

Changes to Workers Compensation Laws in WA

Frequently Asked Questions

The laws governing workers compensation in WA are changing effective 1 July 2024, with the Workers Compensation and Injury Management Act 2023 (WCIMA23) coming into force.

These Frequently Asked Questions and Answers aims to provide a general overview of what's changing as we all transition to the new laws.

GIO is committed to supporting our employers, brokers and injured workers as these changes become effective.

Q1. We understand that the Employers Indemnity declaration is to alter. Can you supply us with a copy of this new document please?

A1. Workcover WA is finalising a new remuneration declaration form that all insurers and employers will be required to use. This form will be prescribed by WorkCover WA with insurers only adding their company logo. The remuneration declaration form will be accompanied with our important notices that will provide guidance on how to complete the remuneration declarations and outline employer obligations. All forms and documents will also be made available to our brokers shortly via the Vero Broker hub [here](#).

Q2. We understand that the claim forms are to alter. Can you supply us with a copy of these new documents please?

A2. – WorkCover WA are providing links to all new forms and notices [here](#). The claim forms for Noise Induced Hearing Loss, Dust Disease and Workplace Fatality will be uploaded at a later date. All our documents are in the process of being updated as part of our delivery plan to ensure we are compliant with the changes to the WA Workers Compensation Laws. All forms and documents will be made available to our brokers shortly via the Vero Broker Hub.

Q3. Do insureds have new/additional legal obligations when arranging/renewing a Workers Compensation policy?

A3. Division 2 of the Workers Compensation and Injury Management Act 2023 contains the duties of employer, insurer, and worker obligations pertaining to Return to Work. Details of the obligations can be found in the new Act [here](#).

Q4. Is the Act definition of 'remuneration declarable' (payable to workers) to alter?

A4. Details relating to remuneration declarable can be found on the WorkCover WA website [here](#). GIO will also make available 2 documents to support brokers and employers with understanding remuneration declarable. Remuneration Guidelines – Important Information; is a summary document that will be distributed with the WorkCover WA Remuneration Declarations. Remuneration Guidelines for Workers Compensation Insurance Policies; this is a comprehensive document with specific details for each remuneration inclusion and exclusion category that GIO will make available shortly.

Q5. We understand that the definition of a 'worker' will not alter. Can you confirm this please?

A5. The definition of a worker is clearly outlined in s12(2) of the Act [here](#).

Q6. We understand that there is to be some alteration relative to how 'contractors' are declared. Can you elaborate on this?

A6. An update on how contractors are declared will be provided shortly. Further information is available through WorkCover WA.

Q7. We understand that as Brokers, we will need to specifically advise insureds of separate extension costs e.g. OSCL/PI. Can you confirm this please?

A7. We suggest that all questions relating to the Insurance Broker Principles and Standards are referred to WorkCover WA. We understand that information sessions will also be made available by WorkCover WA please register your interest [here](#).

Q8. Additionally, are you aware if Brokers also need to disclose the commission earned relative to the extensions need to be disclosed separately, or can it be disclosed with the general commission earned (as we will now be obliged to do)?

A8. We suggest that all questions relating to the Insurance Broker Principles and Standards are referred to WorkCover WA. We understand that information sessions will also be made available by WorkCover WA please register your interest [here](#).



Q9. We understand that we will be obliged to notify you if premium is not received from an insured within the credit terms (90 days). Please confirm this.

A9. Yes, this is correct

Q10. Have the rules regarding the state connection changed in the new legislation?

A10. Yes, there has been a change only for workers who reside outside of Australia. Section 19(3) of the Act, specifies that there is no liability in respect of an injury suffered by a worker outside Australia if the worker has never resided in Australia or been a continuous resident outside Australia for 24 months when the injury occurs.

Q11. Are policy extensions e.g. Principals Indemnity, to be standardised?

A11. GIO is not aware of any plans to standardise policy extension wordings at this stage.

Q12. We understand that 30 June 2024 renewals of ICWA Industrial Disease policies will not be required, as this cover will be incorporated into the normal Workers Compensation policy. Is this accurate?

A12. Yes, this correct.

Q13. We understand that we will now be obliged to raise and presumably send a closing to you, within ten days of renewal/placement. Please confirm this.

A13. This the timeframe specified in the Insurance broker principles and Standards Priority 4 Insurer Experience Standard 4.9 Invoicing and Closings

Q14. When is the new Act effective?

A14. The new Act is effective from 12.01am on 1st July 2024

Q15. Can rehabilitation providers attend medical appointments with workers under the new Act?

A15. This depends on whether the worker provides consent. If the worker provides consent, then the rehabilitation provider can attend medical appointments. The focus of the changes is very much focused on the worker choosing their treatment provider and also having the opportunity to receive a diagnosis.

Q16. Can you confirm that claims lodged prior to July 1st, 2024, will have access to the 60% medicals?

A16. Yes – that is correct. Workers who lodged claims lodged prior to 1 July, (including claims currently being managed) will be entitled to up to 60% prescribed amount of medicals as long as workers have not previously exhausted their prescribed amount.

Q17. Are contractor dentists under a service level agreement considered a worker under the new worker definition?

A17. Possibly – this depends on the circumstances that they are engaged. If they are a dentist with their own ABN and they are providing dental services, then they may not be considered a contractor.

Q18. How will the extension of the lifetime care scheme for catastrophic injuries to workers affect premium?

A18. The extension of the Catastrophic Injuries Support to workers will be funded by a levy which will be collected by insurers

Q19. If a worker has previously accessed the \$50,000 extension to the general limit amount for medical expenses do they still get an increase?

A19. If they have exhausted the general limit amount for medicals prior to 1 July they are not entitled to the increased general limit amount for medicals that comes into effect from 1 July, regardless of any extensions previously granted.

Q20. Claims that are pended prior to 1st of July - will they follow the new legislation and insurers have 28 days for payments to commence if no decision has been made?

A20. Claims that are deemed disputed, which occur 10 days after the pending notice was issued, will not be subject to the requirements under the new Act. This means only those claims pended within 10 days leading up to 1 July will be eligible for provisional payments. .

Q21. With the new timeframes for acceptance of claims, what are the plans for insurers to respond in a timely manner?

A21. GIO is continuing to adjust their operating model to ensure we respond in a timely matter in terms of acceptance of claims. We are delivering this through structural changes at the start of the claim to ensure decisions are made promptly. We also continue to seek support from brokers, employers and injured workers to ensure as much information as possible is provided upfront at claim lodgement to support timely decision making.

Q22. Can you confirm that provisional payments will need to be processed after 28 days of lodgement with insurer?

A22. Yes, that is correct, if no liability decision has been made.

Q23. We understand that hearing loss was being looked at – what are the changes?

A23. Yes, this is correct. There has been a complete rewrite of hearing loss and the new regulations address this.

Q24. Are there any changes in needing to provide certificates to receive weekly compensation?

A24. There are no changes that we are aware of. A worker still needs to provide certification but no guidance at this stage as to next steps if a worker fails to. Same system and provision as we did before. However, the worker is required to provide to the employer or insurer any certificates they are in possession of within 7 days, unless their treating doctor has already done so.

Q25. Any changes with non-compliance of rehabilitation?

A25. Yes. The Act sets out the worker's obligations in s.163, several of which pertain to the worker's active participation in establishing return to work programs and complying with return to work. The options for applications when a worker is not complying with their duties are similar to the existing Act.

Q26. How long does an employer have to lodge a claim once notified by an injured worker?

A26. 7 days

Q27. What happens if a worker does not provide consent?

A27. A worker cannot be compelled to provide consent as per current legislation; however it will be difficult to make a decision on liability without access to the necessary evidence. If there is insufficient evidence to support that the worker has sustained a compensable injury then consideration should be declining liability..

Q28. Have business days and calendar days changed?

A28. The Act still references calendar days. As a general rule unless stated otherwise days is to reflect calendar days.

Q29. If a worker is on provisional payments and then liability is declined, do the payments then cease?

A29. Yes. Provisional payments will cease upon liability being accepted or declined. If liability is accepted then the worker will no longer receive provisional payments, rather their usual compensation entitlements.

Q30. What is the new process for dealing with loadings that are 75% or greater?

A30. The process for dealing with loadings of 75% or greater will change as follows:

- Policies with a start or due date on or after 1st July 2024; GIO is no longer required to obtain approval from WorkCover WA if loading premium is greater than or equal to 75% of Gazette.
- As per Section 255(4) of the Act, the Employer must pay the premium that is greater than 75% as determined by the insurer.
- The Employer may request a review of the premium and or classification. This will be by Employer Application to Workcover WA within 1 month of inception of the cover.
- The Employer must also give notice in writing to the insurer of the Application within 1 month of being informed of the premium.
- Workcover WA will undertake a review and if determined a lesser premium be charged, the Insurer will repay that portion of the premium which is an overpayment.

Contact us

For further information, please talk to your Relationship Manager or email us at WAWCReforms@gio.com.au

