

28 May 2003

The Association of Payroll Specialists

Dear Sir/Madam,

The Association for Payroll Specialists is the professional association for Payroll Officers, established in 1990. We are a totally independent and unbiased body removed from any government department or payroll company.

Our Mission

- To provide a high professional standard through education and mutual support.
- To provide a united voice that represents the views of members.
- To obtain recognition for payroll work in today's business environment.
- To identify current and future training requirements for those involved in the payroll function and organise appropriate facilities on behalf of its members.
- To conduct professional examinations that will cover the entire range of subjects associated with the payroll field.
- Provide C.P.S. (Certified Payroll Specialist) training.
- To provide University qualified education for our profession.

We welcome the opportunity to provide this submission to the Productivity Commission for their National Workers' Compensation and Occupational Health & Safety Frameworks hearings.

We would like it recognised that much of the work in ensuring a business is compliant – especially in the areas of preparing information for the calculation of the Workers' Compensation premiums and in paying benefits to employees – falls to that businesses Payroll Manager, Payroll Officer or Payroll Clerk.

When a business operates in more than one jurisdiction, the difficulty in ensuring the accuracy of the information being provided to the insurer increases substantially. Not only are there differences in the definitions of employer, employee, workplace and work-related injury/illness, there are also numerous differences in the definitions of wages for premium calculations, wages for payment of benefits, the excess the employer is liable to pay for each claim made for time lost due to injury/illness, and whether the insurer will pay the employee directly if employment is terminated.

All these differences and many others lead to the likelihood of payments and calculations being incorrect.

We have attached a document (workers comp comparison table – conf 2002) that was prepared for us as part of a presentation on Workers' Compensation at the 2002 Workplace Review held by our Association in October 2002. This

table lays out many of the differences in the definition of wages and the payment of benefits – but in the short time since it was prepared, we note that the NSW wages definition will change again.

<<workers comp comparison table - conf 2002.doc>>

We also provide the link for the Heads of Workers' Compensation comparison document that lays out the differences between jurisdictions.

[http://www.workcover.vic.gov.au/vwa/publica.nsf/InterPubDocsA/91C934E7DBC01EFA4A256B500002BA5A/\\$File/WorkCover_Compensation_text.pdf](http://www.workcover.vic.gov.au/vwa/publica.nsf/InterPubDocsA/91C934E7DBC01EFA4A256B500002BA5A/$File/WorkCover_Compensation_text.pdf)

We would like to encourage each Workers' Compensation jurisdiction to actively seek to bring their wages definitions (for both premium calculations and benefit payments) into line. This will ensure the accuracy of payments to and for Workers' Compensation and reduce the cost and time involved in the preparation of these payments.

Thank you

Ms Maureen Martin
National Research Manager
The Association for Payroll Specialists
Level 7, 72 Pitt St
Sydney NSW 2000
mmartin@payroll.com.au
Ph: 02 9233 3799
Fax: 02 9233 3755

2003 Workplace Review
25th, 26th & 27th November 03
www.workplacereview.com.au

WORKERS' COMPENSATION

Workers' compensation is a mandatory insurance coverage provided to workers. Each state and territory has its own scheme. The rules and regulations vary from state to state. A government authority administers the workers' compensation law, but the insurance policies may be taken out with a commercial insurer or with the government authority, depending on the state or territory involved. Employers may also self-insure in most states, subject to their meeting certain criteria.

The workers' compensation levy is based on a percentage of the remuneration paid by the employer to its workers. The amount of the percentage will depend upon the type of industry the employer is engaged in, as well as its claims history (i.e. the number of injuries and payments made).

In some states and territories, workers' compensation requirements may extend to certain contractors. In addition, insurers may differ in the way they may interpret the laws defining what constitutes wages. It is therefore vital that you confirm with your insurer, or the applicable authority, the basis of your calculation of wages as declared for premium purposes.

WHAT IS REMUNERATION FOR PREMIUM PURPOSES?

| Description of payment | NSW. | Vic. | Qld. | S.A. | Tas. | W.A. | N.T. | ACT. |
|-----------------------------------|------------------|------|------|------|------|------|------|------------------|
| Leave – | | | | | | | | |
| Annual – Cleared | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Cashed | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Termination | Yes | No | No | No | No | No | No | Yes |
| Loading | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Long Service Leave – | | | | | | | | |
| Cleared | No | Yes | Yes | Yes | No | Yes | Yes | No |
| Cashed | No | Yes | Yes | Yes | No | Yes | Yes | No |
| Termination | No | No | No | Yes | No | No | No | No |
| Sick - | | | | | | | | |
| Cleared | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Cashed | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Termination | Yes ¹ | No | No | No | No | No | No | Yes ¹ |
| RDO's - | | | | | | | | |
| Cleared | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Cashed | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Termination | No | No | No | No | No | No | No | No |
| Maternity/Paternity (Paid) | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Special Leave (Paid) | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Jury Service | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Defence Force Pay | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

| Description of Payment | NSW. | Vic. | Qld. | S.A. | Tas, | W.A. | N.T. | ACT. |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Exit – ETP | No ² | No | No | No | No | No | No | No ² |
| Payment in Lieu of Notice | No | No | No | No | No | No | No | No |
| Redundancy | No | No | No | No | No | No | No | No |
| Pay Associated | | | | | | | | |
| Base Salary/Wages | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Apprentice/Trainee Wages | No ³ | No ⁴ | Yes | Yes | Yes | Yes | Yes | Yes |
| Attendance Pay | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Back Pay | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Bonuses | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Casual Loading | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Commissions | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Director's Fees | No ⁵ | Yes | No | Yes ⁵ | Yes | Yes ⁵ | Yes ⁶ | Yes ⁵ |
| Employee Share Scheme | No ⁷ | No ⁷ | No | 8 | No | 9 | 9 | No ⁷ |
| Fringe Benefits | Yes ¹⁰ | Yes ¹¹ | Yes ¹² | Yes ¹² | Yes ¹⁰ | Yes ¹² | Yes ¹² | Yes ¹⁰ |
| Higher Duties | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Make Up Pay – Working | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Non-working | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Overtime | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Reimbursements | Yes ¹³ | Yes ¹³ | 14 | 14 | 14 | 14 | 14 | Yes ¹³ |
| Superannuation – Employer Std. | No | Yes | No | Yes | Yes | No | No | No |
| Sacrificed Workers' Compensation | No | Yes | Yes | Yes | Yes | No | No | No |
| Payment | No | No | No | No | No | No | No | No |
| Excess | No | No | No | No | No | No | No | No |
| Payments to Contractors | Yes | Yes | Yes | Yes | No | Yes | No | Yes |

| Description of Payment | NSW. | Vic. | Qld. | S.A. | Tas. | W.A. | N.T. | ACT. |
|--|-------------------|-------------------|------|-------------------|------------------|-------------------|------------------|------------------|
| Allowances – Conditions allowance, Site, Height Money | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Overtime Meal | No | Yes | No | Yes | Yes | Yes | No | No |
| Car/Motor Vehicle/Travel | Yes ¹⁵ | 16 | No | 18 | No ¹⁷ | Yes ¹⁷ | No ¹⁷ | No |
| Shift Allowance | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| First Aid | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Tool Allowance | No | Yes | No | Yes | No | Yes | No ¹⁹ | No |
| Clothing Allowance | No ²⁰ | Yes | No | Yes ²¹ | No | Yes | No ¹⁹ | No |
| Living Away From Home | No ²² | Yes ²³ | No | Yes ²⁴ | No ²⁵ | Yes | No | No ²² |
| Meal Allowance | No | Yes | No | Yes ²⁶ | Yes | Yes | No ¹⁹ | No |

1. Payment is included if a mandatory entitlement is due, otherwise excluded.
2. The exclusion does not apply to any mandatory payment of sick leave upon termination.
3. Exclusion is limited to payments made under the Australian Traineeship System.
4. Payments made to apprentices and trainees within the meaning of the Vocational Education and Training Act 1990 are excluded.
5. Amounts payable to a director as remuneration for performing employee services (working director) – assessable.
6. If directors are named to insurer and have not quoted their ABN to employer.
7. Inclusion based on FBT valuation rules. FBT base taxable value to be included.
8. Shares provided at discount or no cost or employee incentive plan contributions – included. Shares provided under a loan purchase – excluded.
9. Contact WorkCover for details.
10. Assessable at pre grossed-up amount unless elsewhere excluded. Benefits that are available to all members of the staff as an incidental benefit of employment, e.g. low interest loans offered to employees of financial institutions, generally not assessable.
11. FBT base taxable value is used.
12. For salary sacrificed amounts or amounts ascribed in a package, the total amount so sacrificed (including any FBT sacrificed) is included. Where no value is ascribed to a package, include any quantified monetary value. If there is no quantified monetary value, then exclusion generally applies. Where an employee has unlimited private use of a non-packaged car, the FBT taxable value should be declared.
13. FBT valuation used – base taxable value to be included.
14. Excluded if work related expense; included if non-work related expense.
15. Where amount is paid directly to the worker as an allowance or reimbursement to cover work related car costs – not included.
16. Cents per km of work use of own car – excluded if not above 53.5c per km. Flat car rate for use of own car – only excluded if there are no records of business use – exclusion is then based on business km x 53.5c. Work related travel excluded up to \$130 per night, excess included.
17. Travel excluded if work related.
18. Cents per km – excluded if not above 56c per km. Flat car rate included. Travel – work related – excluded if not above \$127.60 per night – excess included.
19. Only in respect to amounts which are subject to PAYG withholding.
20. Where employer provides free clothing (or directly funds clothing) as a benefit to the worker and that benefit is subject to FBT – assessable, i.e. the taxable value of the benefit.
21. Excluded if a reimbursement for specific expenditure.
22. If paid to offset the expense of being away from the normal place of residence – excluded. Any amount paid for the inconvenience factor is included.
23. FBT valuation rules used – base taxable value to be included.
24. If paid under an award or industrial agreement first \$127.60 per night excluded.
25. Excluded to the extent not subject to FBT.
26. Excluded if reimbursement.

CLAIMS AND ENTITLEMENTS

The definition of “worker” is very broad and covers not only full-time workers on a wage or salary but also part-time, casual, seasonal workers, workers on commission and piece workers. For the purposes of workers’ compensation, a group of people may be ‘deemed workers’ and are entitled to workers’ compensation benefits if injured, the person or company who engages their services is obliged to provide workers’ compensation insurance just as they would for a direct employee.

The definition of “worker” therefore may be broken up into two main parts: the primary and extended part of the definition.

The primary part covers any person who works under a **contract of service or apprenticeship** with an employer. The contract may be expressed or implied, oral or written.

A large part of the workforce would be covered under this part of the definition, and it usually covers workers who:

- are on salary or wages;
- work for only one employer;
- have set hours of work;
- are supervised and controlled.

The extended part covers any person who works under a **contract for service**. Many people who work on a contract or sub-contract or casual basis may come under this part of the definition and it may cover workers in spite of the fact that they:

- are paid on piece rates, hourly rates or per job;
- work for more than one employer;
- work for the employer on a “one-off” or per job basis;
- do not have set hours of work;
- work unsupervised;
- pay 20% prescribed payments (sub-contractor’s tax).

NEW SOUTH WALES

From 1 January 2002 workers' compensation has changed in NSW.

Weekly benefits will be payable to workers, in most cases within 7 days of the workers' compensation insurance company receiving initial notification of injury. These can be paid for a maximum period of 12 weeks if required.

There is also now provision for the "provisional" acceptance of liability and payment of medical expenses for an amount of up to \$5,000.

These provisional payments are designed to reduce the impact of injury and illness, but do not mean an admission of liability by either the insurance company or the employer.

In many cases a worker will not need to lodge a claim form if they're only going to be away from their normal duties a short period. However, a claim form can still be lodged if an injured worker wants to or if the insurance company or employer require that a claim form be lodged.

Employer Obligations:

- keep a register of injuries;
- notify insurance company within 48 hours of becoming aware of any workplace injury that seems to be a significant injury. A significant injury is where the worker is likely to be away from their normal duties for 7 or more days;
- if the injury does not seem to be a significant injury, notify the insurance company within 7 days of becoming aware of the injury;
- keep records of earnings details to allow a worker to establish his/her current weekly wage rate, weekly earnings or probable earnings;
- keep correct records of all wages paid to workers employed for 7 years.

If a worker wants to make a workers' compensation claim:

- notify the insurance company that a worker wants to claim workers' compensation, even if you don't agree that the injury is work related;
- send the workers' compensation claim form (if required by the insurance company), medical certificate or further documentation related to the claim to the insurer **within 7 days** of receiving them;
- when requested by the injured worker (or by their authority) provide the following **wage information** in writing **within a period of 28 days**:
 - a. details of their award, award classification, and their basic award rate (**excluding** payments in respect of overtime, shift work, penalty rates, and special expenses for the nature of the work),
 - b. details of the injured worker's (gross) actual earnings, starting a year before the injury (or from commencement of employment if less than a year) to the date of the request, distinguishing between the pre-injury and post-injury periods and,

- c. details of the (gross) actual earnings after the injured worker's injury of at least two employees who were "comparable" to the injured worker before the injured worker's injury. Comparability has regard to earnings, work type, responsibilities, grade and the work patterns, to assist the injured worker to determine what they probably would be earning but for the injury.

- **pay** any compensation money received from the insurance company, **as soon as practicable**, to the person entitled to the compensation. If payment is delayed the worker can be paid sick leave or holiday leave, once compensation payments commence the leave is to be reinstated.

Note: An employer cannot dismiss a worker because of injury within six months of a worker becoming unfit for work.

ENTITLEMENTS

First twenty six (26) weeks of total incapacity and employed under an Award, Industrial Agreement or Enterprise Agreement.

The first 26 weeks are to be paid at the basic Award rate, current weekly wage rate. This **does not include** overtime, shiftwork, or penalty rates.

Totally incapacitated and not under an Award.

- if there is no Award rate for the job but salary is based on an Award rate THAT AWARD RATE will be the benefit paid.
- if salary is not based on an Award rate or Enterprise Agreement entitlement is 80% of worker's average weekly earnings.

Totally incapacitated and a casual worker for the first twenty six (26) weeks.

The hours worked per week for up to twelve (12) months prior to the date of injury are averaged. The average weekly hours are then to be applied to the Award rate, or average weekly earnings, limited to a maximum of forty (40) hours per week.

Total incapacity benefits after the first twenty six (26) weeks.

After 26 weeks benefit is the statutory amount per week. The statutory rate is usually lower than the Award rate, though it can be higher in cases where there are a large number of dependants. In this case, the statutory rate is then reduced to the equivalent weekly award rate of pay. The statutory rate is upgraded twice yearly (April and October), for current rates refer to publication Workers Compensation Benefits Guide.

Partial Incapacity.

Where an employee returns to work and is earning less than before the injury due to the injury they are entitled to "make up pay". If the employer cannot provide suitable work for a partially incapacitated employee the insurance company may pay a special weekly benefit up to a maximum of 52 weeks.

VICTORIA

Claims can be for medical and like costs, for time off work and weekly benefits, or both.

If an injured worker gives you a WorkCover claim form you cannot refuse to receive it. Nor, under law, can you dismiss a worker for making a claim.

Employer Obligations.

An employer must:

- complete the employer section of the claim form, sign and date the form, and give the worker's copy of the form to the worker.
- notify the WorkCover insurer of any minor claim (where the worker is off for only 10 days or less and the medical costs are less than \$430, although the employer is usually liable for these costs).
- send any claim form and medical certificate/s from a worker to the WorkCover insurer **within 10 days** of receiving it (together with an Employer Claim Report form on which the employer must state whether they accept liability for the claim).
- if liability is accepted for the claim, make weekly WorkCover payments to the injured worker on normal pay days – or, if liability is denied, on normal pay days if the WorkCover insurer advises that liability is/should be accepted.

NOTE: If someone is involved in a motor vehicle accident travelling to or from work the claim should be forward to the Transport Accident Commission.

ENTITLEMENTS

Claims made on or after 12 November 1997:

For the first 13 weeks the benefit is 95% of the pre-injury average weekly base pay up to a maximum of \$976 a week (correct as at 1 July 2001 – indexed annually).

After 13 weeks of weekly payments the benefit is 75% of the pre-injury base pay up to a maximum of \$976 a week. This rate continues until the worker can return to work or reached retirement age.

If, after three months of weekly payments the worker can work but has not yet returned to work the benefit is 60% of the pre-injury base pay up to maximum of \$585 a week. After two years on weekly payments (including the first three months) the payments stop.

For the first 26 weeks, pre-injury average weekly earnings **may** also include regular overtime and shift allowances.

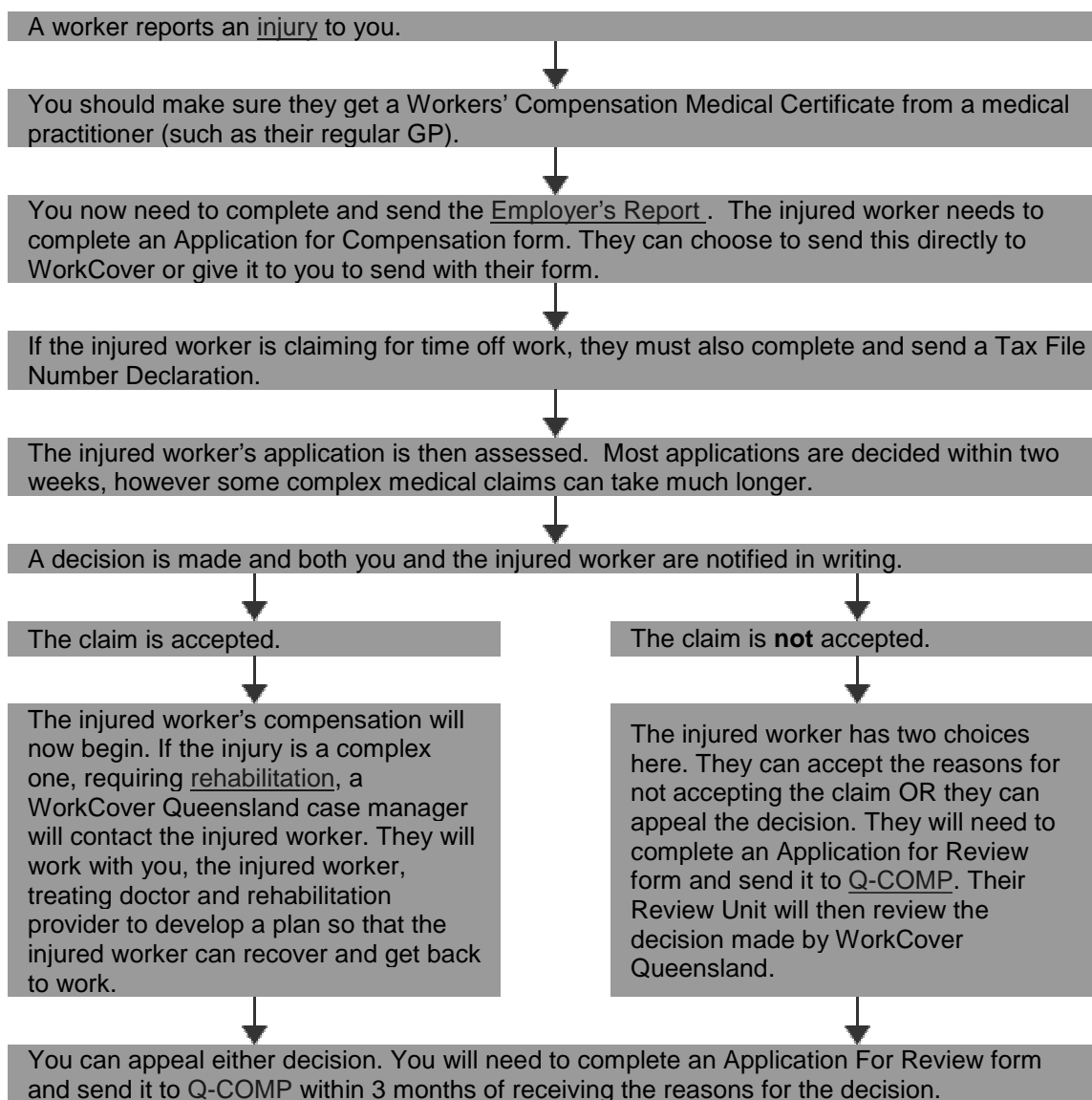
QUEENSLAND

Anyone defined as a 'worker' under the *WorkCover Queensland Act 1996* can apply for workers' compensation, regardless of who or what caused their work-related injury. WorkCover will then assess each application in accordance with legislation. The injured worker will need to complete an Application for Compensation form and you will need to complete an Employer's Report form.

Injured workers can lodge their form and necessary documents (such as the Workers' Compensation Medical Certificate) directly with WorkCover or they can choose to lodge them through you as their employer. This will mean that you will send all of the necessary documents to WorkCover.

It is important to remember that lodging your Employer's Report sooner may help you to minimise a claim's impact on your premium - delays in lodgement can cause an increase in the cost of a claim.

The claim process



Employer's obligations

If an injured worker applies for compensation, the employer must complete the employer's section of the Compensation Claim Form and return it within 10 days of:

- knowing about the injury OR
- having the injury reported to you OR
- WorkCover Queensland requesting this information from you.

ENTITLEMENTS

The compensation benefits WorkCover may pay include:

- weekly compensation payments as income replacement
- medical costs (doctor, physiotherapy etc)
- hospital costs
- rehabilitation costs
- reasonable travel expenses

How much are injured workers paid?

The amount of their weekly compensation depends on their employment arrangements.

Structure one

If the worker's employment is governed by an 'industrial instrument' (paid under an award or workplace agreement), then this structure is used to pay their weekly compensation:

For the first 26 weeks that they can't work, they will get the greater of:

- 85% of their normal weekly earnings OR
- the amount payable under the industrial instrument.

After these 26 weeks and up to 2 years that the worker can't work, they will be paid the greater of:

- 65% of their normal weekly earnings OR
- 60% of Queensland full-time adult's ordinary time earnings (QOTE)
(This refers to Queensland Ordinary Time Earnings which is a seasonally adjusted amount of Queensland full-time adult's ordinary time earnings as declared by the Australian Statistician. As at 1 July 2001, the amount of QOTE was \$760.10)

Structure two

If the worker's employment is **not** covered by an industrial instrument, then this structure is used to pay their weekly compensation.

For the first 26 weeks that they can't work they will get the greater of:

- 85% of their normal weekly earnings OR
- 70% of Queensland full-time adult's ordinary time earnings (QOTE)

After these 26 weeks and up to 2 years that the worker can't work, they will be paid the greater of:

- 65% of their normal weekly earnings OR
- 60% of QOTE

For both structures, if the worker is still unfit to work after this time, their weekly payments will depend on the degree of the impairment resulting from the injury.

What are employer's required to pay?

If a worker takes time off work due to their work-related injury and WorkCover accepts their application, they are eligible for compensation. The employer will need to pay up to the first four days of compensation unless you have taken out the 'excess buyout' option in your policy.

In addition, the employer is required to pay the injured worker for the day they stopped work because of the injury. This amount is paid at the worker's normal pay rate.

An employer should not take the payments for the day of the injury or the excess period out of the employee's sick leave, annual leave or any other entitlements.

If the employer continues to pay the worker beyond the excess period, WorkCover is required by legislation to reimburse the employer for this cost.

SOUTH AUSTRALIA

If a worker suffers a disability or illness at work he/she must;

- Claim for any expenses or time lost by lodging a **Worker Report Form** with you as soon as possible and provide a **Prescribed Medical Certificate** if time is lost from work.
- The employer must forward all claims for compensation to their claims agent **within 5 business days** of receipt.
- The employer must pay the first two weeks of income maintenance unless the 'buy-out' option on the levy has been exercised.

How to calculate a worker's average weekly earnings.

Average weekly earnings are the basics for weekly payments to a worker. They are based on what the worker would have earned if not incapacitated. They should include:

- wages and salary
- commission payments (average of previous 12 months or period worker has worked if less than 12 months)
- non-cash earnings such as private use of company car, company credit card, etc.
- overtime if worked in a regular and established pattern.

Specifically excluded are:

- prescribed tool allowances such as tool allowance, height allowance, dust allowance, site allowance, etc.
- employer superannuation payments.

WESTERN AUSTRALIA

Injured workers wishing to make a claim must complete a **Worker's Claim for Compensation Claim Form (2B)**.

Dependants of a deceased worker wishing to make a claim must complete a **Worker's Compensation Claim Form for Dependants of Deceased Workers (Form 2D)**.

Employers should complete the "Employer Details" section of the form and:

- if required by your insurer, complete an Employer's Report Form;
- send all documentation (Medical certificates and claim form(s)) to your insurer **within 3 working days** of receipt from the worker.

- A claim submitted by the worker, regardless of whether you believe that the claim is valid or not, must be sent to your insurer; and
- Provide the worker with the tear off information section on the claim form.

Once the documents have been received by your insurer you should be guided by them on all aspects of the claim.

The insurer must assess the claim and make a decision within 14 days of receiving the claims documentation from you.

Self-insurers must make a decision within 17 days of receipt from the worker.

The insurer must notify both you and the worker in writing within the 14 days of the decision.

When the insurer gives approval you should begin workers' compensation payments without delay. You should never commence payments without the insurer's approval. Ask the insurer exactly how much you should pay the worker in workers' compensation payments.

Once weekly payments have begun, you must pay the worker on their usual pay day without fail or delay (your insurer will reimburse these payments at regular intervals).

While the claim is being assessed you may consider paying other leave to the injured worker, however it should be made clear to the worker that it is not workers' compensation. If the claim is approved you must credit this leave back to the worker.

ENTITLEMENTS

A cap on weekly payments of \$997.80 (amount current until 30 June 2003) applies for the duration of a claim. This amount will be indexed annually (every July1).

| | Workers whose earnings are prescribed by an industrial award. | Workers whose earnings are not prescribed by an industrial award. |
|-----------------------------------|--|---|
| First four weeks of claim. | Weekly payments will consist of the rate of weekly earnings payable under the relevant industrial award, plus any over | Weekly payments will consist of the worker's average weekly earnings (including overtime, bonuses or allowances) averaged |

award or service payment paid on a regular basis including overtime, bonuses or allowances, **up to a maximum of \$977.80.** Overtime, bonuses or allowances are averaged over the 13 weeks before the disability occurred.

over the year before the disability occurred **up to a maximum of \$977.80.**

Fifth week onwards.

Weekly payments will consist of the rate of weekly earnings payable under the relevant industrial award, plus and over award or service payment paid on a regular basis, but **excluding** overtime, bonuses and allowances. **Maximum payment is \$977.80.**

Weekly payments will “step down” to consist of 85% of the worker’s average weekly earnings. **Maximum payment is \$977.80.**

TASMANIA

Under the Tasmanian *Workers Rehabilitation and Compensation Act 1988* it is compulsory for every employer to have a current workers compensation policy or to hold a permit to self-insure.

A claim for compensation (made up of both the **Worker’s Claim for Compensation** and the **Workers Compensation Medical Certificate**) must be lodged with the employer within six months of the date of suffering the injury, and before the worker has voluntarily left that employment.

Employer Obligations

Employers are required to meet the costs of weekly payments for the first five working days of each injury suffered by a worker and the first \$200 of other benefits. This excess can be removed from the workers compensation insurance policy if an employer obtains a certificate from the Board, and pays any additional premium if

required by the insurer. It is also possible for an employer to extend this period of insurance excess to 30 days.

When an employer receives a claim, the employer must start making payments:

- on the first payday after receipt of the claim
- or
- not later than 14 days after receipt of the claim
- or
- on the next payday, where it is later than 14 days after receipt of the claim.

These payments are made by the employer on a 'without prejudice' basis; should the claim be disputed, they are not to be considered as an admission of liability. Weekly payments are not recoverable from the worker unless approved by the Workers Rehabilitation and Compensation Tribunal.

Where the Tribunal has determined that there is no liability to pay weekly payments, the employer may deduct any period during which the worker was paid from the worker's sick leave entitlements.

ENTITLEMENTS

A worker who is unable to work as a result of a work-related injury or disease is entitled, while incapacitated for work, and subject to producing medical evidence of incapacity, to weekly payments equal to whichever is the greater of:

- the normal earnings of the worker averaged over the 12-month period immediately preceding the commencement of the incapacity. (Normal earnings would include any regular allowances, but not travel or accommodation allowances. Overtime is excluded unless it is part of a regular pattern of employment.)
- or
- the worker's ordinary-time rate of pay for the employment in which the worker was engaged immediately before the incapacity commenced.

Weekly payments are made as follows;

- 100% of the weekly payment for the first 13 weeks of incapacity (in aggregate) following the date of initial incapacity.
- 85% of the weekly payment for the period of incapacity (in aggregate) exceeding 13 weeks but not exceeding 52 weeks from the date of initial incapacity.
- 70% of the weekly payment for the period of incapacity (in aggregate) exceeding 52 weeks but not exceeding 10 years from the date of the initial incapacity.

There is a 'safety net' provision in the legislation that ensures that an injured worker cannot receive less than 70% of the basic salary (after the step-downs are applied). In 2002 this equals 70% of \$452.37 = \$316.65.

In situations where a worker has been employed for less than 12 months before the incapacity, their entitlement to weekly payments may be calculated on the normal earnings of another worker employed by the same employer on a similar basis. The Act also provides a formula for calculating the weekly payment where a worker has, prior to incapacity, been engaged in more than one job; for example, a person employed in both a full-time and a part-time job, or in several part-time positions.

Where a worker recovers sufficiently to take part in some form of employment (whether on a part-time basis or on duties providing a lower level of remuneration than their usual pay) they may be entitled to weekly payments to make up the difference between the pay for the work performed and their pre-injury earnings.

If a worker continues to produce a **Workers Compensation Medical Certificate** signed by an accredited medical practitioner, confirming continued incapacity, weekly payments may continue until:

- 10 years have passed from the date of initial incapacity
- or
- the worker reaches 65 years of age. Where an injury occurs after the worker turns 64, benefits can continue for 12 months from the date of injury.

The Act provides that the employer pay the cost of all reasonable medical and other expenses necessarily incurred by the worker in connection with the compensation claim for a period up to 10 years from the date of the claim and for compensation to continue where the worker would have continued to work beyond 65 years of age (subject to Tribunal approval).

NORTHERN TERRITORY

Workers claiming compensation for loss of income must submit a completed (the first 2 pages) **Work Health claim form** and **workers' compensation medical certificate** to the employer. Where the claim form is for medical expenses only, the worker needs only to provide the account or receipt with the claim form.

The employer must complete page 3 of the claim form and submit it to their workers' compensation insurance company within **3working days** of receiving the claim from the worker.

The insurer must make a decision on the claim within **10 working days** of the employer receiving it. The insurer will manage and make all the decisions regarding the claim on behalf of the employer.

NOTE: If someone is involved in a motor vehicle accident traveling to or from work they should claim under the **Motor Accidents Compensation Scheme (MACA)**, which is administered by the Territory Insurance Office (TIO).

If the insurer accepts liability for the worker's claim, then the employer commencing within 3 working days of the decision to accept the claim must make weekly payments of compensation.

If the insurer defers liability, weekly payments of compensation must commence **within 3 working days** of that decision. These payments are to commence with one week's pay and continue for up to 8 weeks within which time the insurer will either accept or reject liability. If the claim is subsequently accepted, compensation owing must be offset by any amounts paid during the period of deferral. If the claim is rejected the deferral payment will cease. This payment **is not recoverable** from the injured worker.

Weekly or periodic payments for incapacity for work are based on **normal weekly earnings (NWE)** immediately before the date of **entitlement to compensation**.

NWE are a worker's normal number of hours per week, at their normal hourly rate.

NWE also includes:

- Overtime where the overtime was worked in a regular and established pattern;
- Shift penalties where worked in a regular and established pattern;
- Over Award Payments;
- Climate Allowance;
- District Allowance;
- Leading Hand Allowance;
- Qualification Allowance;
- Service Grant;

But does not include any other allowance.

ENTITLEMENTS

A worker is entitled to receive their NWE for the first twenty-six (26) weeks of total or partial incapacity. After the first twenty-six (26) weeks a worker is entitled to 75% of their loss of earning capacity subject to a **maximum of 150% of average weekly earnings (AWE)**. This rate is payable until the injured worker is fully recovered or reaches retirement age.

Calculation of the lost earning capacity is the difference between the amount a worker is reasonably capable of earning in a week and their pre-injury NWE.

***AWE** is the average weekly earnings as published by the Australian Statistician for the Northern Territory Full-Time Adult Persons, Ordinary Time Earnings, and last published before January each year.*

Further information on AWE is available from Work Health. Weekly benefits are subject to normal tax provisions.

AUSTRALIAN CAPITAL TERRITORY

Employer Obligations

- Make compensation claim forms available to the worker.
- Record in the Register of Injuries the date of the Notice of Injury.
- Notify the insurer of an injury **within 48 hours** of being made aware of the workplace injury;
 - If the employer fails to give notice within the specified timeframe (48 hours), the employer is directly liable for weekly compensation from the 48 hour period until the notice is given to the insurer and cannot be reimbursed by the insurer;
- Forward the worker's claim form to the insurer **within 7 days**.
- The payment of weekly compensation must begin when the worker gives notice of the injury to the employer and commence from the date of the injury.

ENTITLEMENTS

Totally incapacitated workers.

For 26 weeks after the incapacity date, the worker is entitled to receive weekly compensation equal to the worker's average pre-incapacity earnings.

After 26 weeks the worker is entitled to receive weekly compensation equal to;

- a) if 100% of the worker's average pre-incapacity weekly earnings is less than the pre-incapacity floor for the worker – 100% of the worker's average pre-incapacity weekly earnings; or
- b) if 100% of the worker's pre-incapacity weekly earnings is more, but 65% of those earnings is less than the pre-incapacity floor for the worker – the statutory floor; or
- c) if 65% of the worker's average pre-incapacity weekly earnings is more than the pre-incapacity floor for the worker – whichever of the following is (at the time of payment) more:
 - (i) 65% of the worker's average pre-capacity weekly earnings;
 - (ii) the statutory floor.

Partially incapacitated workers.

For 26 weeks after the incapacity date, the worker is entitled to receive weekly compensation equal to the difference between :

- (a) the worker's average pre-incapacity weekly earnings; and
- (b) the average weekly amount that the worker is being paid for working or could earn in reasonably available suitable employment.

After 26 weeks the worker is entitled to receive weekly compensation equal to the difference between the weekly amount the worker is being paid for working and –

- a) if 100% of the worker's average pre-incapacity weekly earnings is less than the statutory floor – 100% of the worker's pre-incapacity weekly earnings; or
- b) if the relevant percentage of the worker's average pre-incapacity weekly earnings is less than the statutory floor; or
- c) if the relevant percentage of the worker's average pre-incapacity weekly earnings is more than the statutory ceiling – the statutory ceiling; or
- d) in any other case – the relevant percentage of the worker's average pre-incapacity weekly earnings. (Refer to Section 41 of the legislation for the relevant percentage.)

CENTRELINK

What happens if the worker had to go on Centrelink sickness benefits while waiting for a claim to be accepted?

If the claim is accepted later the agent must reimburse Centrelink for any monies received and pay the balance to the worker.

REFERENCES:

WorkCover Authority of NSW. Tel. 02 93705000 www.workcover.nsw.gov.au
Victorian WorkCover Authority. Tel. 03 96411444 www.workcover.vic.gov.au
Workers Compensation Board of Queensland. Tel. 07 32359500 www.workcover.qld.gov.au
WorkCover Corporation (SA) Tel. 08 82332222 www.workcover.com
Workplace Standards Authority {Tasmania} Tel. 03 62338338 www.wsa.tas.gov.au
WorkCover Western Australia Tel. 08 93885555 www.workcover.wa.gov.au
Work Health Authority (NT) Tel. 08 89995010 www.nt.gov.au/wha/
WorkCover (ACT) Tel. 02 62050200 www.workcover.act.gov.au
Australian Tax and Levy Guide 2002/03.