Finity's Workers Compensation d’finitive keeps you up to date with private and government schemes around Australia and New Zealand.

In this edition

→ Scheme performance highlights from 2017/18
→ Premium rates for 2019/20
→ Recent developments across jurisdictions
→ A special report on emerging claims and developments relating to silicosis.
## Scheme Performance

The table below summarises scheme performance in 2017/18 across Australia and New Zealand.

<table>
<thead>
<tr>
<th></th>
<th>NSW</th>
<th>Victoria</th>
<th>Queensland</th>
<th>South Aust.</th>
<th>Comcare</th>
<th>New Zealand</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Claim no's/frequency</strong></td>
<td>Up 3%</td>
<td>Down 3%</td>
<td>Up 1%</td>
<td>Up 3%</td>
<td>Down 5%</td>
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<td></td>
<td>63,000 claims reported in 17/18, with numbers growth broadly consistent with exposure growth.</td>
<td>Claims per million hours worked was 6.23 in 17/18 (6.43 in 16/17).</td>
<td>67,194 accepted statutory claims in 17/18 (66,430 in 16/17). Common law claims increased by 3%, with 2,424 new common law claims in 17/18 (2,347 in 16/17).</td>
<td>7.7 claims accepted per 1000 FTE in 17/18 (8.1 in 16/17). Serious claims also down.</td>
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<tr>
<td><strong>Claim payments</strong></td>
<td>$2.0bn (up 4%)</td>
<td>$2.0bn (up 7%)</td>
<td>$1.4bn (up 2%)</td>
<td>$345m (down 12%)</td>
<td>$234m (down 7%)</td>
<td>$764m (up 5%)</td>
</tr>
<tr>
<td><strong>OSC liabilities Jun-18</strong></td>
<td>$14.3bn, up $0.3bn (2%)</td>
<td>$13.7bn, up $0.7bn (7%)</td>
<td>$2.5bn, up $17m (1%)</td>
<td>$2.6bn, up $0.3bn (13%)</td>
<td>$2.2bn, down $0.2m (9%)</td>
<td>Work Account $7.1bn, up $0.9bn (15%)</td>
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<tr>
<td><strong>Profitability</strong></td>
<td>$89m profit</td>
<td>$484m profit</td>
<td>$329m profit</td>
<td>$27m profit</td>
<td>$8m operating surplus</td>
<td>$368m Net deficit in Work Account</td>
</tr>
<tr>
<td></td>
<td>Compared to previous year, claims expense was $526m lower and investment return $541m higher.</td>
<td>Higher than budget investment returns, and favourable impact of lower inflation. Partly offset by changes in discount rates on claims liabilities. No dividend paid.</td>
<td>Strong investment portfolio return of 7.6%.</td>
<td>Increased premium collection due to higher remuneration, continued active claims management, lower operating expenses, strong investment returns.</td>
<td>Fifth successive operating surplus.</td>
<td>Strengthening in OSC liability.</td>
</tr>
<tr>
<td><strong>Funding ratio Jun-18</strong></td>
<td>115% (80% PoS)</td>
<td>123%</td>
<td>181%</td>
<td>119%</td>
<td>116%</td>
<td>135%</td>
</tr>
<tr>
<td></td>
<td>Down from 119%. Target funding range is 120%-140% (70% PoS).</td>
<td>Up from 119%. Above target range of 82.5%-117.5%.</td>
<td>Up from 171%. Target &gt; 120%.</td>
<td>Down from 120%.</td>
<td>Up from 102%.</td>
<td>Down from 148%. Above target of 105%.</td>
</tr>
</tbody>
</table>

**Note**: We have shown results presented by each scheme without attempting to normalise for definitional differences, for example in the calculation of funding ratios or risk margin.
Premium Rates

Premium rates are steady or decreasing for 2019/20, except for WA

Note: For centrally funded schemes, this is the target average rate set by the scheme; for privately underwritten schemes this is the suggested/recommended rate published by the regulator (rates achieved by individual insurers will vary).

Some comments for individual jurisdictions:

- SA – the premium rate is now down by 40% since the 2015 reforms
- WA – the premium rate increase for 2019/20 was mainly due to lower than expected wages
- Comcare – budgeted premium rate for 2019/20 is 1.0% of wages

While the rates insurers achieve in the privately underwritten schemes tend to be around 15% below the published recommended rates shown in the figure, it is clear that the centrally underwritten schemes are generally costing less than the privately underwritten schemes.
Recent developments across jurisdictions

New South Wales

Dispute resolution

Changes to simplify the dispute resolution process became effective on 1 January 2019. The main changes are:

• The Workers Compensation Commission (WCC) now resolves all disputes and will be able to award permanent impairment compensation without referral to an Approved Medical Specialist in certain circumstances.

• An injured worker can now ask for an internal review of their insurer’s work capacity decision, or lodge a dispute directly with the WCC (requesting an internal review first was previously mandatory). icare continues to manage internal reviews of decisions by EML and Allianz Authorised Provider claims.

• WIRO handles all enquiries and complaints from injured workers about insurers. WIRO will help workers access free and independent legal advice about work capacity decisions through the Independent Legal Assistance and Review Service (ILARS).

• SIRA handles all enquiries and complaints from employers and others.

Claims Management

A change to the claims management approach means that, where appropriate, provisional liability is assigned for claims that require time off work. icare notes that this has allowed workers to receive treatment and return to work more quickly, reducing overall claim costs; in 2018 (to September) claims that went no further than provisional liability had an average claim size of $2,200 (down 23% from 2017). For mental health related claims, front-end return to work rates had improved by 40% and front-end weekly payments were down by 32%.

Nominal Insurer Review

SIRA has commissioned the Compliance and Performance Review of the Workers Compensation Nominal Insurer Scheme. The review is being undertaken by an independent reviewer, Ms Janet Dore, who was CEO of the Transport Accident Commission in Victoria from 2008 to 2015.

The review is an integrated compliance and performance review including:

• Stakeholder meetings with insurer, employer and worker groups

• An audit of compliance with legislation and relevant guidelines including the Market Practice and Premiums Guidelines (MPPGs)

• A performance review of claims management, return to work outcomes and other objectives and requirements under the legislation

• Public consultation.

A final report outlining the review’s findings is expected to be provided to SIRA by August 2019 and released later this year.

South Australia

Following recent silicosis claims in other states, the Mining and Quarrying Occupational Health and Safety Committee is offering free silicosis health screenings for affected workplaces. ReturnToWorkSA and SafeWork SA are working together to share information and offer support to the industry. Also see our feature article on silicosis in this issue.

Queensland

Five-Year Review

The second five-year review of Queensland’s workers compensation scheme was completed in 2018, and was undertaken by Griffith University’s Professor David Peetz. There were no recommendations for major reform and the scheme was generally assessed as performing well. Professor Peetz recommended:

• Adopting the principles of the national Best Practice Framework for the Management of Psychological Claims in the Australian Workers Compensation Sector

• Extending workers compensation coverage to the ‘gig economy’

• Enhancing rehabilitation and return to work, by focusing on durable return to work and increasing the transparency and accessibility of reporting on medium to long term outcomes

Comcare

• Comcare has a new CEO, Sue Weston. Ms Weston has been appointed for a five year term, and has most recently served as a Department Secretary in the Department of Industry, Innovation and Science for the last 10 years.

• Comcare reports continued improvements in performance, with further decreases in premium

• Self-insurance licences have recently been granted to DHL Express (Australia), effective January 2019, and the ACT Government, effective March 2019.


2 The Operation of the Qld Workers’ Compensation Scheme – Report of the second 5-year Review of the Scheme, Professor David Peetz, May 2018
New research report from the Collaborative Partnership to improve work participation

Comcare’s Collaborative Partnership to improve work participation brings together partners from the public, private and not-for-profit sectors. The Collaborative Partnership is using the findings from the Employer Mobilisation Project to design and trial workplace interventions with three national employers: Virgin Australia Airlines, Australia Post and the Reserve Bank of Australia.

The Employer Mobilisation Project was commissioned by the Department of Jobs and Small Business, and the report provides fresh insights into overcoming employment barriers for Australians whose work opportunities are limited by injury, illness or disability.

The study surveyed 2,500 employers and findings showed that an employer’s experience, its organisational capabilities and its attitudes are the key drivers of its openness to employ people with a health condition or disability.

Western Australia

WorkCover WA’s Conciliation and Arbitration Services will move to an online platform in mid-2019 for the most common administrative and registry services. Arbitration related administrative services are scheduled to move online from mid-2020.

Tasmania

Presumptive Provision for PTSD

The Tasmania Government has passed legislation that allows Tasmania’s public servants to more easily access workers compensation benefits for diagnosed Post-Traumatic Stress Disorder (PTSD). The presumptive provision legislation received Royal Assent on 5 June 2019 and had been applied in practice since 30 October 2018 (but not retrospectively). PTSD is now automatically presumed to be work-related for a public servant’s workers compensation claim for the injury.

The legislation was introduced to Parliament following the report “Ministerial Review relating to establishing entitlements under the Workers Rehabilitation and Compensation Act 1988 for Workers Suffering Post Traumatic Stress Disorder (PTSD)” tabled to Parliament on 25 September 2018.

Following the passage of the presumptive provision, WorkCover Tasmania is now considering whether the same provision can be extended to certain categories of the private sector. WorkCover Tasmania has recruited an external consultancy to conduct a review, which is accepting submissions until 30 August 2019.

Tasmania is now the first jurisdiction in Australia to legislate a presumptive provision that a PTSD diagnosis is work-related. It will be interesting to observe how things progress over the next year as stakeholders respond to the new provision.

Strategic Plan

The WorkSafe Tasmania Strategic Plan 2018-2023 was released during October 2018 as a joint initiative of WorkSafe Tasmania and the WorkCover Tasmania Board. The plan specifies four key areas of focus:

- Reducing harm in Tasmanian workplaces
- Responding to current and emerging WHS issues
- Ensuring regulatory frameworks are contemporary and effective
- Striving for excellence as a regulator.

ACT

Public Sector

The ACT Government became a self-insurer under the Comcare scheme, effective 1 March 2019. Employers Mutual Limited has been appointed as third party administrator of the ACT Government’s claims.

“Through self-insurance, the ACT will be taking full responsibility for the care and support of its injured employees and will be working to deliver superior health outcomes and customer experience.”

Private Sector

Finity’s most recent review of the private sector scheme experience showed a continued downward trend in claim frequency in 2017/18. The reduction in frequency was the main driver of a reduction in the reasonable average premium rate, from 2.58% to 2.48% of wages.
Silicosis has come back into attention after a number of reported cases in Queensland last year among stonemasons working with engineered stone. Although the disease has been reported in Australia since the 1940s, inadequate work safety measures across Australia, and indeed in many parts of world, have persisted. This article explores the issues regarding silicosis in Australia.

What is silicosis?

Silicosis is an irreversible and often fatal lung disease caused by long term or repeated high level exposure to respirable crystalline silica (RCS), leading to scarring, swelling, stiffening and fluid build-up in the lungs. Silica-containing materials include engineered and natural stone benchtops, concrete, bricks, pavers, fibre-cement sheeting, blocks, tiles, sandstone, sand and soil. RCS is generated by high energy processes such as cutting, grinding, sanding, drilling, blasting and polishing of silica-containing materials. Silicosis is currently an incurable disease other than by lung transplantation.

There are three types of silicosis:

- Chronic silicosis, the most common form, where the disease develops slowly over 10-30 years from first exposure
- Accelerated silicosis can develop over 1 to 10 years with high exposure to RCS (such as stonemasons working with engineered stone products). Rapid scarring of lungs occurs
- Acute silicosis can develop within weeks of very heavy exposure to RCS. The lungs are filled with fluid which causes severe breathing difficulties.

Exposure to RCS can also lead to an increased risk of lung cancer, emphysema and kidney disease.

Engineered products generally contain more than 90% crystalline quartz silica, compared to 40% or less in natural stone products. This very high silica concentration seems to have caught some people by surprise, despite the long history of silica as a workplace risk.
Recent Cases

The Queensland Government issued an urgent warning in September 2018 after 22 silicosis claims were lodged with WorkCover within a three-week period.

Anecdotal reports from NSW found high incidence of silicosis among young men from non-English speaking backgrounds working with engineered stone. These workers were not familiar with the dangers of working with silica-containing products.

Safety Blitz

Following the spate of cases in Queensland, state governments and regulators across Australia have conducted comprehensive safety inspections across affected industries.

An audit of Queensland’s engineered stone industry found 115 workers have contracted silicosis, with 16 terminal cases. Across Queensland, over 800 stonemasons have been referred for lung testing at a cost of over $1.5 million to WorkCover Queensland. Over 550 breach notices for inappropriate practices were issued as part of the audit. WorkCover Qld and the Office of Industrial Relations are currently investigating the “most effective return to work and vocational rehabilitation support practices” for workers with this condition. In March 2019, one worker died after being diagnosed with advanced silicosis.

A SafeWork NSW blitz last year resulted in 114 notices to cease or improve practices. The NSW Government has developed a five-year strategy to address the problem, including training resources, business rebates, conducting research and reviewing regulations. icare is partnering with SafeWork NSW to assist with its Roadmap 2022 to eliminate injuries and silicosis disease associated with exposure to RCS.

In Victoria, over 300 notices were issued, with 44 workers lodging WorkCover claims for silica-related conditions between July 2018 and March 2019. On 1 May, the Victorian Government announced a state-wide ban on uncontrolled dry cutting, a tougher compliance code for working with materials containing RCS, free health screenings for stonemasons, and an awareness campaign to highlight the risks of silicosis.

The South Australian government has committed $400,000 in funding for free health screenings of workers in the engineered stone industry, as well as providing information and support services.

There was also a push for a national silicosis register at the COAG Health Council meeting in October 2018. There have also been calls by the Cancer Council of Australia, unions and lawyers to reduce the national workplace exposure standard of RCS (0.1 mg per cubic metre over 8 hours) to at least match the standard introduced in the US last year (0.025 mg/cubic metre). The Victorian Workplace Minister said the state will lobby for the national standard to be dropped to 0.02 mg/cubic metre, among other regulatory changes.

Class Action?

Slater and Gordon recently announced it is investigating a potential class action on behalf of all Australian stonemasons diagnosed with silicosis and other respiratory diseases as a result of working with engineered stone. The class action will seek to supplement employees’ workers compensation benefits.

What Next?

To date it appears that cases of silicosis are contained to groups of workers with high levels of exposure to RCS. As such, an ‘epidemic’ across a large proportion of the population seems unlikely as relatively few people will meet these high exposure levels, which is different to asbestos where single exposures can lead to mesothelioma. As each state completes its safety audits, workers compensation claims (including common law claims) are likely to emerge.

The key activity now is prevention – safer systems of work, including personal protection devices. If this is achieved, the health problem (and consequential workers compensation claims) should be contained to workers numbering in the hundreds rather than thousands.

Sources

ACT ACT Workers’ Compensation Review of Scheme Performance to 30 June 2018, April 2019, prepared by Finity Consulting

Comcare Comcare website

NSW icare website

QLD Worksafe QLD website

SA RTWSA website; Scheme Actuarial Valuation as at 30 June 2018, August 2018, prepared by Finity Consulting

TAS WorkSafe Tasmania website; Suggested Industry Premium Rates for 2019/20, April 2019, prepared by PwC

VIC WorkSafe Victoria website

WA WorkCover WA website

Silicosis News articles from ABC, SBS and other news organisations; icare, NSW Government, RTWSA, Safework Australia, Victoria Premier and Slater and Gordon websites.
Finity’s Workers Compensation Team

Finity is one of Australia and New Zealand’s leading actuarial and management consulting firms. Our dedicated workers compensation team has extensive knowledge of accident compensation issues, and is passionate about understanding both the financial dynamics and the social and community objectives of schemes. We combine our experience, industry insight and research with rigorous technical analysis to help you strengthen your business.

Finity also specialises in general and health insurance, working closely with large and niche insurers as well as government agencies to deliver world-class actuarial, pricing and strategic advice. We provide Appointed Actuary services to around 37 APRA and RBNZ-regulated general insurers.

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