Notwithstanding section 11, for the purposes of this Act “worker” includes a person licensed as a jockey under the <i>Racing and Wagering Western Australia Act 2003</i></p> <p>a) riding a horse in any race run under the management of a racing club registered under the <i>Racing and Wagering Western Australia Act 2003</i>; or</p> <p>b) engaged on a racecourse in riding work, or carrying out the usual duties of a jockey, for a trainer licensed as a trainer under the <i>Racing and Wagering Western Australia Act 2003</i>,</p> <p>and <i>Racing and Wagering Western Australia</i> is, for the purposes of this Act, deemed to be the employer of such a person.</p> <p>2. The earnings of a person included as a worker under subsection (1) shall be deemed to be equal to the rate of wages, including special allowances, prescribed for stable foremen under the <i>Horse Training Industry Award 1976</i> as made under the <i>Conciliation and Arbitration Act 1904</i> of the Commonwealth and amended from time to time.</p>
South Australia	<p><i>Workers Rehabilitation and Compensation Act 1986</i></p> <p><b>s58</b></p> <p>1. Notwithstanding any other provision of this Act, but subject to subsection (2), where —</p> <p>a) a worker is employed by an employer solely—</p> <p>(i) to participate as a contestant in a sporting or athletic activity (and to engage in training or preparation with a view to such participation); or</p> <p>(ii) to act as a referee or umpire in relation to a sporting or athletic contest (and to engage in training or preparation with a view to so acting); and</p> <p>b) remuneration is not payable under the contract of employment except in respect of such employment, a disability arising out of or in the course of that employment is not compensable.</p> <p>2. This section does not apply to—</p> <p>a) a person authorised or permitted by a racing controlling authority within the meaning of the <i>Authorised Betting Operations Act 2000</i> to ride or drive in a race within the meaning of that Act; or</p> <p>b) a boxer, wrestler or referee employed or engaged for a fee to take part in a boxing or wrestling match; or</p> <p>c) a person who derives an entire livelihood, or an annual income in excess of the prescribed amount, from employment of a kind referred to in subsection (1)(a)</p> <p>3. In this section—</p> <p><b>the prescribed amount</b> means—</p> <p>a) in relation to 1987—\$27 200;</p> <p>b) in relation to a subsequent year—a sum (calculated to the nearest multiple of \$100) that bears to \$25 000 the same proportion as the Consumer Price Index for the September quarter of the immediately preceding year bears to the Consumer Price Index for the September quarter, 1985.</p>
Tasmania	<p><i>Workers Rehabilitation and Compensation Act 1988</i></p> <p>s7. Exclusion of certain persons who are contestants in sporting activities</p> <p>A person is deemed not to be a worker within the meaning of the Act while he is, pursuant to a contract —</p> <p>a) participating as a contestant in any sporting or athletic activity;</p> <p>b) engaged in training or preparing himself with a view to his so participating; or</p> <p>c) travelling in connection with his so participating or being so engaged —</p>

Jurisdiction	Treatment of Sportsperson and Sporting Injuries
	<p>if, under that contract, he is not entitled to any remuneration other than remuneration for the doing of those things.</p> <p><b>Jockeys</b></p> <p>Section 7 does not apply to jockeys and apprentices whilst engaged in riding at a race meeting or official trial or whilst riding in a training session for a licensed trainer. –s4DC</p>
Northern Territory	<p><i>Workers Rehabilitation and Compensation Act 2008</i></p> <p><b>3. Interpretation</b></p> <p>(10) Notwithstanding anything in this Act, a person shall be deemed not to be a worker for the purposes of this Act while he or she is, in pursuance of a contract –</p> <ul style="list-style-type: none"> <li>a) participating as a contestant in a sporting or athletic activity;</li> <li>b) engaged in training or preparing himself or herself with a view to his or her so participating; or</li> <li>c) travelling in connection with his or her so participating or being so engaged,</li> </ul> <p>unless, under the contract, he or she is entitled to remuneration of not less than the prescribed amount per year or at a rate that, if the contract continued for a year, would result in his or her receiving remuneration of not less than that amount.</p> <p>From <i>Workers Rehabilitation and Compensation Act 2008</i></p> <p><b>3A. Definition of “worker”</b></p> <p>(1) For the purposes of paragraph (b) of the definition of “worker” in section 3 of the Act –</p> <ul style="list-style-type: none"> <li>(b) a natural person who is authorised by a club, within the meaning of Part III of the <i>Racing and Betting Act</i>, to ride or drive a horse or pony for a fee or reward or provide services as a stable-hand on a racecourse licensed under that Part, while the person is so engaged (whether or not on a racecourse); and</li> </ul> <p><b>5. Prescribed amount</b></p> <p>For the purposes of section 3(10) of the Act, the prescribed amount is 65% of the annual equivalent of average weekly earnings.</p>
Aust Capital Territory	<p><i>Workers Compensation Act 1951</i></p> <p><b>s84 Compensation for sporting injuries</b></p> <p>A person is not entitled to receive compensation for an injury sustained as a result of the person’s engagement in professional sporting activity.</p> <p><b>S177 Premiums—remuneration for professional sporting activity</b></p> <p>An employer is not liable to pay any part of a premium for a compulsory insurance policy calculated by reference to the remuneration payable to an employee for engaging in professional sporting activity.</p>
Commonwealth	<p>Nothing specific in legislation. The <i>Safety, Rehabilitation and Compensation Act 1988</i> provides that in the case of an injury, compensation is payable where the injury ‘arises out of or in the course of employment’.</p>

## Common law provisions

Table A.3 – Common law provisions as at 30 June 2009

Jurisdiction	Access to Common Law?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
New South Wales	Yes (limited) (known as Work Injury Damages "WID")	<p>Damages are paid as one lump sum to cover past and future economic loss of earnings only</p> <p>The amount of weekly benefits already paid must be repaid out of the money awarded</p> <p>Damages can be reduced if the worker's own negligence contributed to the injury: – Part 5, Division 3 (1987 Act)</p>	<p>To be eligible to make a claim for work injury damages, three criteria must be met:</p> <p>the work injury is a result of the negligence of the employer</p> <p>the worker must have at least a 15% whole person impairment</p> <p>claims for lump sum compensation for permanent impairment and pain and suffering must be made prior to or at the same time as the work injury damages claim, and must be settled prior to a WID claim being finalised.</p> <p>A WID claim cannot be started for at least six months after the worker gave notice of the injury to the employer, or not more than three years after the date of injury: – Part 5, Division 3 (1987 Act)</p>	<p>No.</p> <p>If a common law claim is not successful, the worker will continue to receive workers' compensation under the statutory scheme.</p>	No
Victoria	Yes (limited) Access to common law is for workers injured on or after 20 October 1999.	Damages for pain and suffering and/or economic loss may be pursued. There are additional requirements to prove a permanent loss of 40% earning capacity to be able to pursue economic loss	<p>To obtain common law damages, a worker must first be granted a 'serious injury' certificate. There are two ways a worker can obtain a 'serious injury' certificate:</p> <p>During the impairment assessment process, be assessed as having a whole person impairment of 30%</p>	No. If a common law claim is not successful, the worker may continue to be entitled to statutory benefits.	<p>Damages for pain and suffering must not be awarded if the amount is less than \$49 460: – s134AB(22)</p> <p>Maximum amount for pain and suffering</p>



<b>Jurisdiction</b>	<b>Access to Common Law?</b>	<b>Types of damages</b>	<b>Statutory threshold(s)</b>	<b>Is election of common law irrevocable?</b>	<b>Cap on damages?</b>
		damages: – s134AB	or more (can combine physical and mental impairments); or		damages is
		If pain and suffering damages are awarded the amount must be reduced by any lump sum impairment benefit paid: – s134AB(36)	The Authority or the County Court determines that the worker has a 'serious injury' pursuant to the narrative test. (Accident Compensation Act 1985:– s134AB(37)		\$484 830:– s134AB(22)
		If economic loss damages are awarded the amount is reduced by any past weekly payments made to the worker: – s134AB(36)	A worker has the option of having their whole person impairment assessed first or by-passing the impairment assessment process and relying on the narrative test. Either way, the worker must make a serious injury application and have that application accepted or rejected by the Authority before they can proceed to the next step.		Damages for economic loss must not be awarded if the amount is less than \$49 460: – s134AB(22)
		No interest is payable on damages: – s134AB(34)			Maximum amount for economic loss damages is
		The payment of damages does not affect any entitlement to medical and like expenses: – s99(13)	If the worker's impairment assessment is under 30% and/or their serious injury application relying on the narrative test has been rejected, the worker has 30 days to issue County Court proceedings for a Judge to determine whether they have a 'serious injury' on the narrative test:– s134AB		\$1 113 590:– s134AB(22)
			A worker can have a 'serious injury' that entitles them to pursue pain and suffering damages only and/or economic loss damages. To qualify for serious injury status		

Jurisdiction	Access to Common Law?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
			for economic loss if serious injury is determined under the narrative test the worker must prove they have suffered and will continue to suffer a loss of earning capacity of 40% or more:– s134AB(37) and s134AB(38)		
Queensland	Yes	No damages available for gratuitous services	If the worker has WRI of less than 20% or no WRI, the worker must decide to either accept the lump sum payment or seek damages:– s189	Yes	Pain and suffering - \$294,500 (indexed annually); Economic loss - \$\$3,684.60 per week for each week of the period of loss of earnings (indexed annually).
Western Australia	Yes (limited)		As of 14 November 2005 access to common law is based on the worker's degree of whole person impairment. The threshold for accessing common law is not less than 15% WPI. Secondary psychological, psychiatric and sexual conditions are excluded:– Part IV, Subdivision 3  Causes of action that occurred before 14 November 2004 are dealt with under the old previous law regimes: – Part IV, Subdivision 2 – s93D & s93E		Where a worker has a WPI of less than 25% the maximum amount of damages that may be awarded is \$353 850 (indexed annually):– s93K  Unlimited common law is available to a worker with a WPI of greater than 25%.
South Australia	No	N/A	N/A	N/A	N/A

Jurisdiction	Access to Common Law?	Types of damages	Statutory threshold(s)	Is election of common law irrevocable?	Cap on damages?
Tasmania	Yes (limited)	Damages available for both economic and non-economic loss	A worker must suffer at least 30% WPI before he or she can elect to commence proceedings for an award of damages.	No. Election is required to commence proceedings in Court. Can't make election unless Tribunal accepts that worker permanent impairment of at least 30%.  All statutory benefits continue following election.	Unlimited damages is available to a worker with a WPI of at least 30%
Northern Territory	No	N/A	N/A	N/A	N/A
Australian Capital Territory	Yes	Unlimited	Nil	No. Benefits cease on settlement or outcome in favour of the worker. Benefits received prior to settlement are to be repaid from the damages settlement.	Unlimited, outside of workers' compensation scheme.
Commonwealth	Yes (limited)	Employee is restricted to damages for non-economic loss  A dependant of an employee who has died as a result of injury can take economic and non-economic damages action.	To have access to common law the employee must have a successful permanent impairment claim i.e. a benefit payable under the relevant Commonwealth Act: - s45 SRC Act,	Yes. Employees are able to make an irrevocable election to institute an action or proceedings for damages for non-economic loss under section 45 of the Act. No statutory permanent impairment (s24) or non-economic loss (s27) benefits are payable after the date of such an election. However, a damages award does not affect other entitlements, such as weekly benefits, medical costs etc.	Damages shall not exceed \$110 000. This amount is not indexed.

## Work relatedness

**Table A.4 – Definition of Injury and Contribution of Employment as at 30 June 2009**

	<b>Definition of ‘injury’ for purposes of coverage</b>	<b>Employment contribution</b>
New South Wales	‘... personal injury arising out of or in the course of employment ...’	Substantial contributing factor
Victoria	‘... an injury arising out of, or in the course of, any employment ...’	Significant contributing factor
Queensland	‘... a personal injury arising out of, or in the course of, employment ...’	Significant contributing factor
Western Australia	‘... a personal injury by accident arising out of or in the course of the employment ...’	Significant degree (for diseases only)
South Australia	‘... a disability is compensable if it arises from employment.’	balance of probabilities that it arises from employment Substantial cause (for psychiatric disabilities only) ‘Contribution’ required for secondary and unrepresentative disabilities, and diseases.
Tasmania	‘An injury, or a disease, arising out of, or in the course of employment’	Major or most significant factor’ (for diseases only)
Northern Territory	‘... a physical or mental injury ... out of or in the course of employment ...’	Material degree (for diseases and gradual process)
Australian Capital Territory	‘a physical or mental injury...includes aggravation, acceleration or recurrence of a pre-existing injury...arising out of, or in the course of, the worker’s employment’	Substantial contributing factor
Commonwealth	‘... a physical or mental injury arising out of, or in the course of, the employee’s employment ...’ or ‘... an aggravation of a physical or mental injury (other than a disease) ...’	Significant degree (for diseases) which is, defined as ‘substantially more than material’.

## Benefits

**Table A.5 – Benefits at a Glance as at 30 June 2009**

	<b>Incapacity payments (In weeks)</b>	<b>Medical Treatment</b>	<b>PI</b>	<b>Common law access</b>
C'th	100% - 45 Final Step down after 45	All reasonable costs	\$155 960.87 PI + Non-econ loss \$58 485.36 100% WPI	Yes (limited)
NSW	100% - 26 Final Step down after 26	All reasonable costs – limits stated	\$168 499 100% WPI	Yes 15% WPI
VIC <sup>1</sup>	95% - 13 Final Step down after 13	All reasonable costs – limits stated	Non-econ loss \$369 690 100% WPI	Yes 30% WPI or 'serious injury'
QLD	100% - 26 Final Step down after 104	reasonable, having regard to the injury	\$244 710 >75% WPI	Yes
WA	100% - 13 Final Step down after 13	Reasonable expenses incurred - limits stated	\$231 254.40 85% WPI	Yes 15% WPI
SA	100% - 13 Final Step down after 26	Reasonable costs, reasonably incurred	\$123 525 single \$185 288 multiple 100% WPI	No
TAS	100% 13 Final Step down after 78	Reasonable expenses necessarily incurred	\$244 710 plus additional \$244710 100% WPI	Yes 30%
NT	100% - 26 Final Step down after 26	All reasonable costs	\$168 499 100% WPI	No
ACT	100% - 26 Final Step down after 26	Medical treatment reasonably obtained – limits stated	Non-econ loss \$420 558 100% WPI	Yes, external to WC legislation

<sup>1</sup> This information may not reflect the substantial changes to Victoria's arrangements from recent amendments to Victoria's Accident Compensation Act 1985. These changes will be incorporated into Safe Work Australia's second submission to this inquiry in February 2011.

## Income Replacement

Table A.6 – Summary of incapacity payments as at 30 June 2009

	100% wage rplmt (no. of weeks)	Final step- down	Minimum amount	Variation	Financial limit	Time limit	Age limit
NSW	26	26	\$309.50	Increases for dependent spouse and/or children	\$1654.40 per week-	N/A	Retirement age + 12 months
VIC <sup>1</sup>	13 (95% replacement)	13	75%	Less capacity to earn	\$1250 per week	130 wks unless no current work capacity then indefinitely	65 unless lower industry retirement age. If injured within 130 weeks of retirement max. 130 weeks.
QLD	26	104	Greater of 75% worker's NWE or 70% of QOTE #	N/A	\$244 710	5 years	N/A
WA	13	13	85%	Subject to award rates	Limit weekly 2.0 x ABS AWE (\$1904.40) Statutory max \$168 499	N/A	65 unless worker is over 64 at time of injury, in which case max 1 year
SA	13	26	80%	Less capacity or deemed capacity to earn	\$2335.60 per week-	130 wks unless no current and continuing work capacity	65 unless within 2 yrs of retirement age or above retirement age, then wkly payments for up to 2 ys after commencement
TAS	13	78	80%	Less capacity to earn	N/A	9 years	65 unless over 64 at time of injury, then max 1 yr. If employment allow worker to continue beyond age 65 the Tribunal may determine that weekly payments may continue for a specified period.
NT	26	26	75% (or 150% AWE	More for dependants, less	N/A	2 years	65 unless over 64.5 at time of injury, then max 6 months



	100% wage rplmt (no. of weeks)	Final step- down	Minimum amount	Variation	Financial limit	Time limit	Age limit
			in the NT, whichever is lesser)	capacity to earn			
ACT	26	26	65% PIE or statutory floor (\$543.78) whichever is more	More for dependants, less capacity to earn	N/A	N/A	65 unless worker over 63 yrs at time of injury, then maximum 2 yrs payable
C'th	45	45	Greater of 75% or statutory amount (\$393.79)	More for dependants, less ability to earn. Applies only post 45 weeks of incapacity compensation.	150% of AWOTEFA <sup>2</sup>	N/A	65 unless over 63 yrs at time of injury, then maximum 2 yrs (continuous or cumulative)

<sup>1</sup> This information may not reflect the substantial changes to Victoria's arrangements from recent amendments to Victoria's Accident Compensation Act 1985. These changes will be incorporated into Safe Work Australia's second submission to this inquiry in February 2011.

<sup>2</sup> Average Weekly Ordinary Time Earnings of Full-Time Adults as published from time to time by Australian Bureau of Statistics.

## Medical Treatment

Table A.7 – Medical Treatment Entitlements as at 30 June 2009

Jurisdiction	\$ limit	Description
New South Wales	No limit	Employers liable for all reasonable costs. Medical expenditure above \$50 000 requires regulator approval.
Victoria	No limit	Except in certain circumstances, ceases 52 weeks after weekly payment entitlement ceases, or after 52 weeks if compensation is payable only for medical and like services.
Queensland	No limit	Medical treatment or hospitalisation that is considered reasonable, having regard to the injury.
Western Australia	\$50 550	Additional \$50 000 where the worker's social and financial circumstances justify it. An additional \$250 000 beyond the \$50 000 may be ordered by an arbitrator under certain circumstances
South Australia	No limit	All reasonable medical costs (treatment, hospitalisation, therapeutic appliances and medicines).
Tasmania	No limit	All reasonable medical costs (treatment, ambulance, hospitalisation, nursing services, constant attendant services, rehabilitation services). Entitlements cease 10 years after the date the claim was lodged
Northern Territory	No limit	All reasonable medical costs.
Australian Capital Territory	No limit	Employers liable for all reasonable medical costs. Total amount must not be more than the maximum amount (agreed between employer and worker or \$617.63 for each treatment
Commonwealth	No limit	All reasonable costs

## Definition of Permanent Impairment

**Table A.8 – Definitions of permanent impairment and statutory criteria for determining permanent impairment as at 30 June 2009**

Jurisdiction	Definition of 'permanent' and 'impairment', statutory criteria for determination
New South Wales	<p>Assessments only conducted when medical assessor considers that the degree of PI of the injured worker is fully ascertainable. The PI will be fully ascertainable where the medical assessor considers that the person has attained maximum medical improvement. This is considered to occur when the worker's condition has been medically stable for the previous three months and is unlikely to change by more than 3%WPI in the ensuing 12 months with or without further medical treatment (i.e. further recovery or deterioration is not anticipated).</p> <p>Section 65 and 65A of the <i>Workers Compensation Act 1987</i></p>
Victoria	<p>As per AMA Guides</p> <p>Section 91 (1A) <i>Accident Compensation Act 1985</i></p> <p>Despite anything to the contrary in the AMA Guides, an assessment under subsection (1) of the degree of impairment resulting from an injury must be made-</p> <ol style="list-style-type: none"> <li>after the injury has stabilised and</li> <li>subject to subsection (7) based on the worker's current impairment as at the date of the assessment, including any changes in the signs and symptoms following any medical or surgical treatment undergone by the worker in respect of the injury</li> </ol> <p>Section 91 (1B) <i>Accident Compensation Act 1985</i></p> <p>The AMA Guides apply in respect of an assessment under 3.3d of Chapter 3 of the AMA Guides as if the following were omitted-</p> <p>"with the Injury Model, surgery to treat an impairment does not modify the original impairment estimate, which remains the same in spite of any changes in signs or symptoms that may follow the surgery and irrespective of whether the patient has a favourable or unfavourable response to treatment"</p>
Queensland	<p><i>Workers' Compensation and Rehabilitation Act 2003:</i></p> <p><b>s38 Meaning of permanent impairment</b></p> <p>A <b>permanent impairment</b>, from injury, is an impairment that is stable and stationary and not likely to improve with further medical or surgical treatment.</p> <p><i>Workers' Compensation and Rehabilitation Act 2003:</i></p> <p><b>s179 Assessment of permanent impairment</b></p> <ol style="list-style-type: none"> <li>An insurer may decide, or a worker may ask the insurer, to have the worker's injury assessed to decide if the worker's injury has resulted in a degree of PI.</li> <li>The insurer must have the degree of permanent impairment assessed— <ol style="list-style-type: none"> <li>for industrial deafness—by an audiologist; or</li> <li>or a psychiatric or psychological injury—by a medical assessment tribunal; or</li> <li>for another injury—by a doctor.</li> </ol> </li> <li>Degree of PI must be assessed in the way prescribed under a regulation and a report must be given to the insurer stating— <ol style="list-style-type: none"> <li>matters taken into account, and the weight given to the matters, in deciding the degree of PI; and</li> <li>any other information prescribed under a regulation.</li> </ol> </li> </ol> <p><i>Workers' Compensation and Rehabilitation Regulation 2003:</i></p> <ul style="list-style-type: none"> <li>- Division 3, Entitlement to compensation for PI</li> <li>- Schedule 2, Table of injuries</li> </ul>
Western Australia	<p>No statutory definition.</p> <p>No statutory criteria for determining whether impairment is permanent – this is based</p>

Jurisdiction	Definition of 'permanent' and 'impairment', statutory criteria for determination on medical opinion.
South Australia	<p>The WorkCover Guidelines state:</p> <p>"meaning ...'permanent' includes:</p> <p>a) for a long and indeterminate time but not necessarily forever</p> <p>b) more likely than not to persist in the foreseeable future."</p> <p>PI will be fully ascertainable where the assessor considers the worker has attained maximum medical improvement. This is generally considered to occur when the worker's condition has been medically stable for the previous three months and is likely to be stable for the foreseeable future, with or without further medical treatment (i.e., further recovery or deterioration is not anticipated, but can include temporary fluctuations)."</p> <p>WRCA: 43A(2) An assessment—</p> <p>a) must be made in accordance with the WorkCover Guidelines; and</p> <p>b) must be made by a legally qualified medical practitioner who holds a current accreditation issued by the Corporation for the purposes of this section.</p>
Tasmania	<p>The WorkCover Tasmania Guidelines state:</p> <p>" it must be shown that the problem has been present for a period of time, is static, well stabilised, and is unlikely to change substantially in future months regardless of treatment being undertaken or that will be undertaken."</p> <p>However where impairment assessment is a prerequisite for access to common law, and where strict time limits apply, a medical assessor may undertake an assessment where the impairment does not meet the definition of 'permanent' to verify that the level of impairment will not be less than the statutory threshold.(currently 30% WPI)</p>
Northern Territory	<p>Section 70 of the <i>Workers Rehabilitation and Compensation Act</i> defines permanent impairment as:</p> <p>"PI means an impairment or impairments assessed in accordance with the prescribed guides, as being an impairment or combination of impairments of not less than 5% of the whole person"</p> <p><i>Workers Rehabilitation and Compensation Act Regulations, regulation 9</i> prescribes AMA 4th edition</p> <p>Other than as provided by AMA 4 there is no legislative guidance as to when an impairment becomes permanent.</p>
Australian Capital Territory	<p>s51 <i>Workers Compensation Act 1951</i> is based on the concept of loss arising from a compensable injury. "Loss" is defined to mean loss of a thing or permanent loss of use or efficient use of the thing. The definition also includes permanent musculoskeletal impairment and loss, damage, impairment, disfigurement or disease lists in Schedule 1 of the <i>Workers Compensation Act 1951</i>.</p>
Commonwealth	<p><i>Safety, Rehabilitation and Compensation Act (1988)</i> - <b>s4</b>:</p> <p><b>permanent</b> means likely to continue indefinitely; <b>impairment</b> means the loss, the loss of the use, or the damage or malfunction, of any part of the body or of any bodily system or function or part of such system or function</p> <p><b>s24(2)</b>: For the purpose of determining whether an impairment is permanent, Comcare shall have regard to:</p> <p>a) the duration of the impairment;</p> <p>b) the likelihood of improvement in the employee's condition;</p> <p>c) whether the employee has undertaken all reasonable rehabilitative treatment for the impairment; and</p> <p>d) any other relevant matters</p>

## Determining the Degree of Impairment

Table A.9 – Guide for the assessment of permanent impairment as at 30 June 2009

Jurisdiction	AMA Guidelines Ed	Substituted/removed
New South Wales	5th Ed. Modifier <sup>1</sup>	<p><b>WorkCover Guides for the Evaluation of Permanent Impairment modify several Chapters in AMA5</b></p> <p><b>Removed:</b> Ch18 Pain</p> <p><b>Substituted:</b> AMA 4 – Vision; Ch 11 WorkCover Guides for the Evaluation of PI 3rd Edition Psychiatric and Psychological Disorders; Evaluation of Permanent Impairment due to Hearing Loss adopts the methodology indicated in the WorkCover guides (Chapter 9) with some reference to AMA5 (Chapter11, pp 245–251), but uses National Acoustic Laboratory (NAL) Tables from the NAL Report No 118, <i>Improved Procedure for Determining Percentage Loss of Hearing</i>, January 1988.</p>
Victoria	4th Ed. Designator <sup>2</sup>	<p><b>Statutory removal:</b></p> <p>Chapter 15 Pain</p> <p><b>Statutory Guideline Substitutions:</b></p> <p>Chapter 9 section 9.1a Hearing replaced with the <i>Improved Procedures for Determination of Percentage Loss of Hearing</i> (1988 Edition or later prescribed edition).</p> <p>Chapter 14 Mental and Behavioural Disorders replaced with <i>The Guide to the Evaluation of Psychiatric Impairment for Clinicians</i>.</p> <p>Omit from section 3.3d of Chapter 3: “with the Injury Model, surgery to treat an impairment does not modify the original impairment estimate, which remains the same in spite of any changes in signs or symptoms that may follow the surgery and irrespective of whether the patient has a favourable or unfavourable response to treatment”.</p> <p>Replaced with: the degree of impairment resulting from an injury must be made after the injury has stabilised and based on the worker’s current impairment as at the date of the assessment, including any changes in the signs and symptoms following any medical or surgical treatment undergone by the worker in respect of the injury.</p> <p><b>Statutory Guideline Extensions :</b></p> <p>Impairment Assessment in Workers with Occupational Asthma.</p> <p>Clinical Guidelines to the Rating of Impairments arising from Infectious Occupational Diseases</p>
Queensland	4th Ed. Modifier	
Western Australia	5th Ed. Modifier	<p>Chapter 14 AMA5 – Mental and behavioural disorder replaced with chapter in WorkCover WA Guides on Psychiatric Impairment Rating Scale (PIRS).</p> <p>Chapter 18 AMA5 regarding assessment of pain is excluded.</p> <p>Vision – based on AMA 4th Ed.</p>

<b>Jurisdiction</b>	<b>AMA Guidelines Ed</b>	<b>Substituted/removed</b>
		Hearing loss – continues to be assessed based on sections 24A & 31E and Schedule 7 of the Workers' Compensation and Injury Management Act 1981.
South Australia	5th Ed. Modifier	N/A
Tasmania	4th Ed. Modifier	<p><b>WorkCover Tasmania Guidelines modify several chapters in AMA4</b></p> <p><b>Removed:</b> Ch 15 Pain</p> <p><b>Substituted:</b> Ch 7 of WorkCover Tasmania Guides (Mental and Behavioural Disorders) incorporating the Psychiatric Impairment Rating Scale (PIRS) is substituted for chapter 14 AMA 4.</p> <p>Evaluation of hearing impairment adopts the methodology indicated in chapter 6 of WorkCover Tasmania Guides including the use of the National Acoustic Laboratory (NAL) Tables, Report No 118, <i>Improved Procedure for Determining Percentage Loss of Hearing</i>, January 1988</p> <p>Guidelines (and leg) require the level of binaural hearing impairment to be converted to WPI.</p>
Northern Territory	4th Ed. Designator	N/A
Australian Capital Territory	4th & 5th Ed. Standalone (authorised by the Regs)	<p><b>WorkCover Guides for the Evaluation of Permanent Impairment (1st Ed) modify several Chapters in AMA5</b></p> <p><b>Removed:</b> Ch18 Pain, Vision, Ch 14 Mental and Behavioural Disorders</p> <p><b>Substituted:</b> AMA 4 – Vision and Ch 11 - Psychiatric and Psychological Disorders</p> <p>Evaluation of PI due to hearing loss adopts methodology indicated in the WorkCover guides (Chapter 9) with some reference to AMA5 (Chapter11, pp 245–251), but uses National Acoustic Laboratory (NAL) Tables from the NAL Report No 118, <i>Improved Procedure for Determining Percentage Loss of Hearing</i>, January 1988.</p>



Jurisdiction	AMA Guidelines Ed	Substituted/removed
C'th	5th Ed. Stand-alone <sup>3</sup>	<p><b>Removed- Ch. 18 (Pain)</b></p> <p><b>Substituted in whole- Ch. 12 (The Visual System) and Ch.14 (Mental and Behavioural Disorders)</b></p> <p><b>Substituted in part- Ch. 11 (Ear, Nose, Throat, and related Structures)</b></p> <p>Comcare's <i>Guide to the Assessment of the Degree of Permanent Impairment (2nd Ed)</i>, lists substitutions made to AMA 5 in <i>Principles of Assessment</i> (full text of the relevant section contained below).</p> <p><b>Part 1: Principles of Assessment</b></p> <p>12. Exceptions to the use of Part 1 of this <i>Guide</i></p> <p>An assessment is <u>not to be made</u> using the American Medical Association's Guides to the Evaluation of Permanent Impairment for:</p> <ul style="list-style-type: none"> <li>- mental and behavioural impairments;</li> <li>- impairments of the visual system;</li> <li>- hearing impairment; or</li> <li>- chronic pain conditions except in the case of migraine or tension headaches.</li> </ul>

<sup>1</sup> refers to an edition of the AMA Guide that is attached with additional instructions for assessors and which acts to modify the AMA Guides or chapters. Schemes applying this modified approach publish separate guidelines to clarify the key points of divergence for doctors. The authority for these documents is contained in the legislation or its associated regulations

<sup>2</sup> *Designator* refers to an edition of the AMA Guide which is designated by legislation as *the* Guide to be followed. Depending on the particular scheme, the designated Guide may also be a *modifier* (see above).

<sup>3</sup> Unlike other schemes, Comcare amalgamates modifications to AMA 5 (as noted in this table) in a *stand-alone* document known as the Guide to the Assessment of the Degree of Permanent Impairment. Section 28 of the *Safety, Rehabilitation and Compensation Act (1988)* is also unique in that it does not designate the use of AMA produced guidelines for assessment purposes.

## Waiting periods

Table A.10 – Waiting periods as at 30 June 2009

Jurisdiction	Waiting period
New South Wales	No waiting period
Victoria	12 months (except gradual process hearing loss injury)
Queensland	No waiting period
Western Australia	No waiting period.
South Australia	Can't be assessed until the worker has attained maximum medical improvement. This is generally considered to occur when the worker's condition has been medically stable for the previous three months and is likely to be stable for the foreseeable future, with or without further medical treatment (i.e., further recovery or deterioration is not anticipated, but can include temporary fluctuations).
Tasmania	No waiting period
Northern Territory	No waiting period
Australian Capital Territory	Two years from date of injury or earlier if worker has leave from the Magistrates Court or the Injury has stabilised. Injury is taken to have stabilised if the worker has returned to pre-injury weekly hours for a period of at least three months.
Commonwealth	No waiting period

## Maximum lump sum compensation payments

Table A.11 – Maximum lump sum compensation related to permanent impairment as at 30 June 2009

Entitlement	C'th	NSW	VIC <sup>1</sup>	QLD	WA	SA	TAS	NT	ACT
Permanent impairment	\$155,960.87	\$231,000	\$396,690	\$244,710	\$168,499	-	\$223,824	\$231,254	\$185,288
Non-economic loss	\$58,4885.36	\$50,000	\$484,830	-	-	\$420,558	-	-	-
Supplement*	-	-	<sup>2</sup> \$1,113,590	<sup>3</sup> \$244,710	-	-	-	-	-
Gratuitous care	-	-	-	\$277,205	\$25,000	-	-	-	-

<sup>1</sup> This information may not reflect the substantial changes to Victoria's arrangements from recent amendments to Victoria's Accident Compensation Act 1985. These changes will be incorporated into Safe Work Australia's second submission to this inquiry in February 2011.

<sup>2</sup> Additional lump sum payable through Common Law if worker is assessed as having a 30% or more whole person impairment and proves will continue to suffer 40% or more loss of earning capacity.

<sup>3</sup> Additional lump sum payable if 30% or more work related impairment is sustained.

## Other Benefits: Attendant Care

Table A.12 – Attendant Care as at 30 June 2009

Jurisdiction	Reimbursement	Calculation	Limits
New South Wales	Yes included in the definition of medical or related treatment: – s59 (1987 Act)	-	The statutory maximum amount for medical or related treatment is \$50 000. Insurers can apply to WorkCover to approve amounts over \$50 000 :– s61(3) (1987 Act)
Victoria	<p>Yes: – s5(1), s99. When making an assessment of the attendant care program, the agent must take into account the worker's:</p> <ul style="list-style-type: none"> <li>• abilities</li> <li>• degree of self reliance</li> <li>• accommodation needs</li> <li>• extent of family support, and</li> <li>• family's need for respite.</li> </ul>	Costs must be 'reasonable' .	-
Queensland	<p>Expenses may be paid as a rehabilitation expense if the care is reasonable and necessary.</p> <p>A caring allowance may be paid if the insurer is satisfied that-</p> <ul style="list-style-type: none"> <li>• the worker depends on day to day care for the fundamental activities of daily living; and</li> </ul> <p>the care is to be provided to the worker at the worker's home on a voluntary basis by another person in relation to whom compensation is not payable: – s224(2)</p>	<p>The insurer may pay the caring allowance –</p> <ul style="list-style-type: none"> <li>• in the way prescribed under a regulation; and</li> <li>• to, or on account of, the person providing the care.</li> </ul>	-
Western Australia	Reasonable expenses associated with a nursing home may be paid where a medical practitioner certifies that the worker is totally and permanently incapacitated and requires continuing medical treatment and maintenance, which cannot be administered in the worker's domestic environment: – Schedule 1, clause 17(1)	-	-

Jurisdiction	Reimbursement	Calculation	Limits
	<p>WorkCover may as part of a rehabilitation program provide equipment, facilities and services to assist workers cope with their disabilities at home or in the workplace: – s26(3)(g)</p> <p>WorkCover may pay the cost of attendance by a registered or enrolled nurse, or by some other person approved by WorkCover or of a class approved by WorkCover, where the disability is such that the worker must have nursing or personal attendance as is reasonable or prescribed rate: – s32(2)(f)</p>		
South Australia	<p>Each case for attendant care must be determined on its own merits, and the test is the reasonableness of the particular worker in incurring the expense in the circumstances.</p> <p>Reasonableness should be considered in the context of:</p> <ul style="list-style-type: none"> <li>• the nature of the service</li> <li>• the necessity of the service</li> <li>• the relationship to the injury</li> <li>• the number and frequency of services</li> <li>• the benefit to the worker, and</li> </ul> <p>the cost of the service.</p>	-	-
Tasmania	<p>Where as a result of an injury suffered by a worker the question arises as to whether or not any constant attendance services are required by the worker, the matter may be referred to the Tribunal by the worker, employer or the insurer for determination as to:</p> <p>a) the necessity for such services b) the period for which such services are to be provided; and c) the level of payments which it considers to be</p>	-	-

Jurisdiction	Reimbursement	Calculation	Limits
	reasonable and appropriate for such services: – s75(3)		
Northern Territory	<p>Employer shall pay the costs incurred for such home modifications, vehicle modifications and household and attendant care services as are reasonable and necessary for a worker who suffers or is likely to suffer a permanent or long term incapacity: – s78(1)</p> <p>The following matters are taken into account when considering reasonable and necessary attendant care services:</p> <ul style="list-style-type: none"> <li>• the nature and extent of the worker's injury and the degree to which that injury impairs their ability to provide for their personal care</li> <li>• the extent to which such medical services and nursing care as may be received by him or her provide for their essential and regular personal care</li> <li>• where he or she so desires, the extent to which it is reasonable to meet his or her desire to live outside an institutional environment</li> <li>• the extent to which attendant care services are necessary to enable injured person to undertake or continue employment</li> <li>• any assessment made, at the request of the insurer, by persons having expertise in the worker's rehabilitation</li> <li>• any standard developed or applied by a government department or public authority in respect of the need of disabled persons for attendant care services; and</li> <li>• the extent to which a relative of the worker might reasonably be expected to provide attendant care services: – s78(2)(d)</li> </ul> <p>Attendant care services means services (other</p>	-	-

Jurisdiction	Reimbursement	Calculation	Limits
	than medical and surgical services or nursing care) which are required to provide for the person's essential and regular personal care: – s78(4)		
Australian Capital Territory	Not prescribed under ACT legislation.		
Commonwealth	<b>Comcare:</b> liable to pay compensation for attendant care services reasonably required .	<p>In the amount of:</p> <p>a) \$375.98 per week s29(3); or</p> <p>b) an amount per week equal to the amount per week paid or payable by the worker for those services.</p> <p>whichever is less</p>	<p><b>The following matters need to be considered:</b></p> <ul style="list-style-type: none"> <li>the nature of the worker's injury and the degree to which that injury impairs worker's ability to provide for their own personal care</li> <li>the extent to which any medical service or nursing care received by the worker provides for their essential and regular personal care</li> <li>the extent to which it is reasonable to meet any wish by the worker to live outside an institution</li> <li>the extent to which attendant care services are necessary to enable the worker to undertake or continue employment</li> <li>any assessment made in relation to the rehabilitation of the worker; and</li> <li>the extent to which a relative of the worker might reasonably be expected to provide attendant care services: – s29(4)</li> </ul>
	<b>Seacare:</b> liable to pay compensation for attendant care services reasonably required .	<p>In the amount of:</p> <ul style="list-style-type: none"> <li>\$375.98 per week s43(4); or</li> <li>an amount per week equal to the amount per week paid or payable by the worker for the services.</li> </ul> <p>whichever is less – s43(4)</p>	<p><b>The following matters need to be considered:</b></p> <ul style="list-style-type: none"> <li>the nature of injury and the degree to which that injury impairs the worker's ability to provide for their personal care</li> <li>the extent to which any medical service or nursing service received by the worker provides for their essential and regular personal care</li> <li>the extent to which it is reasonable to meet any wish by the worker to live outside an institution</li> <li>the extent to which attendant care services are necessary to enable the worker to undertake or</li> </ul>

Jurisdiction	Reimbursement	Calculation	Limits
			<p>continue employment; and</p> <ul style="list-style-type: none"> <li>the extent to which a relative of the worker might reasonably be expected to provide attendant care services: – s43(5)</li> </ul>
	<p><b>MRCS:</b> Liable to pay compensation for attendant care services reasonably required</p>	<p>in the amount of:</p> <p>a) \$390.60 per week; or</p> <p>b) an amount per week equal to the amount per week paid or payable by the person for those services,</p> <p>whichever is less: – s.219</p>	<p><b>MRCS:</b> The following matters need to be considered (s.218):</p> <ul style="list-style-type: none"> <li>the nature of the person's injury or disease;</li> <li>the degree to which that injury or disease impairs the person's ability to provide for his or her personal care;</li> <li>the extent to which any medical service or nursing care received by the person provides for his or her essential and regular personal care;</li> <li>the extent to which the attendant care services are necessary to meet any reasonable wish by the person to live outside an institution;</li> <li>the extent to which attendant care services are necessary to enable the person to undertake or continue defence service or any other work;</li> <li>any assessment made in relation to the rehabilitation of the person;</li> <li>(g) the extent to which a relative of the person might reasonably be expected to provide attendant care services;</li> <li>any other matter that the MRCC considers relevant.</li> </ul>



## Other Benefits: Home help

Table A.13 – Home help as at 30 June 2009

Jurisdiction	Reimbursement	Calculation	Limits
New South Wales	<p>Compensation is payable for domestic assistance that is reasonably necessary for an injured worker. An injured worker is eligible to receive domestic assistance if:</p> <ul style="list-style-type: none"> <li>a medical practitioner has certified, on the basis of a functional assessment, that it is reasonably necessary that assistance be provided and the assistance provided is a direct result of the injury</li> <li>the assistance would not be provided for the worker but for the injury</li> <li>degree of permanent impairment to the worker is at least 15% WPI or the assistance provided is to be provided on a temporary basis</li> </ul> <p>the assistance provided is in accordance with a care plan established by the insurer in accordance with WorkCover guidelines: – s60AA (1987 Act).</p>	<p>Domestic assistance is included in the definition of medical or related treatment: – s59 (1987 Act)</p>	<p>The statutory maximum amount for medical or related treatment is \$50 000. Insurers can apply to WorkCover to approve amounts over \$50 000.</p>
Victoria	<p>Yes: – s5(1), s99. The agent must assess the worker's individual circumstances to determine whether the:</p> <ul style="list-style-type: none"> <li>cost of the service is reasonable; and</li> <li>service is necessary given the worker's circumstances.</li> </ul> <p>Agents should consider the following when assessing whether a service is necessary:</p> <ul style="list-style-type: none"> <li>the relationship of the injury to the requested services</li> <li>whether the service is for the worker</li> <li>whether the worker undertook the tasks pre-injury</li> </ul>	<p>The Act defines 'reasonable costs' as an amount:</p> <ul style="list-style-type: none"> <li>determined by VWA, employer, or self insurer as reasonable in relation to a particular service</li> <li>that does not exceed an amount (if any), or method to calculate an amount, published in the</li> </ul>	-

Jurisdiction	Reimbursement	Calculation	Limits
	<ul style="list-style-type: none"> <li>the worker's ability to undertake the tasks post injury</li> <li>the size of the worker's home/garden at the time of the injury</li> <li>the worker's family circumstances; and</li> <li>the contribution of family/household members.</li> </ul>	<p>Government Gazette as a maximum amount payable for a particular service (such an amount must not be less than the amount or fee specified under the <i>Health Insurance Act 1973</i> applicable to a service of that kind)</p> <ul style="list-style-type: none"> <li>that is determined by the VWA, employer or self-insurer as a reasonable cost having regard to:</li> <li>the service or provision actually rendered</li> <li>the necessity of the service or provision in the circumstances; and</li> <li>any guidelines issued by the VWA.</li> </ul>	
Queensland	Additional lump sum compensation for gratuitous care up to \$277 205 – s193	The insurer must decide the amount of the worker's entitlement to additional compensation of up to \$277 205, payable according to a graduated scale prescribed under a regulation, having	<p>The worker, if the worker has an injury that results in a WRI of 15% or more and a moderate to total level of dependency on day to day care for the fundamental activities of daily living, is entitled to additional lump sum compensation only if –</p> <p>a) day to day care for the fundamental activities of daily living is to be provided at the worker's home on a voluntary basis by another person</p>

Jurisdiction	Reimbursement	Calculation	Limits
		<p>regard to –</p> <p>a) the worker's WRI</p> <p>b) the worker's level of dependency; and</p> <p>c) any other information prescribed under a regulation</p>	<p>b) the worker resides at home on a permanent basis</p> <p>c) the level of care required was not provided to the worker before the worker sustained the impairment; and</p> <p>d) the worker physically demonstrates the level of dependency mentioned in subsection (1)(b)</p> <p>The insurer must ask that a registered occupational therapist assess the worker's level of dependency resulting from the impairment in the way prescribed under a regulation.</p> <p>In addition, limits on damages for gratuitous care/home help: – Chapter 5, Part 10</p>
Western Australia	Not prescribed in the legislation. In special circumstances insurers may on a without prejudice basis approve limited homecare.		
South Australia	<p>WorkCover may as part of a rehabilitation program provide equipment, facilities and services to assist workers cope with their disabilities at home or in the workplace: – s26(3)(g)</p> <p>A worker who has suffered a serious injury or injuries and whose rehabilitation goal is restoration to the community may require his/her home or vehicle to be modified as part of that goal. The extent of such modifications will depend on the circumstances of each case.</p>	Where costs exceed \$500.00 a written request will be required from the worker for approval of further costs, including written confirmation from the worker's treating practitioner that ongoing home maintenance services are necessary.	<p>Reasonable costs, reasonably incurred – s31(1)</p> <p>Reasonable costs are determined having regard to:</p> <ul style="list-style-type: none"> <li>• nature of the service</li> <li>• necessity of the service</li> <li>• relationship to the injury</li> <li>• number and frequency of services</li> <li>• benefit to the worker</li> <li>• cost of the service</li> </ul>
Tasmania	<p>May be considered as part of a rehabilitation program if it facilitates or assists the workers rehabilitation:</p> <p>“rehabilitation services” means –</p> <p>a) treatment, training, or other assistance provided to facilitate or assist a worker's rehabilitation</p>	-	-

Jurisdiction	Reimbursement	Calculation	Limits
	b) the supply of material or equipment in respect of any occupational therapy projects undertaken by a worker; or c) any necessary and reasonable modifications required to be made to a worker's workplace, place of residence, or motor vehicle: – s74		
	Employer shall pay the costs incurred for such home modifications, vehicle modifications and household and attendant care services as are reasonable and necessary for a worker who suffers or is likely to suffer a permanent or long term incapacity: – s78(1)  The following matters are taken into account when considering reasonable and necessary household services: <ul style="list-style-type: none"> <li>• extent to which household services were provided by the worker before the injury and the extent to which he or she is able to provide those services after the injury</li> <li>• number of household family members, their ages and their need for household services</li> <li>• the extent to which household services were provided by other household family members before the injury</li> <li>• extent to which other household family members or other family members might reasonably be expected to provide household services for themselves and for the worker after the injury; and</li> <li>• need to avoid substantial disruption to the employment or other activities of the household family members: – s78(2)(c)</li> </ul>	-	-
Northern Territory			
Australian			

Jurisdiction	Reimbursement	Calculation	Limits
Capital Territory	Not prescribed under ACT legislation.		
	<b>Comcare:</b> Liable to pay compensation for household services reasonably required: – s29(1)	50% of the amount per week paid or payable by the worker for those services not more than \$375.98: – s29(1)	<p><b>The following matters need to be considered:</b></p> <ul style="list-style-type: none"> <li>• extent household services provided by the worker before the date of injury and the extent to which he or she is able to provide those services after that date</li> <li>• number of persons living with the worker as household members, ages and need for services</li> <li>• extent to which household services were provided to worker before the injury</li> <li>• the extent to which members of the household might reasonably be expected to provide household services for themselves and the injured worker; and</li> <li>• the need to avoid substantial disruption to the employment or other activities of persons in the household: – s29(2)</li> </ul>
Commonwealth	<b>Seacare:</b> Compensation is payable if worker reasonably requires household services: – s43(1)	Amount of compensation payable must not be more than \$375.98; and must not be less than 50% of the amount paid per week by the worker, unless the amount payable is more than \$706.74: – s43(2)(a) & s43(2)(b)	<p><b>The following matters need to be considered:</b></p> <ul style="list-style-type: none"> <li>• extent household services provided by the worker before the date of injury and the extent to which he or she is able to provide those services after that date</li> <li>• number of persons living with the worker as household members, ages and need for services</li> <li>• extent to which household services were provided to worker before the injury</li> <li>• the extent to which members of the household might reasonably be expected to provide household services for themselves and the injured worker; and</li> <li>• the need to avoid substantial disruption to the employment or other activities of persons in the household: – s43(3)</li> </ul>

Jurisdiction	Reimbursement	Calculation	Limits
	<b>MRCS:</b> Liable to pay compensation for household services reasonably required	<p>in the amount of:</p> <ul style="list-style-type: none"> <li>a) \$390.60 per week;</li> <li>or</li> <li>b) an amount per week equal to the amount per week paid or payable by the person for those services,</li> </ul> <p>whichever is less: – s.216</p>	<p><b>MRCS:</b> The following matters need to be considered (s.215):</p> <ul style="list-style-type: none"> <li>a) the extent to which household services were provided by the person before the service injury or disease;</li> <li>b) the extent to which he or she is able to provide those services after the service injury or disease;</li> <li>c) the number of other persons (<i>household members</i>) living with that person as members of his or her household;</li> <li>d) the age of the household members and their need for household services;</li> <li>e) the extent to which household services were provided by household members before the service injury or disease;</li> <li>f) the extent to which household members, or any other relatives of the person, might reasonably be expected to provide household services for themselves and for the person after the service injury or disease;</li> <li>g) the need to avoid substantial disruption to the work or other activities of the household members;</li> <li>h) any other matter that the MRCC considers relevant.</li> </ul>

## Other Benefits: Other assistance

**Table A.14 – Other assistance as at 30 June 2009**

<b>Jurisdiction</b>	<b>Reimbursement</b>	<b>Calculation</b>	<b>Limits</b>
New South Wales	s59 (1987 Act) “medical or related treatment” includes: (g) the modification of a worker’s home or vehicle directed by a medical practitioner having regard to the nature of the worker’s incapacity, and (h) treatment or other thing prescribed by the regulations as medical or related treatment.	Not applicable	Section 61 of the Workers Compensation Act 1987 limits the maximum cumulative amount for which an employer is liable for medical and related treatment for the same injury to \$50 000. If an additional amount for reasonably necessary services is required, WorkCover may give a direction to increase the amount payable.
Victoria	Agents can pay the reasonable costs of home or car modifications reasonably required as a result of a work related injury or may make a contribution towards a new car or a semi-detachable portable home unit if the worker’s home or car cannot be modified.	-	No limit however if the cost of the modifications or the contribution is over \$10 000, then the worker is required to enter into a Capital Service Agreement
Queensland	-	-	-
Western Australia	Not prescribed in the legislation. In special circumstances insurers may, on a without prejudice basis, approve limited home and vehicle modifications.  Injured workers that require assistance from an approved vocational rehabilitation provider to assist them to return to work can access the entitlement for vocational rehabilitation expenses, which represents 7% of the prescribed amount (up to \$11 795 as at 30 June 2009).  Workers injured post 14 November 2005 with a degree of whole of person impairment between not less than 10% and 15% WPI that have exhausted all avenues in an attempt to return to work, without success, may be able to access a specialised retraining program. In order to qualify, injured workers need to meet strict retraining criteria. Specialised retraining programs can offer injured workers an extension of up to 75 per cent of the prescribed amount (up to \$126 347 as at 30 June 2009) to partake in informal training, vocational or tertiary studies.		
South Australia	-	-	-
Tasmania	May be considered as part of a rehabilitation program if it facilitates or assists the workers	-	-

Jurisdiction	Reimbursement	Calculation	Limits
	<p>rehabilitation:</p> <p>“rehabilitation services” means –</p> <p>d) treatment, training, or other assistance provided to facilitate or assist a worker’s rehabilitation</p> <p>e) the supply of material or equipment in respect of any occupational therapy projects undertaken by a worker; or</p> <p>any necessary and reasonable modifications required to be made to a worker’s workplace, place of residence, or motor vehicle: – s74</p>		
Northern Territory	Employer shall pay the costs incurred for such home modifications, vehicle modifications and household and attendant care services as are reasonable and necessary for a worker who suffers or is likely to suffer a permanent or long term incapacity: – s78(1)	-	-
Australian Capital Territory	-	-	-
Commonwealth	<p>Where an employee has undertaken or completed a rehabilitation program or is assessed as not capable of undertaking a program, the following are payable if reasonable:</p> <ul style="list-style-type: none"> <li>costs of alteration of the employee’s residence or place of work</li> <li>modifications to a vehicle used by the employee</li> <li>aids and appliances inc. repair or replacement.</li> </ul> <p><b>MRCS:</b></p> <ol style="list-style-type: none"> <li>Loss of, or damage to, medical aids</li> <li>Telephone allowance</li> <li>Motor Vehicle Compensation Scheme</li> <li>Pharmaceutical Allowance</li> <li>Children's Education Assistance Scheme</li> </ol>	<p>Following rehabilitation and a ‘reasonably required’ test</p> <p><b>MRCS:</b></p> <ol style="list-style-type: none"> <li>Reimbursement of amounts reasonably incurred in replacement or repair.</li> </ol>	No limit



Jurisdiction	Reimbursement	Calculation	Limits
		2. Between \$23.00 and \$34.60 for a single person.	
		3. - Assistance with purchase of a new or secondhand car. The amount is what Commission considers reasonable.	
		- assistance with cost of insurance in relation to and repairs to modifications	
		4. \$3.00 per week	
		5. - Primary students - \$223.70 per year	
		- Secondary students - \$23.00 to \$185.70 per week.	