

National Workers' Compensation Legislation (this table reflects the state of law on 1 January 2024)

	NSW	QLD	VIC	ACT	WA	SA	TAS	NT	Commonwealth
Worker type covered	Contract of service	PAYG Works under a contract	Performs work for employer	Contract of service, labour only and works under a contract (with exceptions)	Contract of service and certain sole traders	Contract of service + prescribed classes	Contract of service	Contract of service (with exceptions)	Employee/ Seafarer
Employment contribution	Substantial contributing factor The main contributing factor for a disease. No compensation for heart attack or stroke injury unless nature of employment results in significantly greater risk	A significant contributing factor	Material contributing factor for injuries simpliciter and for continuing entitlement to compensation. Significant contributing factor for disease, heart attack and stroke injuries	Out of or in the course of employment Substantial contributing factor (diseases and specific pre-existing conditions)	Contributing factor to a significant degree	"A" significant contributing cause "the" significant contributing cause (psych)	Major or most significant factor	Out of or in the course of employment Material contribution (diseases and gradual onset)	Out of or in the course of employment (injuries) To a material degree (diseases before 13 April 2007) To a significant degree (diseases after 13 April 2007) Out of or in the course of employment (injuries) Material degree (diseases) – no amendment to significant degree for seafarers.
Entitlements									
0-13 weeks	No work capacity - AWE x 95% - D Capacity for not less than 15 hours or returned to work not less than 15 hours - (AWE x 95%) - (E + D), or AX - (E + D)	The greater of 85% NWE or 100% under industrial instrument	95% up to max (max is \$2,660)	<u>For total incapacity:</u> <ul style="list-style-type: none"> 100% of a worker's average pre-incapacity weekly earnings <u>For partial incapacity:</u> <ul style="list-style-type: none"> The difference between the worker's average pre-incapacity earnings and the average weekly amount that the worker is paid or could earn 	100% capped at \$ \$3,020 gross per week	100%	100%	100%	100% 100%
14-26 weeks	No work capacity – AWE x 80% - D, or MAX – D Returned to work not less than 15 hours per week – AWE x 95% - (E + D), or MAX – (E + D) Working capacity but has not returned to work or working < 15 hours per week – AWE x 80% - (E + D), or MAX – (E + D)	The greater of 85% NWE or 100% under industrial instrument	80% up to max	As per 0-13 weeks	<ul style="list-style-type: none"> Award workers: 100% minus bonuses, overtime and allowances not paid on regular basis as part of earnings and related to number or pattern of hours worked Non-award: 85% AWE over 1 year before accident 	100%	100%	100%	100% for first 45 weeks 100% for first 45 weeks
27-52 weeks	As per 14-26 weeks	The greater of 75% of NWE* or 70% of QOTE	80% up to max	<u>For total incapacity:</u> <ul style="list-style-type: none"> If 100% of APIWE is less than the statutory floor = then 100% of APIWE If 100% of APIWE is more but 65% of APIWE is less than the statutory floor = then statutory floor If 65% of APIWE is more than statutory floor = the higher of 65% of APIWE or the statutory floor. <u>For partial incapacity:</u> <ul style="list-style-type: none"> Worker is entitled to the difference between the weekly amount the worker is paid or could earn and: <ul style="list-style-type: none"> If 100% of APIWE is less than 	As per 14-26 weeks	100%	90% or 95% if criteria met	Lower of: 75% loss of NWE, or 150% of State AWE (\$2,565.45) subject to minimum benefits (s.65(12)). 90% loss of earning capacity for those subject to minimum benefits provision.	100% for first 45 weeks. After 45 weeks if totally incapacitated the lower of 75% NWE or 150% of the Average Weekly Ordinary Time Earnings for Full Time Adults (AWOTEFA). 100% for first 45 weeks. After 45 weeks: If totally incapacitated lower of 75% NWE or 150% AWOTEFA. If working, rate subject to top-ups as per s 31

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				statutory floor = then 100% APIWE <ul style="list-style-type: none"> o If relevant percentage of APIWE is less than statutory floor = the statutory floor o If relevant percentage of APIWE is more than statutory ceiling = then statutory ceiling o In any other case = then the relevant percentage of APIWE Note: Statutory floor and statutory ceiling are indexed figures based on the ABS seasonally adjusted average weekly earnings for 'All males - Total earnings' for the ACT. <ul style="list-style-type: none"> • Relevant percentage is calculated as follows: <ul style="list-style-type: none"> o If worker not working or works up to 25% of APIW hours = 65% o If worker works between 25% and 50% APIW hours = 75% o If worker works between 50% and 75% of APIW hours = 85% o If worker works between 75% and 85% of APIW hours = 95% o If worker works between 85% and full APIW hours = 100% 					
53-104 weeks	As per 14-26 weeks	As per 27-52 weeks	80% up to max	As per 27-52 weeks	As per 14-26 weeks	80%	80% after 78 weeks or 85% if criteria met	As per 27-52 weeks	As after 45 weeks As after 45 weeks
104+ weeks	As per 14-26 weeks	Compensation will depend on degree of impairment Single pension rate (if worker demonstrates injury could result in impairment of 15% or more, then per 27-104 weeks)	80% up to max	As per 27-52 weeks	As per 14-26 weeks	Nil unless seriously injured worker and then 80%	80% or 85% if criteria met	(NWE minus most profitable employment) x 75% or as calculated in 27-52 weeks	As after 45 weeks As after 45 weeks
130+weeks	No work capacity: AWE x 80% - D or MAX - D If working for not less than 15 hours per week and WPI of up to 21% or 21%-30% AWE x 80% - (E + D), or MAX - (E + D) If not working but has capacity or returned to work for < 15 hours and 21%-30% WPI	No entitlement to weekly payments after 5 years	80% up to max. No current work capacity or limited capacity greater than 15 hours and earning at least \$222 per week on an indefinite basis	As per 27-52 weeks	As per 14-26 weeks	No unless a seriously injured worker 30% WPI threshold	9 years plus at 80% or 85% if criteria met, but must satisfy permanent impairment threshold	As per 104+ weeks up to 260 weeks If at or above 15% WPI, ongoing payments are provided	As after 45 weeks Redemption eligibility ceiling - \$128.10 As after 45 weeks Redemption eligibility ceiling - \$138.09

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	AWE x 80% - D, or MAX - D Workers with > 30% WPI: AWE x 80% - D, or MAX - D but not less than \$808 as indexed. Weekly benefits cease after 260 weeks unless WPI >20%.								
Journey claims	Yes with restrictions – “real and substantial connection to employment”	Yes	No	Yes	No	Yes – very limited	No+	Yes, with restrictions	No Yes
Common law	Yes – past and future economic loss of earnings Threshold 15% WPI or more Cap – Statutory cap on damages for economic loss (maximum net weekly loss - \$2,128.50 indexed biannually s 1511)	Yes – No threshold except claims from 15 Oct 2013 to 30 Jan 2015 >5% DPI No entitlement to bring common law claim if worker has accepted statutory lump sum compensation and has a DPI of less than 20%	Yes – Pain and suffering damages and economic loss Threshold >30% WPI or narrative test Cap – P&S \$713,780 (WIRC Act) – Eco \$1,639,480 (WIRC Act)	Yes – unlimited damages and no thresholds	Yes if WPI at least 15% Damages capped where: WPI is less than 25% (Cap is \$530,724.00 inclusive of Act entitlements paid) There is no cap if WPI is equal to or greater than 25% WPI	Yes 30% WPI threshold for psych, 35% for physical injury	Yes – economic and non-economic loss Threshold >20% WPI Cap - none	No	Yes Employee – non- economic loss cap \$110,000 Dependant – no cap Yes Seafarer – non-economic loss cap \$138,570.52 Dependant – no cap
Recess claims	Yes	Yes	Yes+	Yes	No	Yes+	Yes	Yes	Yes Yes
Long or short tail claims	Short tail claims for workers less than 21% WPI Long tail for workers with 21% WPI or greater	Short tail	Long tail	Long tail	Long tail	Short tail	Long tail	Long tail	Long tail Long tail
Benefits payable	Lump sum – injuries prior to 1 January 2002 - Table of Disabilities - no threshold - no psychological impairment Injuries from 1 January 2002 to 19 June 2012 where claim made prior to 19 June 2012: • Physical – 1% threshold • Binaural loss of hearing of 6% • Psychological – 15% WPI threshold Injuries or notification of injuries or claim after 19 June 2012: • Physical –11% WPI threshold • Psychological – 15% WPI threshold • No pain and suffering • If claim made prior to 19 June 2012 – one further claim permitted Weekly compensation, Medical and related expenses, Death benefits, Return to work	Statutory compensation: • weekly payments • medical and other expenses • travel expenses • paid care/assistance / home modification Common law claim: • pain & suffering • economic loss • past expenses • future expenses • limited paid care • future paid care	• Weekly payments • Impairment benefits • Death/dependency • Medical and like	Statutory compensation: • Weekly payments • Lump sum impairment benefit for permanent injury • Death/ dependency • Medical, hospital and vocational • Damaged clothing associated with the injury • Home modification Common law claim: • pain & suffering • economic loss • past expenses • future expenses • domestic assistance	• Weekly payments • Lump sum impairment benefit • Death/dependency • Medical, hospital and vocational rehabilitation expenses	Statutory compensation and common law (limited)	• Weekly payments • Impairment benefits • Death/ dependency • Medical and like	• Weekly payments • Impairment benefits • Death/ dependency • Medical and like • Rehabilitation • Household services	• Weekly payments • Impairment benefits • Death/ dependency • Medical and like • Weekly payments • Impairment benefits • Death/ dependency • Medical and like
Permanent impairment	Injuries prior to 30 June 1987 – as per Table of Disabilities for 1926 Act. Injuries from 30 June 1987 to 31 December 2001 – As per indexed amounts in Table of Disabilities for 1987 Act. Injuries from 1 January 2002 to 31 December 2006 – Maximum amount - \$200,000	The maximum statutory compensation is \$307,385.00 (as at 31 October 2022)	5% WPI if injured after 3 December 2003 + Combined total of past hearing loss and current hearing loss must be at least 10% WPI. 30% WPI for an entitlement for psychiatric injuries. The maximum payment for 100% impairment is \$713,780 and for hearing loss is \$127,000.	• No comp for less than 6% hearing loss • Refer to schedule 1 of WC Act for percentage of single loss amount payable	Percentage of prescribed amount for permanent impairment	>5% WPI non-economic loss - \$585,336 maximum (50% or >) Economic loss (>5% but capped at 34% WPI despite > WPI) - \$539,281 max	5% WPI (except if loss of part of toe or finger), 5% hearing loss, and 10% psychiatric. Maximum lump sum is \$404,674.80	5%-14% WPI with a scale of prescribed percentage of maximum lump sum equivalent to 208 x AWE (currently \$355,742.40) 15%-84% WPI paid at WPI percentage of the maximum lump sum (208 x AWE) 85% WPI and overpaid at full maximum lump sum (208 x AWE)	10% WPI threshold except for: 5% hearing loss; >0% loss fingers/toes/smell/ taste \$220,861.39 [maximum permanent impairment] \$82,823.06 [max non-economic loss including both components A and B]

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	<p>Injuries from 1 January 2007 to 4 August 2015 – Maximum amount - \$220,000</p> <p>Injuries from 5 August 2015 to 30 June 2016- Maximum amount - \$577,050</p> <p>Injuries from 1 July 2016 to 30 June 2017 – Maximum amount - \$584,580</p> <p>Injuries from 1 July 2017 to 30 June 2018 – Maximum amount - \$598,560</p> <p>Injuries from 1 July 2018 to 30 June 2019- Maximum amount \$610,930</p> <p>Injuries 1 July 2019 to 30 June 2020-Maximum amount \$619,000</p> <p>Injuries 1 July 2020 to 30 June 2021-Maximum amount \$631,370</p> <p>Injuries 1 July 2021 to 30 June 2022-Maximum amount \$637,290</p> <p>Injuries 1 July 2022 to 30 June 2023-Maximum amount \$665,260</p> <p>Injuries 1 July 2023 to 30 June 2021-Maximum amount \$713,660</p> <p>+ 5% for injuries to back after 1 January 2006</p>								<p>10% WPI threshold</p> <p>>0% loss fingers/toes/smell/taste</p> <p>\$220,861.39 [max permanent impairment]</p> <p>\$82,823.06 [max non-economic loss (formula amount)]</p>
Psych injury defences	<p>Must be a recognizable psychiatric or psychological disorder.</p> <p>Reasonable action on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers (s11A)</p>	Reasonable management action taken in a reasonable way in the course of employment	Reasonable management action	Reasonable management action (mental injury completely or mostly caused by)	<ul style="list-style-type: none"> Dismissal, retrenchment, demotion, discipline, transfer or redeployment Not being promoted, reclassified, transferred or granted leave of absence or any other benefit Worker's expectation of these 	<ul style="list-style-type: none"> Reasonable administrative action Transfer, demote, discipline, counsel, retrench or dismiss, 	Reasonable administrative action	Reasonable management action	<p>Reasonable administrative action</p> <p>Reasonable disciplinary action</p> <p>Failure to obtain promotion, transfer or benefit</p>
Death benefits	<p>Lump sum</p> <ul style="list-style-type: none"> Indexed benefits to dependants of a worker who died prior to 5 Aug 15 up to \$535,450 \$750K to dependants of a worker who died between 5 Aug 15 and 31 Mar 16 \$760K from 1 Apr 16 to 30 Sep 16 \$765,650 from 1 Oct 16 to 31 Mar 17 \$775,600 from 1 April 2017 to 30 September 2017 \$781,900 from 1 October 2017 to 31 March 2018 \$791,850 from 1 April 2018 to 30 September 2018 	<ul style="list-style-type: none"> Lump sum for dependants (\$676,699.72) Totally dependent spouse – 10.83 times QOTE Weekly (spouse) 8% of QOTE if child < 6 Weekly (child < 16 or student) 10% of QOTE Funeral reasonable expenses 	<ul style="list-style-type: none"> Lump sum \$713,780 Weekly max \$2,660, depending on pre-injury earnings and payments for dependants Burial or cremation \$15,230 Counselling for family \$10,630 	<ul style="list-style-type: none"> Lump sum \$539,002.37 Child (weekly) \$148.23 Funeral \$11,828.87 <p>The above are Wage Price Index indexed</p>	<ul style="list-style-type: none"> Lump sum \$631,810 Weekly (per child) \$149 Funeral \$11,739 	<ul style="list-style-type: none"> Lump sum \$585,336 25% of NWE for orphan 12% of NWE for other children Weekly (dependant spouse) 50% of NEW Funeral \$12,353 	<ul style="list-style-type: none"> Lump sum \$430,911.10 Weekly (per infant) \$155.75 (15% of basic salary) Weekly (spouse) same rate as incapacity payment Funeral \$9,500 Counselling \$4,000 	<ul style="list-style-type: none"> Lump sum \$622,549.20 (364 x AWE) split between dependants in prescribed shares Funeral \$17,787.12 (20% of equivalent annual AWE) Dependent child \$171.03 (10% of AWE) (weekly/per child) Spouse – full weekly rate minus any benefits paid to children 	<ul style="list-style-type: none"> Lump sum \$596,838.09 Weekly (per child) \$164.14 Funeral up to \$13,045.02 Lump sum \$617,130.59 Weekly (per child) \$169.72 Funeral up to \$14,062.53

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	<ul style="list-style-type: none"> \$798,100 from 1 October 2018 to 31 March 2019 \$810,050 from 1 April 2019 to 30 September 2019 \$816,850 from 1 October 2019 to 31 March 2020 \$827,400 from 1 April 2020 to 30 September 2020 \$834,200 from 1 October 2020 to 31 March 2021 \$838,750 from 1 April 2021 to 30 September 2021 \$849,300 from 1 October 2021 to 31 March 2022 \$862,350 from 1 April 2022 to 30 September 2022 <p>\$871,200 from 1 October 2022 to 31 March 2023</p> <p>\$891,100 from 1 April 2023 to 30 September 2023</p> <ul style="list-style-type: none"> Funeral expenses up to \$15K after 5 Aug 15 for deaths of injured workers before 5 Aug 15, indexed amounts up to \$9,000 Dust Diseases Weekly (Dust Diseases) Weekly sums indexed for children - \$154.40 								
Other benefits	<p>Return to work: Up to \$1,000 for injured workers who accept work w/ new employers;</p> <p>Up to \$8,000 for workers with 20% WPI or more who have received weekly payments for more than 78 weeks for education or training assistance</p> <ul style="list-style-type: none"> Commutations (15% WPI threshold, s 87EA criteria) Medical expenses subject to restrictions s 59A <p>0 – 10% WPI: 2 years after injury or weekly benefits cease, whichever is the later</p> <p>11 – 20% WPI: 5 years after injury or weekly benefits cease, whichever is the later</p> <p>21% WPI exempt from s59A</p>	<ul style="list-style-type: none"> No limit medical treatment Incapacity benefit 100% Return to work assistance 	<ul style="list-style-type: none"> Return to work assistance 	<ul style="list-style-type: none"> No limit on reasonable medical and rehabilitation treatment 	<ul style="list-style-type: none"> Return to work help \$17,691 Medical treatment \$75,817 Additional medical expenses up to \$50,000 if permitted by needs and financial/social circumstances (first extension) Further additional medical expenses of up to 250,000 if WPI not less than 15% (second extension) Incapacity benefit 100% at 13 weeks Retraining program if WPI is between 10%-15% 	<ul style="list-style-type: none"> Limit medical treatment 12 months Incapacity benefit 100% @ 52 weeks Return to work obligations enforced against employer Supplementing income support payments for approved surgery after 104 weeks – up to 13 weeks of income at 80% s18 rights to seek suitable employment duties to be provided by the pre-injury employer 	<ul style="list-style-type: none"> Return to work assistance 	<ul style="list-style-type: none"> Lump sum settlement by agreement* Medical expenses 52 weeks after last date of receipt of weekly payments Rehabilitation, training, assistance with return to work and workplace modification Maximum non-cash benefit (electricity, accommodation etc) \$598.61 (35% of AWE) Maximum Family counselling \$2,565.24 (s73(3)) Assistance with activities of daily living Legal advice or representation at mediation \$1,710.30 	<ul style="list-style-type: none"> No limit medical treatment Incapacity benefit min \$517.32 per week; prescribed person additional \$128.10; per child additional \$63.99 Return to work Household and attendant care services up to \$512.17per week No limit medical treatment Incapacity benefit min \$557.67 per week; prescribed person additional \$138.09; per child additional \$68.98 Return to work/rehab program Household and attendant care services up to \$552.12 per week