



## WORKERS' COMPENSATION POLICY

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### PRINCIPLES OF WORKERS' COMPENSATION POLICY

ACCI is committed to the achievement of best practice workers' compensation arrangements for the protection and treatment of workers in respect of workplace injury and disease.

### POLICY OBJECTIVES

ACCI's overarching policy objective is to achieve nationally-consistent workers' compensation schemes.

Specific policy objectives include:

- reform of existing workers' compensation schemes;
- promotion of a nationally-consistent benefits structure;
- promotion and encouragement of rehabilitation and early return to work; and
- promotion of a positive incentive-based premium system, encouraging improved performance.

### THE POLICY FRAMEWORK

ACCI believes there is considerable scope to further reduce the human and economic loss that arises from injury and disease at work. The total cost of work-related injury and disease is borne by workers, employers and the community at large.

The member organisations of ACCI are committed to a workers' compensation environment that seeks to reduce the incidence and cost of workplace injury and illness.

Workers' compensation and complementary arrangements can play a vital role in improving workplace health and safety. They can encourage prevention of work-related injury and disease, compensate for such disabilities when they occur and make provision for rehabilitation and early return to work as a normal expectation.

One of the key objectives of any workers' compensation system must be to create an incentive for injured employees to return to work, with adequate compensation while undergoing rehabilitation.

A workers' compensation scheme must be fully self-funding with experience-rated premiums and incentives to prevent injuries and rehabilitate injured workers.

In order not to become expensive, inefficient and subject to abuse, a workers' compensation system must incorporate the following features within a Total Injury Management approach:

- injury prevention, with a view to minimising work-related injuries;
- rehabilitation, with a view to ensuring early return to work by injured or ill workers;

- employee responsibility to cooperate with their employers in injury prevention and return to work; and
- the identification and recognition of costs which should properly be borne by the general community rather than only employers.

In pursuing these fundamental principles and objectives, ACCI believes that the following elements must be contained in every workers' compensation scheme:

### **Employer Responsibility**

In order that workers are adequately protected, all workers' compensation schemes must operate on a "no-fault" basis.

For the "no fault" principle to work effectively, it must be shown that the injury or illness truly arose out of or in the course of employment, or that employment played a major or significant part in the development of the injury or disease.

Common law has no place in a "no-fault" workers' compensation system. Common law is based on an adversarial system, which inhibits the rehabilitation process and the normal expectation of a return to work by encouraging both parties to become entrenched in their adversarial roles in order to achieve maximum gain. However, if common law is to be retained it must be restricted to those seriously injured, leading to severe disability or death and balanced against the total benefits provided to injured workers under the scheme.

Injuries sustained by workers while travelling to and from work should not be included in any workers' compensation scheme. Such injuries or illnesses cannot properly be said to have a direct causal connection with work to qualify them as work-related injuries.

### **Benefits Structure**

All workers' compensation systems must have a benefits structure that provides adequate compensation for injured workers and, at the same time, encourages them to remain at or return to work. Weekly benefits to injured workers should be based on the worker's pre-injury ordinary time earnings, excluding over-time. At all stages, a worker's entitlements to weekly benefits must be determined by having regard to the worker's level of incapacity. Weekly benefits should be capped at a level which is affordable by the scheme.

Only workers who have a permanent total or partial impairment or loss of use of any part of the body should be entitled to a lump sum payment under the table of maims. Such payments must take into account the worker's pain and suffering as a result of the injury.

### **Premiums**

Premiums should be based on claims experience so as to provide an incentive to employers to prevent workplace injuries. In addition, this will reduce cross-subsidisation and provide a framework within which all employers pay their true-risk premium. Claims costs relating to a particular claim must only be included in an employer's premium calculations for a defined period of time. Containment of premiums at an affordable and stable level is vital to the continuing viability of business generally. Incentives that encourage rehabilitation assist in these aims.

Given the difficulties associated with applying fully experience rated premium systems to small businesses, it is important that all workers' compensation schemes contain additional incentives, which will encourage accident prevention in small businesses. These incentives need not be included in the premium system. Given that the majority of Australian businesses are small to medium-sized businesses, all workers' compensation schemes need to address the special needs of small businesses as a priority.

## Rehabilitation and Return to Work

Rehabilitation and return to work should be the cornerstone of all workers' compensation systems.

All workers' compensation schemes should incorporate a Total Injury Management System and seek to achieve a return to work culture by encouraging both employers and employees to actively participate in rehabilitation programs for their workplaces.

This can be done by:

- encouraging employers to provide, as far as practicable, suitable duties for an injured worker for an appropriate period of time, but at the same time recognising the difficulties faced by small and medium sized businesses in meeting this objective;
- encouraging employers to establish rehabilitation programs for their workplaces and implement return to work plans for injured workers;
- encouraging workplace-based rehabilitation and early referral;
- linking an injured worker's entitlement to ongoing weekly benefits to their participation in rehabilitation, including return to work;
- encouraging the re-training of injured workers to enable them to return to their pre-injury employment or other employment; and
- emphasising the benefits of early return to work and resultant lower premiums.

## Insurance Regulation

Wherever possible, private insurers should have the right to participate in every workers' compensation scheme irrespective of whether it is a fully privatised scheme or a government monopoly. As much as possible the requirements governing the operation of private insurers should be consistent across all States. Competition amongst insurers should be encouraged as this will result in improvements in the quality of service being provided and ultimately result in lower workers' compensation premiums.

All workers' compensation schemes should provide for self insurance of suitably credentialed employers. The requirements for self insurance should as much as possible be consistent across all jurisdictions.

## National Consistency

ACCI is committed to the achievement of nationally consistent workers' compensation schemes. In order to ensure equity and fairness, it is important that all workers' compensation schemes are consistent in their approach. There should be cooperation between jurisdictions in order to identify those elements that should, as far as possible, be consistent across all schemes.

However the pursuit of consistency should, in order to achieve the best outcomes, involve consultation with all relevant parties.

In particular, consistency should be sought in the following areas:

- access and entitlement - the definition of key terms such as "injury", "worker" and "independent contractor"  
These must be clear and take into account changes in the labour market, especially the increased contracting out of

services;

- premiums - formulae for the calculation of premiums, especially integration to matters such as the definition of remuneration and experience rating. The double payment of premium by employers who operate in more than one State/Territory must be avoided;
- benefits - definitions and classification of the various levels and periods of incapacity, the calculation of weekly payments, access to common law and lump sum payments;
- insurance regulation - the licensing, monitoring and auditing of insurers, self insurers and other providers, self insurance arrangements or requirements and workers' compensation reporting and statistics requirements;
- rehabilitation - employers' and employees' obligations on rehabilitation and return to work and accreditation and monitoring of occupational rehabilitation providers; and
- dispute resolution - the use of cost-effective alternative dispute resolution mechanisms is critical to the maintenance of an affordable workers' compensation system. Legal costs should be kept to a minimum.

For further information:

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