Workers Compensation Insurance in WA

Western Australian Workers Compensation & Injury Management Act 2023 (the Act)

In Western Australia, you must hold a current and paid workers compensation policy when you employ anyone considered by the Act to be your worker. This is a compulsory legislative requirement under the Act.

How does workers compensation insurance work?

Western Australia's 'no-fault' workers compensation system makes employers liable to pay an injured worker compensation regardless of who was at fault for the injury. A workers compensation policy transfers the employers liability to the insurer who pays the costs and expenses arising from a workers compensation claim.

WorkCover WA is the government agency that is responsible for regulating and administering the workers compensation scheme in Western Australia under the Workers Compensation and Injury Management Act 2023.

Your Rights and Obligations as an Employer are detailed in WorkCover's website providing a wealth of information about workers compensation insurance for employers, workers, health and service providers and other interest parties. Details about your rights and obligations as an employer are available here.

Who provides Workers Compensation Insurance?

Several insurance companies are licenced by WorkCover to issue policies and to manage and pay claims.

Cover for Work-Related Injury or Disease

Generally, workers compensation policy coverage will apply when a person who is considered by the Act to be your worker suffers a work-related injury or disease incurred performing work-related duties at the work-place.

Prescribed Benefits

The Act sets out the prescribed benefits (and applicable limits) payable which generally include doctor's, medical, pharmaceutical, hospital, surgical, rehabilitation costs and wages reimbursements.

Common Law Cover

Common Law liability (limited to $50m) is automatically included.

Optional Cover Extensions

These extensions may be available upon application by us on your behalf to the insurer;

- Principals Indemnity for Act Benefits and Common Law with Waiver of Subrogation
- Increased Common Law to $100m or $200m

Additional premium usually applies.

Not Covered: Sole Traders, Partners, Volunteers, Students, Under-Age Workers

Sole traders and partners in partnerships, volunteers, students and underage workers are not covered.

Journey Injury – Not Covered (from Home to Work and from Work to Home)

There is no cover for injury incurred by any worker during a journey from home to work or work to home.
A **Journey Injury Policy** may be available; call us to enquire.

Who Are Your Workers?

See over the page...

Who Are Your Workers?

General Workers

These are your directly employed staff; full time, part time or casual workers.

Working Directors

Optional cover, and they must be named on the policy for cover to apply with their remuneration suitably declared. Minimum declarable remuneration requirements apply.

Individual Contractors

The Act can consider an individual to be your worker even when they have an

- ABN
- are registered for GST
- have a Pty Ltd company
- or are described as self-employed

Read more about **Individual Contractors** here and go to our **Individual Contractor Assessment** here to determine if you have to declare the remuneration you pay to individual contractors and pay the applicable premium.

When you are a Principal engaging Contractors to do the work of your business

If you are a principal employer with a contractual arrangement with a contractor for work that is directly a part of your trade or business, then both you and the contractor are considered to be the employers of any workers the contractor may employ

- and you cannot show that your contractor who employs their own workers
  – holds their own workers compensation policy
  – which indemnifies (covers) both the contractor and you as the 'Principal'
- then, under your workers compensation policy
  – you are required to declare the remuneration your contractor pays to their workers
  – if you don't know the remuneration amount you are required to declare the total contract value
  – and pay the premium applicable to either the remuneration amount or the total contract value
- **unless** you can demonstrate that
  – the contractor holds their own current and paid workers compensation policy
  – and their policy indemnifies (covers) you as the Principal under a *Principal's Indemnity* extension

What you need to do

Ensure the contractor has their own workers compensation policy that has a

- *Principal's Indemnity* extension naming you as the Principal and the extension is for

"*Act Benefits and Common Law with a Waiver of Subrogation against the Principal*"

- the contractor must provide you with a Certificate of Currency from their insurer, and
- the Certificate must show you/your business named as the Principal under the extension

This is an ongoing requirement for as long as you are a principal employer with contractual arrangements with contractors. Obtain new certificates of currency at the renewal date of each contractor's policy.

More from WorkCover about Contractors

For further information refer to WorkCover WA's publication;
Workers compensation insurance for contractors here.

The Premium Payable for your Policy

Generally, the premium you pay is dependent on

- the amount of remuneration you pay to workers
- the industry your business is in and the activities of your business
- the premium rating code (PRC) for your business (also referred to as an ANZSIC code)
- the Workcover WA recommended premium rate
- your previous workers compensation claims
- any discount or loading applied by the insurer
- the insurer' minimum premium, if applicable
- our fee for services
- gst
- stamp duty may apply in certain circumstances

Follow this link to WorkCover's Industry Classification Order which details Premium Rating Classifications (PRC Codes) by industry, for which WorkCover issues recommended premium rates.

What Is the Definition of Remuneration?

Remuneration includes (but is not limited to) the gross sum including tax of any of the following;

- wages and salaries
- commissions
- bonuses
- overtime and other allowances
- directors fees
- superannuation contributions except the Superannuation Guarantee Levy (SGL)
- fringe benefits
- payments in lieu of leave entitlements
- all other cash or non-cash benefits paid to, or in relation to a worker including working directors or contractors

Follow this link to access WorkCover WA Remuneration Guidelines for more information about what is, and what is not declarable remuneration.

Premium Adjustment at End of Policy Year

The premium you pay will be adjusted at the end of the policy year on the difference between your estimated remuneration declared at the beginning of the policy year and your actual remuneration declared at the end of the policy year. An adjustment premium may be payable by you, or you may be entitled to a credit.

Remuneration Audits

The Act allows Insurers to undertake audits (including retrospectively on previous policy periods) to verify that you have declared the correct remuneration.
Where a discrepancy is found between what you declared and the true remuneration paid, adjustment premiums may be payable by you, or you may be entitled to a credit.

Working from Home

Determining if a worker is entitled to compensation for an injury or disease whilst working from home will depend on whether or not the injury or disease arose out of or was incurred in the course of employment and if the worker was acting under the employer's instructions.
Other factors may apply and each claim is considered on its individual merits having regard to factual and medical circumstances and relevant evidence.

WA Workers Interstate

When a worker who is domiciled in WA is temporarily working interstate, cover under your WA policy applies. If the interstate work is for more than a month, please call us to discuss.

WA Workers Overseas

If a worker is required to go overseas, call us before the trip begins. The insurer should be advised and your policy may need extending (additional premium may apply). You may also need to purchase Corporate Travel Insurance.

Other Australian States and Territories

All States and the main Territories of Australia have their own Workers Compensation legislation. Generally, an employer must have a policy in each State or Territory where it operates and has workers that are domiciled and working in those States and Territories.

New South Wales, Queensland, South Australia and Victoria

The workers compensation schemes in these States is generally operated and managed internally by each State's own government agencies. Insurers have little or no involvement in policies but may undertake claims management. Insurance broker involvement is limited.

Follow these links to find out more or to arrange a policy;

NSW

QLD

SA

VIC

Western Australia, Australian Capital Territory, Tasmania and Northern Territory

In these States and Territories, the workers compensation schemes have full insurance company and insurance broker involvement. WorkCover Western Australia actively encourages broker involvement.
To ensure you comply with your obligations we can assist you directly with advice, obtaining quotations, arranging policies and lodging claims in these States.

Lodging a Claim

There is a **claim form** to be completed by both employer and worker, an **employer's report** to be completed by the employer, and the worker must initially obtain a **first (medical) certificate of capacity**. All of these documents must be submitted to us to lodge a claim with the insurer for them to consider acceptance of the claim.

When a Claim is Accepted by the Insurer the employer and worker will be financially protected from medical, hospital, surgical, pharmaceutical, rehabilitation and other acceptable costs and expenses.
In addition, the employer will be refunded the ongoing payment of the injured workers' wages whilst the worker is unable to work. All benefits are subject to the provisions of the Act.

Injury Management System and **Return to Work Program**

WorkCover regulations require employers to have in place an Injury Management System (IMS) and a Return to Work Program (RWP). To assist you with creating your own IMS and RTW documents you can download templates here.

Have any queries or need further understanding?

Please call us .. we're happy to help.

General Advice Warning

This advice is general in nature and does not replicate the terms and conditions of the applicable policy, the Act or other legislation, which combined, will prevail over this advice and are the final arbiter should there be a policy issue of any description and in determining the extent of cover and indemnity available for a claim.