

# Major changes to Workers Rehabilitation and Compensation 1<sup>st</sup> July 2010

Major reforms to the *Workers Rehabilitation and Compensation Act 1988* commence on 1 July 2010. They will change how injured workers are managed and assisted to return to work.

These changes follow a major review of workers rehabilitation and compensation and consultation with employers, workers, insurers, unions and industry groups.

The reforms are designed to provide for fairer compensation and support for injured workers and their families while ensuring the scheme remains affordable.

A major focus is to get workers back to work sooner, as returning to work is often the best therapy for injured workers. The reforms provide for early intervention and a team-based approach to help with an injured worker's treatment, recovery and return to work.

There will be major changes to:

- the notification, claim and settlement processes
- step down provisions for the payment of weekly benefits whilst a worker is away from work
- the amounts available for permanent serious injury
- access to common law claims for damages

More detailed information on the key changes can be found in the attached table:

(NOTE: The changes will have no impact on benefits and entitlements for existing claims.)

| Requirements  | Key Changes   | Benefits   |
|---|---|--|
| <p><b>Employer Injury Management Programs</b></p> <p>An injury management program is a series of documented policies and procedures that establishes a co-ordinated and integrated process for injury management.</p> | <p>Employers will be required to have an injury management program in place and operate in accordance with it. The injury management program may be developed by the employer or alternatively, the insurer's injury management program may be used.</p>  | <p>The introduction of injury management programs aims to drive a shared commitment to the injury management process, where all parties are working together toward the same goal of recovery return to work.</p>  |
| <p><b>Injury Management Co-ordinator</b></p> <p>An Injury Management Co-ordinator is a person responsible for co-ordinating and overseeing the entire injury management process.</p>                                  | <p>Employers who choose to develop their own injury management program must appoint an Injury Management Co-ordinator. Alternatively where the employer uses their insurer's injury management program, the role will in most cases reside with the insurer. The existing role of the Rehabilitation Co-ordinator will remain but the title has been changed to 'Return to Work Co-ordinator' to better reflect the nature of the role and relationship with the Injury Management Co-ordinator. Where the role of the Injury Management Co-ordinator is located in the workplace the two roles may be undertaken by the same person.</p> | <p>The introduction of the Injury Management Co-ordinator role aims to streamline the management of workplace injuries by improving co-ordination and providing a central contact for all parties.</p>   |
| <p><b>Early Intervention</b></p> <p>Early intervention ensures that injuries are reported early, so that treatment and management of the injury can commence as soon as possible.</p>                                 | <p>Employers will be required to notify their insurer of injuries within 3 working days from awareness of the injury. Employers will be required to notify their insurer of receipt of a claim within 3 working days. A worker may seek the payment of medical expenses up to a total of \$5000 before liability for the injury has been accepted. All of the injury management provisions are to apply even if there is a dispute about liability for the injury.</p>  | <p>Early intervention significantly improves the likelihood of returning to work and reduces the time required to do so. These measures are intended to ensure that a worker's treatment and rehabilitation are not delayed or disrupted by legal arguments concerning the initial claim for compensation.</p> |
| <p><b>Return to Work Plans</b></p> <p>A Return to Work Plan is a simple plan for co-ordinating and managing the treatment, rehabilitation and return to work of an injured worker.</p>                                | <p>The Injury Management Co-ordinator must ensure that a Return to Work Plan is prepared where a worker is likely to be incapacitated for more than 5 working days but less than 28 calendar days.</p>  | <p>Reducing the requirement for Return to Work Plans to be completed from 14 days to 5 days ensures that rehabilitation and return to work will commence without delay.</p>  |

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|--|---|--|
| <p><b>Injury Management Plans</b></p> <p>An Injury Management Plan is a comprehensive plan for co-ordinating and managing the treatment, rehabilitation and return to work of an injured worker.</p> | <p>An Injury Management Plan will be required where the injured worker is likely to be incapacitated for more than 28 days.</p> <p>Incapacity can be either total or partial or a combination of the two.</p>   | <p>The introduction of two types of plans ensures that considerations and preparations made for return to work are appropriate to the severity of the injury.</p>  |
| <p><b>Increased statutory compensation benefits</b></p>  | <p>The maximum compensation increases from \$237,000 to \$266,000 where an injury leaves a worker with permanent physical or psychological injury.</p>  | <p>This will assist a seriously injured worker to adjust to the loss of income.</p>  |
| <p><b>Increased payments to a dependent of a deceased worker</b></p>   | <p>The maximum amount increases to \$266,000 and payments to dependent children increase from \$67 to \$96 per week and payment for counselling services is available.</p>  | <p>This will assist dependents of deceased workers to adjust to the loss of the main income earner.</p>  |
| <p><b>Improved weekly payments</b></p>   | <p>‘step downs’ have been improved which means that when injured workers are incapacitated and away from work they will now receive:</p> <ul style="list-style-type: none"> <li>• 100% of normal weekly earnings for the first 26 weeks (previously 13 weeks)</li> <li>• 90% of normal weekly earnings after 26 to 78 weeks (previously 85%)</li> <li>• 80% of normal weekly earnings after 78 weeks.</li> </ul> <p>Further changes reduce or remove a step down where an employer is unable to provide alternative duties or where the worker has returned to as least 50% of their normal weekly hours of work.</p> | <p>Injured workers and their families will not lose as much of their pre-injury income. This is designed to reduce financial hardship and mitigate the need to make up lost income through other means e.g. social security, selling assets, other family seeking additional work.</p> |
| <p><b>Extension of entitlement to weekly payments where injuries are serious</b></p>   | <p>The period of entitlement is increased from 9 years to 12 years for workers left with a permanent impairment (WPI) of between 15% and 19%; to 20 years with a WPI between 20% and 29% and to age of retirement for WPI of 30% or more.</p>   | <p>The amendment will extend weekly payments for more seriously impaired workers thereby providing greater income security and less reliance on tax payer funded programs. It will provide fairer compensation for workers unable to access common law damages.</p>                    |

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|--|---|--|
| <b>Extension of entitlement to medical and other expenses in certain circumstances</b>   | The 10 year limit is removed. A worker's entitlement will cease 52 weeks after the worker's entitlement to weekly payments expires. However the Tribunal may approve the payment of an expense after that date where surgery is required to maintain a worker at work; to repair or replace a prosthesis or to maintain a worker's ability to undertake daily activities. | The amendments remove the arbitrary time limit and will ensure that workers who require surgery or replacement of prosthetics are able to access those services over a longer period than previously.  |
| <b>Reduced threshold to enable injured workers to seek common law damages</b>  | The permanent impairment threshold is reduced to 20% (previously 30%).  | This will allow more seriously injured workers to have access to common law 'lump sum' damages.  |
| <b>Increased scrutiny of settlements of workers compensation claims</b>  | The Tribunal will have to approve any settlement within 2 years of the date of claim.   | This will make settlements more transparent and ensure all reasonable rehabilitation, return to work and retraining options have been exhausted before a settlement is considered. It will also ensure workers are fully aware of the financial and legal implications of settling claims. |
| <b>Improved access to payment of household services where such services are necessary for the proper running of an injured worker's home</b> | A definition of 'household services' is inserted to enable a worker to claim the cost of cooking, cleaning, laundry and gardening services where the service is not provided by a member of the family.   | This change clarifies and extends the range of services that may be covered. Previously some of these services were covered under the definition of a rehabilitation service.  |
| <b>Workers to nominate primary treating medical practitioner</b>   | A worker is required to notify their employer as soon as practicable of the name of the person that the worker has chosen to be his or her primary treating medical practitioner.   | This change is aimed at improving the management of the workers injury by streamlining communication and reporting.  |

A range of publications are available at: [www.wst.tas.gov.au](http://www.wst.tas.gov.au)

Legislation can be downloaded at: [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au)

For further assistance contact the Workplace Standards Tasmania Helpline 1300 366 322.

#### CONTACT DETAILS

Workplace Standards Tasmania

PO Box 56 ROSNY PARK TAS 7018

Phone: 1300 366 322 (Inside Tasmania) 03 6233 7657 (Outside Tasmania) Fax: 03 6233 8338

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au) Web: [www.wst.tas.gov.au](http://www.wst.tas.gov.au)

