

Changes to the *Accident Compensation Act 1985*

A summary

The Victorian Parliament has passed the *Accident Compensation Amendment Bill 2009*. The Bill contains reforms to the *Accident Compensation Act 1985* and associated legislation.

The following table provides a summary of the key changes and when they come into effect.

Who do the changes affect?	Summary	Date of effect
Workers	Entitlements <ul style="list-style-type: none"> Increase in the no-fault maximum lump sum entitlement for a permanent impairment from \$409,200 to \$503,000. A 10% increase in no-fault lump sum entitlements for some workers who are compensated for spinal impairments only. Increase in the no-fault lump sum entitlements to workers with a permanent psychiatric impairment assessed at the existing 30% whole person impairment threshold, from \$13,650 to \$68,240. 	10 December 2009
Workers	Entitlements <ul style="list-style-type: none"> Increases in weekly payments from 75% to 80% of pre-injury income after workers have received payments for longer than 13 weeks. Superannuation contributions at the superannuation guarantee rate (currently 9%) for workers still receiving weekly payments after 52 weeks, calculated as a percentage of the worker's weekly payments. Increased compensation for workers entitled to overtime and shift allowances by extending the time for which these allowances are taken into account in the calculation of weekly payments, from 26 weeks to 52 weeks. Increase in the statutory maximum for weekly payments to twice Victoria's average weekly earnings, currently \$1,760. Entitlement to weekly payments for up to 13 weeks for injured workers who have returned to work, but who require surgery for their work related injury where they have already received weekly payments for 130 weeks. 	5 April 2010
Family members	Payments <ul style="list-style-type: none"> Increase in the maximum lump sum payment for dependants following a workplace death from \$273,970 to \$503,000. The surviving partner who was living with a worker at the time of death will be deemed to be dependent on the earnings of the deceased worker. Except in certain circumstances, claims can be determined without the need to go to court. Extend eligibility to pensions and lump sums for dependent children of deceased workers up to the age of 25 who are undertaking full-time study or a full-time apprenticeship. 	10 December 2009

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Who do the changes affect?	Summary	Date of effect
Workers	<p>Protection against discrimination</p> <ul style="list-style-type: none"> ▪ Enhanced protection against discrimination for workers making or pursuing compensation claims. ▪ Expanded penalties for discrimination. ▪ The ability to seek a review of WorkSafe's decision not to prosecute discrimination. ▪ A new right for a worker to bring their own action to address discrimination in the Magistrates' Court. 	1 July 2010
Employers	<p>Request for information</p> <ul style="list-style-type: none"> ▪ An employer will be able to request from their Agent a written statement of reasons explaining why certain claims for compensation were accepted or rejected. 	5 April 2010
Workers	<p>Claims lodgement</p> <ul style="list-style-type: none"> ▪ Workers will be able to fill out an electronic claim form on the WorkSafe website and submit it with a signature via fax, and with the employer's consent, by email. 	5 April 2010
Workers	<p>Return to work</p> <ul style="list-style-type: none"> ▪ Introduction of a staged approach to the consequences for workers who do not comply with their return to work obligations. ▪ WorkSafe will develop supporting materials which will clearly set out how to comply with obligations for workers. 	1 July 2010
Employers	<p>Return to work</p> <ul style="list-style-type: none"> ▪ Introduction of simple and clear return to work obligations for employers, reducing the emphasis on 'paper compliance' and focusing on achieving return to work outcomes. ▪ Return to work inspectors will continue to provide assistance and guidance to employers, however they will, where necessary, have the ability to issue notices requiring compliance. ▪ Tougher penalties for employers who fail to comply with their return to work obligations. ▪ Introduction of the ability to seek a review of WorkSafe's decision not to prosecute alleged return to work breaches by employers. ▪ 'Host' employers will be required to co-operate with labour hire employers on the return to work of a worker who is injured while 'on hire' to the 'host'. ▪ WorkSafe will develop supporting materials which will clearly set out how to comply with obligations for employers. ▪ A nine month transitional period will be implemented between 1 July 2010 and 31 March 2011 to enable employers with existing claims to adjust to the changes in return to work obligations. 	1 July 2010
Employers	<p>Premium</p> <ul style="list-style-type: none"> ▪ The right for employers to request a review of statistical case estimates where there are data errors. ▪ Access to a formal internal and external review process if employers dispute their premium. ▪ Regular review of premium setting by an independent body. ▪ Introduction of new premium avoidance measures and revised penalties to encourage premium compliance. ▪ Changes to the definitions of remuneration which will more closely align with the Victorian payroll tax system and WorkCover New South Wales. ▪ Ability for trustees to hold multiple policies for independent businesses run under trusts. 	1 July 2010

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Workers	Dispute resolution <ul style="list-style-type: none"> ▪ Conciliation Officers will be able to direct WorkSafe or a self-insurer to pay the reasonable costs of medical and like expenses up to \$5,000 at conciliation. ▪ Reimbursement of workers transport costs to attend a conciliation conference capped at \$50 per conference. ▪ Reimbursement of lost income sustained by a worker when attending a conciliation conference capped at \$350 per day. 	5 April 2010
Self-insurers	Self-Insurance arrangements <ul style="list-style-type: none"> ▪ WorkSafe has the discretion to allow subsequent approvals of self-insurers (following the initial three year approval period) to extend from four to six years for self-insurers who have driven improvements in safety, injury management and return to work. ▪ Self-insurers are no longer required to provide a yearly report to WorkSafe of common law proceedings; however they are required to notify WorkSafe of any strategically significant matters. ▪ Claims management policies must now be documented and provided to their workers and WorkSafe. ▪ WorkSafe is able to extend the term of approval for a self-insurer that is undergoing a corporate restructure, such as when it acquires or sells a subsidiary company, or where a self-insurer is taken over by a holding company. ▪ A self-insurer is able to manage the claims of a company that it acquires. ▪ A self-insurer has more flexibility in choosing the limits in its contingent liabilities insurance policy. 	1 July 2010
Service providers	Controls on professional conduct <ul style="list-style-type: none"> ▪ New powers for WorkSafe to suspend payments to a service provider whilst they are under investigation for a breach of the Act and to disqualify service providers from the scheme. 	5 April 2010

* All figures are current as at 10 March 2010

Further information

For general information about the changes, visit worksafe.vic.gov.au or call **WorkSafe** on **(03) 9641 1444** or freecall **1800 136 089** for free confidential information.

For specific questions about the changes to the legislation email act_review@worksafe.vic.gov.au

If you are an employer or an injured worker, your WorkSafe Agent will be able to provide you with information relating to your individual circumstances.

WorkSafe is a trading name of the Victorian WorkCover Authority

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