

Attachment C

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Australian Capital Territory – WorkCover Scheme

The Australian Capital Territory operates a hybrid scheme with statutory benefits and common law rights.

Common Law

People who suffer work-related injuries can sue their employers at common law in negligence for damages.

They can claim lump sum damages for pain and suffering, economic loss and medical and like expenses, including for care and support services.

A common law award or settlement finalises their rights to care and support services.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sum
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Reasonable travel costs to attend medical treatment
 - Household modifications
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - Nil

New South Wales – Workers Compensation Scheme

NSW operates a hybrid scheme with no fault statutory benefits and Common Law rights.

Common Law

Workers who suffer work-related injuries can sue their employers at common law in negligence for damages if they have a permanent impairment of at least 15% whole person impairment (AMA).

They can only claim lump sum damages for economic loss, however, once claimed their entitlements to medical and like expenses including care and support cease.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Travel costs to attend medical treatment of 55cents/Km, all public transport costs
 - Workplace rehabilitation care, domestic care and aids
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - \$50,000.00 for medical and related expenses in total, subject to possible extension
 - \$2,000.00 for aids, subject to possible extension
 - Cease upon common law award/settlement.

1.3

Northern Territory – WorkSafe Scheme

The Northern Territory operates a purely no fault scheme with no fault statutory benefits.

Common Law

No common law rights regarding work-related injuries.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums – 5% AMA required
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Reasonable travel costs to attend medical treatment
 - Household and attendant care
- Eligibility Test:
 - Expenses arising from work-related injuries
- Caps:
 - Nil

Queensland – WorkCover Scheme

Queensland operates a hybrid scheme with no fault statutory benefits and Common Law rights.

Common Law

People who suffer work-related injuries can sue their employers at common law in negligence for damages.

They can claim lump sum damages for pain and suffering, economic loss and medical and like expenses, including for care and support services.

A common law award or settlement finalises their rights to care and support services.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including;

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sum
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Travel costs to attend medical treatment of 20Km+, necessary and reasonable expenses
 - Care aids and equipment for recovery
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - All expenses capped at schedule rates
 - Entitlement ceases upon;
 - i) the injury becoming stable and no further treatment is likely to improve the injury;
 - ii) the workers entitlement to weekly payments ceases (usually when the injury is completely healed), or there is no chance of further improvement , or at the most, 5 years;
 - iii) 20 days after they have been assessed for permanent impairment and issued with a Notice of Assessment ; or
 - iv) 20 days after the worker has elected to lodge a claim for common law damages (by lodging a Notice of Claim for Damages in the correct form with WorkCover).

South Australia – WorkCover Scheme

South Australia operates a purely no fault scheme with no fault statutory benefits.

Common Law

No common law rights regarding work-related injuries.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical, equipment and aids
 - Reasonable travel costs to attend medical treatment
 - Home help, child care, home and vehicle modifications
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - Nil

Tasmania – WorkCover Scheme

Tasmania operates a hybrid scheme with no fault statutory benefits and Common Law rights.

Common Law

Workers who suffer work-related injuries can sue their employers in negligence at common law for damages if they have a 30%+ whole person impairment (AMA).

They can claim damages for pain and suffering, economic loss and medical and like expenses, including care and support expenses.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Reasonable travel costs to attend medical treatment
 - Attendant care
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - Nil

Victoria – WorkCover Scheme

Victoria operates a hybrid scheme with no fault statutory benefits and Common Law rights.

Common Law

Workers who suffer work-related injuries can sue their employers in negligence at common law for damages if they suffer a 'serious injury'.

They can only claim lump sum damages for pain and suffering and economic loss. They cannot claim for medical and like expenses which remain covered by the no fault statutory scheme.

'Serious Injury' is defined as:

- Permanent impairment of 30% or greater
- Serious long-term impairment or loss of bodily function
- Permanent serious disfigurement, such as scarring
- Severe long-term mental or severe long-term behavioural disturbance or disorder
- Loss of a foetus

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sum
- Death benefits

Medical, care, support and rehabilitation.

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Travel costs to attend medical treatment
 - Care – Household help and counselling
- Eligibility Test:
 - All expenses arising from work-related injuries
 - Reasonableness test
- Caps:
 - Nil

Western Australia – WorkCover Scheme

Western Australia operates a hybrid scheme with no fault statutory benefits and common law rights.

Common Law

Workers who suffer work-related injuries can sue their employers in negligence at common law for damages if they have a 15% + whole person impairment (AMA).

They can claim damages for pain and suffering, economic loss and medical and like expenses, including care and support expenses.

A common law award or settlement finalises their rights to care and support services.

Statutory Benefits

Workers who suffer work-related injuries can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums
- Death benefits

Medical, care, support and rehabilitation expenses.

- Types of expenses covered
 - Ambulance, transport, hospital and medical approved rate set by WA WorkCover, (only pays approved rate, there may be a gap)
 - Travel costs to attend medical treatment, may include accommodation and meals for rural workers reasonable costs
- Eligibility Test:
 - Expenses arising from work-related injuries
 - Subject to a reasonableness test
- Caps:
 - Rates set by WA WorkCover

2.1

Australian Capital Territory National Roads and Motorist's Association Scheme

The ACT operates a common law 'fault' based Compulsory Third Party insurance scheme with no statutory, no fault benefits.

Common Law

People injured in transport accidents can sue at common law in negligence for damages. They can claim damages for pain and suffering, economic loss and medical and like expenses (including for care and support services).

Statutory Benefits

Nil

2.2

NSW Motor Accident Authority Scheme

NSW operates a hybrid scheme with no fault statutory benefits and common law rights.

Common Law

People injured in transport accidents can sue at common law in negligence for damages.

They can claim damages for pain and suffering, economic loss and medical and like expenses, including for care and support services.

A common law award or settlement finalises their rights to care and support services.

Statutory Benefits

No fault

All people injured in transport accidents can claim no fault medical and like expenses.

- Eligibility
 - Reasonableness test
 - Expenses incurred within 6 months of accident
- Caps
 - \$5,000.00

Lifetime Care and Support Scheme

Some people injured in transport accidents can claim lifetime care and support service expenses.

- Eligibility
 - Reasonableness test
 - No fault with respect to the accident
 - Limited to those who suffer a spinal cord injury, moderate to severe brain injury, multiple amputations, severe burns or blindness
- Caps
 - Nil

Northern Territory Motor Accident Scheme

The Northern Territory operates a no fault system for transport accidents through a compulsory third party insurance scheme.

Common Law

Nil

Statutory Claim

People injured in transport accidents can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Death benefits
- Lump sum payments for permanent impairment above 5% AMA

Medical, care, support and rehabilitation expenses:

- Types of expenses covered
 - Ambulance, hospital and rehabilitation
 - Attendant care
 - House and motor modifications
- Eligibility Test
 - Reasonableness test
- Caps
 - Nil

Queensland Motor Accident Insurance Commission Scheme

Queensland operates a common law 'fault' based Compulsory Third Party insurance scheme with no statutory, no fault benefits.

Common Law

People injured in transport accidents can sue at common law in negligence for damages. They can claim damages for pain and suffering, economic loss and medical and like expenses (including for care and support services).

Statutory Benefits

Nil

2.5

South Australian Motor Accident Commission Scheme

South Australia operates a common law 'fault' based Compulsory Third Party insurance scheme with no statutory, no fault benefits.

Common Law

People injured in transport accidents can sue at common law in negligence for damages. They can claim damages for pain and suffering, economic loss and medical and like expenses (including for care and support services).

Statutory Benefits

Nil

2.6

Tasmania Motor Accident Insurance Board Scheme

Tasmania operates a hybrid scheme with no fault statutory benefits and common law rights.

Common Law

People injured in transport accidents can sue at common law in negligence.

They can claim damages for pain and suffering, economic loss and medical and like expenses, including for care and support services.

A common law award or settlement finalises their rights to care and support services.

Statutory Claim

People injured in transport accidents can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Death benefits

Medical, care, support and rehabilitation expenses:

- Types of expenses covered
 - Ambulance, transport, hospital and medical
 - Travel costs to attend medical treatment of 20Km+
 - Care
- Eligibility Test
 - Reasonableness test
- Caps
 - \$400,000.00 for daily care expenses

Victoria Transport Accident Commission Scheme

Victoria operates a hybrid scheme with no fault statutory benefits and common law rights.

Common Law

People injured in transport accidents can sue at common law in negligence for damages if they suffer a 'serious injury'.

They can only claim damages for pain and suffering, economic loss. They cannot claim for medical and like expenses which remained covered by the no fault statutory scheme.

'Serious Injury' is defined as:

- Permanent impairment of 30% or greater
- Serious long-term impairment or loss of bodily function
- Permanent serious disfigurement, such as scarring
- Severe long-term mental or severe long-term behaviour disturbances or disorder
- Loss of a foetus

Statutory Claim

People injured in transport accidents can claim no fault statutory benefits including:

- Medical, care, support and rehabilitation expenses
- Income support benefits
- Impairment lump sums
- Death benefits

Medical, care, support and rehabilitation expenses:

- Types of expenses covered
 - Care, aids and equipment
- Eligibility Test
 - Reasonableness test
- Cap
 - Maximum 40 hours of combined domestic, child and/or substitute care per week for up to 5 years after the injury occurs or death of injured person

2.8

Insurance Commission of Western Australia Scheme

Western Australia operates a common law 'fault' based Compulsory Third party insurance scheme with no statutory no fault benefit.

Common Law

People injured in transport accidents can sue at common law in negligence for damages.

They can claim damages for pain and suffering, economic loss and medical and like expenses (including for care and support services).

Pain and suffering damages capped at \$309,000.00.

Statutory Benefits

Nil