

# Workers' compensation legislation (this table reflects the state of law on 1 September 2018)

	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	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 (the major significant factor for psychiatric injury)	Material contributing factor for injuries simpliciter and for continuing entitlement to compensation. Significant contributing factor for disease, heart attack and stroke injuries	Substantial contributing factor	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)	To a significant degree (diseases) Material degree
Entitlements									
0-13 weeks	<b>No work capacity</b> - AWE x 95% - D <b>Capacity for not less than 15 hours or returned to work not less than 15 hours</b> - (AWE x 95%) - (E + D), or MAX - (E + D)	85% of NWE (100% under industrial instrument)	95% up to max	100%	100% capped at \$2,665.70 gross per week	100%	100%	100%	100% 100%
14-26 weeks	<b>No work capacity</b> - AWE x 80% - D, or MAX - D <b>Returned to work not less than 15 hours per week</b> - AWE x 95% - (E + D), or MAX - (E + D) <b>Working capacity but has not returned to work or working &lt; 15 hours per week</b> - AWE x 80% - (E + D), or MAX - (E + D)	85% of NWE (100% under industrial instrument)	80% up to max	100%	<ul style="list-style-type: none"> <li>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</li> <li>Non-award: 85% AWE over 1 year before accident</li> </ul>	100%	100%	100%	100% for first 45 weeks 100% for first 45 weeks
27-52 weeks	As per 14-26 weeks	75% of NWE* or 70% of QOTE	80% up to max	65% or stat floor	As per 14-26 weeks	100%	90% or 95% if criteria met	Lower of: 75% loss of NWE, <b>or</b> 150% of State AWE (\$2,424.75) subject to minimum benefits (s.65(12))	75% (if totally incapacitated) after 45 weeks 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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53-104 weeks	As per 14-26 weeks	As per 27-52 weeks	80% up to max	65% or stat floor	As per 14-26 weeks	80%	80% after 78 weeks or 85% if criteria met	As per 27-52 weeks	75% As after 45 weeks
104+ weeks	As per 14-26 weeks	Single pension rate (workers >15% or 70% of QOTE) or 75% of NWE	80% up to max	65% or stat floor	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	75% As after 45 weeks
130+weeks	<b>No work capacity:</b> AWE x 80% - D or MAX - D <b>If working for not less than 15 hours per week and WPI of up to 21% or 21%-30%</b> AWE x 80% - (E + D), or MAX - (E + D) <b>If not working but has capacity or returned to work for &lt; 15 hours and 21%-30% WPI</b> AWE x 80% - D, or MAX - D <b>Workers with &gt; 30% WPI:</b> AWE x 80% - D, or MAX - D but not less than \$808 as indexed	After two years entitled to redeem weekly payments	80% up to max. No current work capacity or limited capacity greater than 15 hours and earning at least \$186 per week on an indefinite basis	65% or stat floor	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	75% Redemption eligibility ceiling - \$118.37 As after 45 weeks Redemption eligibility ceiling - \$118.37
Journey claims	Yes with restrictions	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 Cap – P&S \$355,400 – Eco 3 x QOTE/ week	Yes – Pain and suffering damages and economic loss Threshold >30% WPI or narrative test Cap – P&S \$611,430 (WIRC Act) – Eco \$1,404,380 (WIRC Act)	Yes – unlimited damages	Yes >15% WPI Cap – <25% is \$479,448 (inclusive of Act entitlements paid) no cap >25% WPI	Yes 30% WPI Threshold	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

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Benefits payable	<p>Lump sum – injuries prior to 1 January 2002 - Table of Disabilities - no threshold - no psychological impairment</p> <p>Injuries from 1 January 2002 to 19 June 2012 where claim made prior to 19 June 2012:</p> <ul style="list-style-type: none"> <li>• Physical – 1% threshold</li> <li>• Binaural loss of hearing of 6%</li> <li>• Psychological - 15% WPI threshold</li> </ul> <p>Injuries or notification of injuries or claim after 19 June 2012:</p> <ul style="list-style-type: none"> <li>• Physical - 11% WPI threshold</li> <li>• Psychological – 15% WPI threshold</li> <li>• No pain and suffering</li> <li>• If claim made prior to 19 June 2012 - one further claim permitted</li> </ul> <p>Weekly compensation, Medical and related expenses, Death benefits, Return to work</p>	<ul style="list-style-type: none"> <li>• Lump sum if WPI &gt;20%</li> <li>• Gratuitous care for serious injuries</li> <li>• Additional lump sum for latent onset</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Impairment benefits</li> <li>• Death/dependency</li> <li>• Medical and like</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Lump sum impairment benefit</li> <li>• Death/dependency</li> <li>• Medical, hospital and vocational</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Lump sum impairment benefit</li> <li>• Death/dependency</li> <li>• Medical, hospital and vocational rehabilitation expenses</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Lump sum impairment benefit</li> <li>• Death/dependency</li> <li>• Medical, hospital and vocational rehabilitation expenses</li> </ul>	Statutory compensation and common law (limited)	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Impairment benefits</li> <li>• Death/dependency</li> <li>• Medical and like</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly payments</li> <li>• Impairment benefits</li> <li>• Death/dependency</li> <li>• Medical and like</li> <li>• Rehabilitation</li> <li>• Household services</li> </ul>	Economic and non-economic loss payment Weekly payments Medical and like
Permanent impairment	<p>Injuries prior to 30 June 1987 – as per Table of Disabilities for 1926 Act.</p> <p>Injuries from 30 June 1987 to 31 December 2001 – As per indexed amounts in Table of Disabilities for 1987 Act.</p> <p>Injuries from 1 January 2002 to 31 December 2006 – Maximum amount - \$200,000</p> <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 - \$585,580</p> <p>Injuries from 1 July 2017 to 30 June 2018 – Maximum amount - \$594,560</p> <p>Injuries from 1 July 2017 – Maximum amount \$610,930 + 5% for injuries to back after 1 January 2006</p>	>0% WPI 5% hearing loss Max lump sum comp = \$330,240 (graduated scale)	5% WPI if injured after 3 December 2013 + 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 \$611,430 and for hearing loss is \$195,860.	Not based on WPI No comp for less than 6% hearing loss; refer to schedule 1 of Act for percentage of single loss amount payable	Percentage of prescribed amount for permanent impairment	>5% WPI non-economic loss - \$507,497 max economic loss (>5% but 30% WPI) - \$372,614 max	5% WPI (except if loss of part of toe or finger), 5% hearing loss, and 10% psychiatric. Maximum lump sum is \$359,988	5%-14% WPI with a scale of prescribed percentage of maximum lumpsum equivalent to 208 x AWE (currently \$336,232)  15%-84% WPI paid at WPI percentage of the maximum lumpsum (208 x AWE)  85% WPI and over paid at full maximum lumpsum (208 x AWE)	10% WPI threshold except for: 5% hearing loss; >0% loss fingers/toes/smell/taste \$189,310.19 [maximum permanent impairment] \$70,991.36 [max non-eco loss] 10% WPI threshold >0% loss fingers/toes/smell/taste \$189,310.19 [max permanent impairment] \$70,991.36 [max non-eco loss]	

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Psych injury defences	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)	Reasonable management action The major contributing significant factor	Reasonable management action	Reasonable management action (S4)	<ul style="list-style-type: none"> <li>Dismissal, retrenchment, demotion, discipline, transfer or redeployment</li> <li>Not being promoted, reclassified, transferred or granted leave of absence or any other benefit</li> <li>Worker's expectation of these</li> </ul>	Reasonable administrative action	Reasonable administrative action	Reasonable management action	Reasonable administrative action Reasonable disciplinary action Failure to obtain promotion, transfer or benefit
Death benefits	<p>Lump sum</p> <ul style="list-style-type: none"> <li>Indexed benefits to dependants of a worker who died prior to 5 Aug 15 up to \$535,450</li> <li>\$750K to dependants of a worker who died between 5 Aug 15 and 31 Mar 16</li> <li>\$760K from 1 Apr 16 to 30 Sep 16</li> <li>\$765,650 from 1 Oct 16 to 31 Mar 17</li> <li>\$775,600 from 1 April 2017 to 30 September 2017</li> <li>\$781,900 from 1 October 2017 to 31 March 2018</li> <li>\$791,850 from 1 April 2018 to 30 September 2018</li> <li>Funeral expenses up to \$15K after 5 Aug 15 for deaths of injured workers before 5 Aug 15, indexed amounts up to \$9,000</li> <li>Dust Diseases Weekly (Dust Diseases) Weekly sums indexed for children - \$138.90</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum for dependants (\$374,625)</li> <li>Weekly (child &lt; 16 or student) 10% of QOTE</li> <li>Weekly (spouse) 8% of QOTE if child &lt; 6</li> <li>Funeral reasonable expenses</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum \$611,430</li> <li>Weekly max \$2,307.60, depending on pre-injury earnings and payments for dependants</li> <li>Burial or cremation \$15,010</li> <li>Counselling for family \$6,470</li> </ul>	<ul style="list-style-type: none"> <li>Death benefit \$539,002.37</li> <li>Child (weekly) \$148.23</li> <li>Funeral \$11,828.87</li> </ul> <p>The above are WPI indexed</p>	<ul style="list-style-type: none"> <li>Lump sum \$570,768</li> <li>Weekly (per child) \$135</li> <li>Funeral Expenses \$9,903</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum \$507,497</li> <li>25% of NWE for orphan</li> <li>12% of NWE for other children</li> <li>Weekly (dependant spouse) 50% of NWE</li> <li>Funeral \$10,605</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum \$359,988</li> <li>Weekly (per child) \$130.12 (15% of basic salary)</li> <li>Weekly (spouse) same rate as incapacity payment</li> <li>Funeral \$9,500</li> <li>Counselling \$4,000</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum \$588,406 (364 x AWE) split between dependants in prescribed shares</li> <li>Funeral \$16,811.60 (26% of AWE)</li> <li>Dependant child \$161.65 (10% of AWE) (weekly/per child)</li> <li>Spouse – full weekly rate minus any benefits paid to children</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum \$550,321.42</li> <li>Weekly (per child) \$151.34</li> <li>Funeral \$12,053.62</li> <li>Lump sum (wholly dependant) \$550,321.42</li> <li>Weekly (per child) \$151.34</li> <li>Funeral \$6,555.03</li> </ul>
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"> <li>Commutations (15% WPI threshold, s 87EA criteria)</li> <li>Medical expenses subj to restrictions s 59A</li> </ul> <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"> <li>No limit medical treatment</li> <li>Incapacity benefit 100%</li> <li>Return to work assistance</li> </ul>	<ul style="list-style-type: none"> <li>Return to work assistance</li> </ul>	<ul style="list-style-type: none"> <li>No limit on reasonable medical and rehabilitation treatment</li> </ul>	<ul style="list-style-type: none"> <li>Retraining program if WPI is between 10%-15%</li> <li>Additional medical expenses up to \$50,000 if permitted by needs and financial/social circumstances (first extension)</li> <li>Further additional medical expenses of up to 250,000 if WPI ≥ 15% (second extension)</li> <li>\$68,492 current limit medical treatment</li> <li>Incapacity benefit 100% at 13 weeks</li> <li>Return to work help \$15,981</li> </ul>	<ul style="list-style-type: none"> <li>Limit medical treatment 12 months</li> <li>Incapacity benefit 100% @ 52 weeks</li> <li>Return to work obligations enforced against employer</li> <li>supplementing income support payments for approved surgery after 104 weeks - up to 13 wks of income at 80%</li> </ul>	<ul style="list-style-type: none"> <li>Return to work assistance</li> </ul>	<ul style="list-style-type: none"> <li>Lump sum settlement by agreement*</li> <li>Medical expenses 52 weeks after last date of receipt of weekly payments</li> <li>Rehabilitation, training, assistance with return to work and workplace modification</li> <li>Maximum non-cash benefit (electricity, accommodation etc) \$565.78 (35% of AWE)</li> </ul>	<ul style="list-style-type: none"> <li>No limit medical treatment</li> <li>Incapacity benefit 100% @ 45 weeks</li> <li>Return to work</li> <li>Household and attendant care services</li> <li>No limit medical treatment</li> <li>Incapacity benefit min \$478.01 per week; dependant/prescribed person additional \$118.37; per child additional \$59.14</li> <li>Return to work/rehab program</li> <li>Household and attendant care services up to \$473.25</li> </ul>

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