

CHANGES TO THE WORKERS' COMPENSATION SYSTEM IN WA FACT SHEET

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Important changes to Western Australia's workers' compensation system come into effect on 4 January 2005. The remainder of the changes, including changes to common law access and the dispute resolution system, will come into effect on 1 July 2005. The changes that commence on 4 January 2005 affect the weekly payments of compensation payable to injured workers currently on workers' compensation as well as applying to all new claims from 4 January 2005.

The key changes are:

- **The cap on weekly payments of compensation to injured workers has been increased to twice the average of weekly earnings (AWE) as calculated by the Australian Bureau of Statistics and will now be \$1,446 gross (previously it was 1.5 times AWE).**

This cap on weekly payments is now the upper limit of payments that will be paid to injured workers, as of 4 January 2005. Employers are required to pay the new weekly entitlements, which will be reimbursed by their insurer.

(WorkCover recommends that employers check with their insurer to ensure that they pay injured workers the right amount of workers' compensation payments before commencing new payments).

- **Weekly payments to workers "step down" after 13 weeks of payments.**

The step down period has been increased from 4 to 13 weeks.

- **There is a new method of calculating the weekly payments. It is:**

For the first 13 weeks –

For workers employed under an industrial award, Enterprise Bargaining Agreement (EBA) or an Enterprise Order:

- The rate of weekly earnings payable under the relevant industrial award or EBA including any over award or service payment plus overtime, bonuses and allowances averaged over the 13 weeks prior to the injury.

For non-award workers:

- Average weekly earnings averaged over the previous 12 months.

From week 14 onwards –

For workers employed under an industrial award, EBA or Enterprise Order:

- The rate of weekly earnings payable under the relevant industrial award or EBA including any over award or service payment paid on a regular basis and any allowances paid on a regular basis related to the number or pattern of hours worked. Any other allowances as well as overtime and bonuses will be excluded.

For non-award workers:

- 85% of entitlement of the first 13 weeks.

Beginning on 4 January 2005 all weekly payments of compensation to injured workers currently receiving payments must be calculated based on these methodologies.

Injured workers whose weekly compensation payments had already "stepped down" after 4 weeks of payment before 4 January 2005 receive payments calculated on the basis of the new "stepped down" rate (i.e. the new rate after the first 13 weeks).

Workers whose payments had not reached the end of the 4 week period before the “step down” applied by 4 January 2005 will not have their payments reduced until the new 13 week period has been completed (i.e. the 13 week period commences from the date the weekly payments commenced).

(WorkCover recommends that employers check with their approved insurer to ensure that they pay injured workers the right amount of workers’ compensation payments before commencing new payments).

- **Payments for funeral expenses will be increased to \$7,000 as of 4 January 2005.**
Funerals conducted on or after 4 January 2005 will be paid at the new rate.
- **Approval of medical expenses likely to be incurred will be possible from 4 January 2005.**
Payment of medical and other expenses can be approved if they are “likely to be incurred”. Insurers will be able to advise injured workers in advance if they will pay for operations or treatment.
- **The point at which notice must be given of the imminent exhaustion of medical entitlement has been lowered to 60%.**
From 4 January 2005 an employer (or the insurance company operating on their behalf) must notify an injured worker when 60% of their medical and related expenses entitlement has been consumed.

This is to allow the injured worker to apply for a possible extension of payments to which the worker may be entitled.

WORKERS EMPLOYED ACROSS STATE BOUNDARIES

The legislation has also been amended to clarify the workers’ compensation requirements for employers who employ workers across state boundaries. The law now provides that the workers’ compensation premium payable and entitlements for injured workers are determined by each worker’s “State of connection”.

A worker’s State of connection is determined by applying the following sequential tests:

- A. The State in which the worker usually works in that employment.
- B. If no State is identified by test (A) the State in which the worker is usually based for the purposes of that employment.
- C. If no State is identified by test (A) or (B), the State in which the employer’s principal place of business in Australia is located.

Information about the newly proclaimed changes to the system and a Fact Sheet explaining the provisions of the Workers’ Compensation and Rehabilitation Amendment (Cross Border) Act 2004 are available from:

- www.workcover.wa.gov.au or
- by telephoning the WorkCover Infoline on 1300 794 744.

Information may also be obtained from:

- Insurance companies
- Industry associations
- Trade unions
- Community Legal Centre