



## Market Update

### Workers' Compensation – May 2019

The workers' compensation landscape continues to evolve, with a number of important changes to State schemes. We provide a summary of the key items for your business to consider in the lead up to your renewal.

#### VICTORIA

##### Claims Experiences 2018/19

Last year WorkSafe Victoria confirmed that they will utilise the 2.5 years claim experience model as per prior years. This remains for 2019/20 renewal.

This means your claims experience for the period 1 January 2016 to 30 June 2018 will be used to calculate the 2019/20 years renewal.

##### Ensuring Remuneration details are up to date

In Victoria you can be penalised for underestimation and you are required to notify your Agent within 28 days of you becoming aware that:

- What you expect to pay in remuneration is 20% or more above your current estimate; or
- What you have actually paid in remuneration is greater than your current estimate for the whole financial year

To update your estimate please contact your WorkSafe Agent or your local Work Health Options account manager.

#### NEW SOUTH WALES

In December 2018, icare partnered with Allianz to pilot the Authorised Provider (AP) model. This provided eligible NSW clients to participate in an outsourced claims management program, outside of the appointed claim manager Employers Mutual Limited (EML).

Over the past few months during this test and learn period, icare and Allianz have received feedback which has led to icare making some key changes to the model. icare has reached a decision to make changes to evolve the Authorised Provider funding arrangements, meaning:

- icare will not offer premium reduction, and therefore continue to charge as normal;
- icare will remunerate service providers directly for the delivery of core claims management services;
- the provider can offer additional value add services that are not part of the current core offering at a negotiated fee.

Throughout the pilot, Work Health Options are continuously meeting with icare to provide feedback in order to contribute towards the design of this value add service model.

In addition to the above, substantial changes were made to the workers compensation legislation in NSW throughout 2018, covering the following areas:

- WCC has jurisdiction restored to determine disputes about work capacity and review work capacity decisions of insurers
- Work capacity decisions and liability disputes contained in one new S78 Notice
- WCC has jurisdiction to determine claims for whole person impairment, without the need for claims to be referred to Approved Medical Specialist
- Calculation of PIAWE has been modified and simplified (not yet enacted)

There are considerable changes to the legislation and to understand these further on how they will impact your business and claims, please contact your WHO Account Manager.

#### QUEENSLAND

##### SILICOSIS

In mid-September 2018, the Office of Industrial Relations (OIR) issued a safety alert to highlight the significant health risks for those in the engineered stone benchtop fabrication industry caused by exposure to silica dust.

Benchtops made from engineered stone have a very high crystalline silica content (up to 95%).

Stonemasons can be exposed to silica dust while cutting, grinding, sanding and polishing stone bench tops and during the installation process.

A state-wide audit of 140 engineered stone benchtop fabricators that started in November 2018 is enforcing bans on uncontrolled dry cutting. Other audit measures include improving dust control to lower worker exposure to silica dust, ensuring effective use of respiratory protective equipment and providing health monitoring for workers at significant risk.

##### What is WorkCover QLD doing?

WorkCover QLD strongly encourages people in the stonemason industry, or those who have previously worked in it and been exposed to silica dust, to undergo urgent health screening. They are also assisting stonemason employers to meet their obligations in relation to health screening workers by funding an initial health screen for current and former Queensland stonemasons who have been exposed to silica from engineered stone.

WorkCover QLD also work closely with medical specialists to facilitate efficient disease diagnosis, treatment and ongoing health and wellbeing support to these workers and their families.

**Under workplace health and safety legislation, it is a legal requirement for employers to ensure all of their workers have had an initial health screen, and to maintain ongoing health monitoring of their staff.**

If you are concerned about your exposure to silica dust, please contact your Work Health Options to assist in health screening.

#### SOUTH AUSTRALIA

Effective 1 July 2019 South Australia will introduce a new way to calculate premium in the State. This will move from the previous model of providing remuneration estimates and then confirming actual remuneration, to a model that only requires actual remuneration to calculate premium.

This will result in:

- only one premium calculation per year, rather than 2.
- In 2019/20 employers will no longer need to provide estimated remuneration for the upcoming year. Instead, actual remuneration for the previous year will be used to calculate premium for the upcoming year.
- RTWSA will extend the timeframe for employers to provide their information, from 3-4 weeks, to approximately 10 weeks (early July to mid September).
- there will be no end of year adjustments to the premium paid (unless exceptional circumstances apply).
- All employers will have a choice to make one annual payment or pay in instalments, regardless of premium dollar value. Due to the extension of time to provide remuneration information (point 2), there will be 9 payment instalments instead of 10.
- RTWSA is updating its online system, and employer passwords will not be reset each year, or posted out. Employers will be required to register online once only as part of the transition to the new system.

#### TASMANIA

In 2018, a number of amendments to the Workers Rehabilitation and Compensation Act 1988 (the Act) came into effect. A reminder of the changes included:

##### Extension of weekly payments as retirement approaches

Under section 87, weekly payments no longer expire upon a worker reaching 65 years of age. They now expire, subject to the time limits imposed by section 69B, upon pension age, as defined in the *Social Securities Act 1991* (Cth) – this is anywhere between 60 and 67 years of age, subject to sex and date of birth.

**No need for a dependent child to file a referral** A child that was wholly or partially dependent upon a deceased worker is now entitled to lump sum compensation in accordance with section 67, reducing the need for child dependants to file referrals. A dependant child, spouse or partner is also no longer required to present a medical certificate when making a claim for compensation, preventing delays in making a claim due to difficulties obtaining a certificate in relation to a deceased person.

**Medical practitioners** are no longer required to hold accreditation from the WorkCover Board to issue workers' compensation medical certificates, including a certificate pursuant to section 86(1)(c). Positively, those practitioners are now subject to the same penalties as an accredited medical practitioner for false or misleading statements in certificates.

**Certificates of incapacity** Certificates of incapacity can now be issued by a medical practitioner without them having to provide reasons for the lengthy period of incapacity for periods of up to 28 days, doubling the previous limit (section 143H). This may reduce costs, but insurers will need to pay more attention to certificates.

#### NORTHERN TERRITORY

A Victorian based transport and warehouse company has been fined \$154,000 in the Darwin Local Court over the death of a 47 year old Maningrida man in 2016.

Glen Cameron Nominees Pty Ltd pleaded guilty to one breach of Section 32 of the Work Health and Safety (National Uniform Legislation) Act for failing to comply with a health and safety duty.

The man, who can't be named for cultural reasons, fell asleep in the loading dock area at Hibiscus Shopping Centre in Leanyer on 7 October 2016. He was run over and killed when a driver of a prime mover leaving the loading dock failed to see him. The driver was a subcontractor to Glen Cameron Nominees Pty Ltd.

NT WorkSafe Acting Executive Director Chris Wicks said despite working for Glen Cameron since 2012, the sub-contractor involved in the incident was never provided induction training, or a site induction of the Hibiscus Shopping Centre in Leanyer.

"Induction training and site inductions isn't just telling a new worker where the kitchen and toilets are, inductions are an important part of maintaining a safe workplace," Mr Wicks said.

"Induction training is an opportunity to educate new employees or sub-contractors on your company's safety policies, including any standard operating procedures or emergency processes they need to follow."

"Every workplace is different and site inductions will provide your employees with procedures to safely enter and operate in the workplace, as well as highlight hazards particular to that workplace," Mr Wicks said.

"If the driver was properly inducted, he would have been aware that Glen Cameron had two standard operating procedures that required drivers to physically check both the rear and front of the vehicle for pedestrians before moving the vehicle."

"If the driver followed these two procedures, he would have seen the deceased and the incident would have been avoided," said Mr Wicks.

"It's a waste of time developing safety policies or standard operating procedures if your employee's are not aware of them."

"I urge all companies to review their induction training and make sure all employees and subcontractors are provided proper induction training to safely do their work."

Glen Cameron was also required to pay court costs of \$1,500 and a victim levy of \$1,000.

Charges were also laid against Woolworths Ltd. This matter is still before the courts.

#### AUSTRALIAN CAPITAL TERRITORY

##### ACT WORKERS' COMPENSATION WAGE DECLARATIONS

A workers' compensation premium compliance program is underway through WorkSafe ACT.

A number of ACT employers were selected to participate in a review of premium compliance under Part 8.1 of the Workers Compensation Act 1951 (the Act) as part of the first phase of the compliance program. This review asked employers to provide statutory information relating to wages paid to workers during specific periods of cover.

Relevantly, the Act requires that within 30 days:

- the employer must give the insurer a statement of the total wages paid by the employer to territory workers in the period from the day the policy was issued to the day before the latest renewal or cancellation; and
- the statement must be signed for the employer by any of the following:
  - a) if the employer is a corporation—an officer of the corporation authorised to sign the statement;
  - b) in any other case – an owner of the employers business

Non-compliance with these provisions may result in significant penalties applying to employers ranging from 50 to 250 penalty units (\$1,500 – \$7,500), including possible infringement notice penalties of \$1,500.

In the course of conducting the reviews referred to above, preliminary results and associated industry feedback suggests that compliance with the wage declaration provisions under the Act is low. The declaration of wages information is a legal requirement on employers under the Act. The provision of this information ensures that businesses are paying workers' compensation premiums that reflect their share of the workforce risk pool.

Consequently, and to ensure there is a level playing field across all employers with workers connected to the ACT, the premium compliance program being conducted by WorkSafe ACT will now focus on wage declarations.

#### WESTERN AUSTRALIA

##### VenuesWest fined \$90k over worker's death at HBF Stadium

The West Australian government agency that operates HBF Stadium has been fined \$90,000 over the death of a worker who fell through a skylight in the roof.

The deceased was one of four subcontractors who were dismantling scaffolding that had been erected for external painting work in June 2016 and fell about 11 metres through a void to the concrete concourse below.

VenuesWest were fined in Perth Magistrates Court and ordered to pay \$2100 in costs.

WorkSafe WA Commissioner Darren Kavanagh said the case was a tragic reminder of the hazard presented by brittle or fragile sections of roofs and employers' obligations in relation to them.

"This case illustrates the crucial importance of having safe systems in place when undertaking work on a roof area," Mr Kavanagh said.

"The court heard that very little was done to provide a safe workplace for these workers, and the result was absolutely devastating for the family, friends and workmates of the worker who lost his life.

"I hope this case will serve as a warning to anyone who is in charge of a workplace that includes brittle or fragile roofing or any other fall risk to be aware of all the laws involved and ensure they have suitable safe work procedures in place."

Perth Aluminium Scaffolds Pty Ltd was also prosecuted and fined \$90,000 over the death.

#### SELF INSURANCE

Do you pay more than \$1million in workers compensation premium? If so, have you considered self-insurance? We can offer tailored self-insurance programs, of which benefits can include:

- A dramatic cost reduction following the transition to self-insurance due to improved claims management
- Consistent workers compensation costs each year, helping trade operations and growth
- Improved workplace safety and productivity
- Proactive Return to Work outcomes reducing claims costs

Please contact your Work Health Options Account Manager to find out more.

#### KEY CONTACTS

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Work Health Options are your partner in Workplace Risk matters and we are available to assist in any of the above matters if you would like to discuss further.

