

# Workers Compensation

## What is Workers Compensation?

Workers Compensation is a form of insurance payment to employees if they are injured at work, or become sick due to their work. Workers Compensation includes payments to employees and subcontractors deemed to be employees to cover their wages while they are not fit for work, their medical expenses and rehabilitation. Workers Compensation Insurance (also called WorkCover) is an insurance paid by employers. Workers Compensation Insurance is required for all businesses with employees, including directors (some states optional for directors). An employer or PCBU (Person Conducting a Business Undertaking) has detailed obligations to their workers – this information is available from the state website and goes beyond the realm of the bookkeeper's responsibility. This document is concerned with the areas of Workers Compensation that a bookkeeper is most likely to be involved with.

Each state and territory has their own regulator that administers and gives advice on Workers Compensation.

State	Legislation	Insurer Name and Website	Phone
<b>ACT</b>	Workers Compensation Act 1951	Access Canberra <a href="http://www.accesscanberra.act.gov.au">www.accesscanberra.act.gov.au</a>	13 22 81
<b>NSW</b>	Work Health and Safety Act 2011	icare <a href="http://www.icare.nsw.gov.au">www.icare.nsw.gov.au</a>	13 44 22
<b>NT</b>	Work Health and Safety Act 2011	NT WorkSafe <a href="http://worksafe.nt.gov.au">worksafe.nt.gov.au</a>	1800 019 115
<b>QLD</b>	Workers Compensation and Rehabilitation Act 2003	WorkCover Queensland <a href="http://www.worksafe.qld.gov.au">www.worksafe.qld.gov.au</a>	1300 362 128
<b>SA</b>	Work Health and Safety Act 2012	ReturnToWorkSA <a href="http://www.rtwsa.com">www.rtwsa.com</a>	13 18 55
<b>TAS</b>	Workers Rehabilitation and Compensation Act 1988	WorkSafe Tasmania <a href="http://worksafe.tas.gov.au">worksafe.tas.gov.au</a>	1300 366 322
<b>VIC</b>	Accident Compensation Act 1985	WorkSafe Victoria <a href="http://www.worksafe.vic.gov.au">www.worksafe.vic.gov.au</a>	1800 136 089
<b>WA</b>	Workers Compensation and Injury Management Act 1981	WorkCover WA <a href="http://www.workcover.wa.gov.au">www.workcover.wa.gov.au</a>	1300 794 744

## Calculation of Rateable Remuneration

Period of cover and policy renewal dates vary from state to state and with insurers. Each state/insurer has its own calculator and/or table of inclusions/exclusions regarding rateable remuneration – please refer to relevant website or insurer. Simple example:

	Calculation Steps	Values
<b>A</b>	Gross Wages	\$
<b>B</b>	Payments to Rateable Contractors	\$
<b>C</b>	Taxable Value of FBT i.e. M/V Salary Package	\$
<b>D</b>	Superannuation Contributions	\$
<b>E</b>	Other e.g., Directors, Commission	\$
	<b>Total of A to E</b>	<b>\$</b>

### Apprentices

- In some states there are concessions or exemptions for apprentice wages, including superannuation when calculating the Rateable Remuneration, so make sure you check to see if it applies to your client. There are also conditions on the apprenticeship or traineeship, so check full details with your state regulator.
- QLD Apprentices wages discount: when declaring wages, employers need to declare all wages paid to workers (including apprentices). WorkCover will then deduct the apprentice's wages from the premium calculation.

### Interstate Workers

If employees are employed in another state (or more than one state), there is a requirement to check with the State legislative body and insurer. Each state in Australian is a different jurisdiction for Workers Compensation purposes, so it is important that you determine how your state deals with this. Some states have a test that the employer can do to determine which state an employee falls in. Some of the tests may be:

- What state do they normally work in?
- What state are they usually based in – what is the 'state of connection'?
- Where are the employer's business activities managed or controlled from – the principal place of business?

### Working Directors

A working director (in relation to a company) means a director who executes work for, or on behalf of, the company, and whose earnings as a company director by whatever means, are in substance for a personal manual labour or services. The regulations vary from state to state.

State	Regulations
<b>ACT</b>	Compulsory for working directors to be covered by Workers Compensation Insurance. Optional for non-working directors.

State	Regulations
NSW	Working directors of a corporation are considered employees of the corporation, so compulsory to be covered by Workers Compensation Insurance. Optional for non-working directors.
NT	Director only covered if company has taken out a Workers Compensation policy with an approved insurer, and personal details and remuneration disclosed to insurer.
QLD	Directors <b>not</b> covered. Directors can take a Personal Injury Policy offered by WorkCover QLD, or income protection/disability/life insurance of their own.
SA	Payments (expensed as salary, wages or super) made to company directors for work performed by the director are covered. Compulsory for working directors to be covered by Workers Compensation Insurance. Optional for non-working directors.
TAS	Compulsory for working directors to be covered by Workers Compensation Insurance. Optional for non-working directors. WorkSafe Tasmania states “A working director is a director of the company whose earnings as a director are for personal labour or services”.
VIC	Compulsory for working directors to be covered by Workers Compensation Insurance. Optional for non-working directors.
WA	Optional for working directors. To be covered, working directors of a P/L company must be named on the policy. Non-working directors excluded. – see <a href="#">WorkCover WA – Workers’ Compensation and Working Directors</a>

## Over 65’s

### Are they covered for Workers Compensation?

Age restrictions on Workers Compensation payments and insurance cover can apply, which may result in those workers being unable to be covered in the workplace in the event of an accident. For example: in Victoria, while working past the age of 65, employees are covered by Workers Compensation, and are eligible for Workers Compensation as per the Workers Compensation policy. However, if they are injured prior to the age of 65, then the payments cease at age 65 (though other government agencies may cover the payments).

It is important that you check with your state regulator and insurer to determine if any age restrictions apply to older workers and notify these workers of the state policy.

In WA for example, insurance cover is required for all workers regardless of age. Injured workers 65 years old and older can access worker’s compensation on the same terms as other injured workers.

## Is a Contractor a Worker for Workers Compensation?

Contractors may operate as sole proprietors, partnerships, companies or through family trusts, but still be deemed a worker.

It is not always easy to determine whether a contractor should be deemed a worker and therefore part of the calculations for Workers Compensation. If it is not clear, there are key indicators that may be applied to arrive at a conclusion. One or two factors alone will not determine whether employee or contractor, nor will the contract alone. If in doubt, consult the state legislation body for a ruling on the situation. What is imperative is that all workers have adequate compensation in case of injury.

All states have the same test of contractor vs. employee. These key test factors include:

- **Control & Direction Test:** If the employer **controls** the service provided on how and when they do it and the hours worked, then they are likely to be deemed a worker. If, however, the contractor has the right to delegate the work, quote the job for estimation of time to complete job, and determine the work to be done, then they are an independent contractor.
- **Integration Test:** If the contractor shows they have other clients and are presented to the public as a business, and produce a profit or loss of business, then they are more likely to be an independent contractor, and not an integral part of the employer's business.
- **Results Test:** If the contractor is hired to produce a result and complete specific tasks, the contractor is more than likely to be an independent contractor.
- **Risk Test:** If the contractor is exposed to risk of the job, prepared to fix any problems or errors, and exposed to a possible profit or loss on the job, then he would be deemed a contractor.

### Workers Compensation regulations for subcontractors vary for each state:

Generally speaking, a sole trader cannot take out Workers Compensation insurance to cover themselves in the event of injury. It is recommended that a sole trader take out other appropriate insurance like personal accident, illness, disability, death policy, or a suitable income protection policy to keep themselves covered. Sole traders employing workers will still need to take out Workers Compensation insurance to cover employees.

State	Regulations
ACT	For the purpose of Workers Compensation, the definition of a worker may also include regular contractors and casuals. If a contractor does not have adequate Workers Compensation to do the work, then the client is required to cover the contractor for Workers Compensation.
NSW	Subcontractor must sign a NSW Subcontractors Statement proving Workers Compensation has been paid to do the work for the client otherwise under principal contractors Workers Compensation.
NT	Legislation provides that the Principal Contractor (PC) is liable for claims by workers of their subcontractors, and that the PC is entitled to be indemnified by those subcontractors. The PC can make sure that their subcontractors have Workers Compensation insurance for their workers.
QLD	If contractor is an individual/sole trader, you are required to use the ATO employee/contractor tool to determine if they are considered an employee. If another entity type Company/Trust/Partnership, then they are not included in Workers Compensation calculations.
SA	Self-employed contractors are 'deemed' workers for the purpose of the <i>Return to Work Act 2014</i> . Principal Contractor (Business Owner) must ensure that all subcontractors' workers have the correct Workers Compensation. Subcontractors who are sole traders must go under the principal contractors' Workers Compensation.
TAS	Under the <i>Work Health and Safety Act 2012</i> , a worker is someone who carries out work for a PCBU, such as a direct employee, contractor, subcontractor, or employee of a contractor or subcontractor. Subcontractors are therefore included in work compensation of the PCBU, and at times may have shared Workers Compensation obligations. Sole Traders become a worker for the principal contractor for the period of work.

State	Regulations
VIC	<p>Business' responsibility is to check when contractor is hired whether the contractor is considered a 'worker' for Workers Compensation purposes by WorkSafe. If yes, the business effectively becomes their employer for WorkCover insurance purposes, and must be included. This is regardless of the business structure used by the contractor.</p> <p>– see <a href="#">WorkSafe Victoria – Contractors and workers guideline</a></p>
WA	<p>If a Business (Principal) engages a Contractor to work for the principal's normal trade/business, both parties are liable to cover any workers the contractor may employ. Each party must have a Workers Compensation policy. Principals should ensure that all contractors have current Workers Compensation insurance policies. For a sole trader who cannot obtain their own Workers Compensation, the principal must include the contractor in their Workers Compensation if their work is deemed labour.</p> <p>– see <a href="#">WorkCover WA – Contractors &amp; subcontractors</a></p>

## Obligations in the Workplace

### Obligations of the Employer

- Make the workplace safe.
- Insure your workers in case of injury or death.
- Complete the Declaration of Rateable Remuneration form, per annum, to estimate what will be the remuneration (wages) for the coming year.
- If remuneration changes from estimate stated on declaration of rateable remuneration form, notify insurer of the variance. Timeframes for this differ with state bodies, so check your state body to determine when you need to report.

### Obligations of the Employer if Employee Injured

- Make a compensation claim form available to the worker.
- Keep a Register of Injuries to record every workplace accident.
- Forward claim form to insurer within 3 days after receiving from injured employee.
- Pay injured employee using personal leave first, then annual leave, until Workers Compensation is received, then reverse the leave to bring in the compensation payments.
- If insurer accepts liability, employer must pay weekly compensation payments within 3 working days of the accepted claim.
- Employer must assist in rehabilitation program for 'return to work'.
- Must allow the employee to visit a doctor.

### Obligations of the Employee if Injured

- Notify employer of injury.
- Complete the compensation claim form for employer ASAP.
- Nominate treating doctor.
- Provide all medical receipts to your employer.
- Actively participate in treatment and planning for return to work.
- Participate in assessments to determine capacity of work.
- Make every reasonable effort to return to work.

# Bookkeeping Process

## Completing the Rateable Remuneration of Wages

1. Complete the Rateable Remuneration table as per information above.
2. Check Rateable Remuneration of wages lodged in the prior year to ensure the figures comply with the estimation.
3. Present the report to the employer and inform them if the wages exceeded the estimation. Heavy penalties can apply for the employer if wages exceed those quoted and the Workers Compensation Insurer is not informed.
4. Once the employer has approved and signed the paperwork it will be sent to the insurer for them to calculate the premium. Please refer to your state's guidelines regarding who can declare wages. E.g. Qld requires the person declaring wages to be attached to the policy. That means your client needs to authorise you to be added to the policy. The Bookkeeper/BAS Agent is attached to the policy and given their own login for annual electronic declarations.
5. If your wages change, you need to notify your insurer. Details on how this should occur can differ from state to state, so you will need to check with your state regulator for the process.

## Entering the Payment into Software

1. Process invoice for the workers' insurance premium, and enter into the software program.
2. If the business has financed the insurance, you need to enter the loan and interest into the software, and apply the monthly payments against the loan as they are paid from the bank.

## Processing Workers Compensation Payments and Reimbursements

1. You need to create a new expense account (suggest within the payroll area) called 'Workers Compensation Paid', and an 'Other Income Account' called 'Workers Comp Reimbursement'.
2. Create a new wage category – 'Workers Comp Wages'. Note entitlements as per State legislation.
3. Override the 'Employees Wage Expense Account' and allocate the expense to the 'Workers Comp Paid' category.
4. In the employee's card, set the type of wages to Salary and select the 'Workers Comp Wages' category in Payroll.
5. The ATO STP category is 'Gross Payments'.
6. Determine how much you are to pay the employee (usually from paperwork from WorkCover or the Insurer). Note that occasionally the employer will make up the shortfall of Workers Compensation payments to top-up the employee's normal wage.
7. Enter the employee's pay through payroll, zeroing out the base wages or salary categories and entering the Workers Compensation amount in the 'Workcover Paid' wage category.
8. Send the payslip and pay as per normal.
9. The Workers Compensation wage is included at W1 on the BAS; the insurance reimbursement is included at T1.

Upon receiving the reimbursement from your Workers Compensation insurer, you need to receive money into the bank and allocate it to the Workcover Reimbursement account that you set up. Include a memo on the deposit slip noting who the reimbursement was for.

## Set up Workers Compensation Accrual

If you have significant wages and salaries expenses per year, the owner/accountant may want to see the insurance liability on the balance sheet.

1. Set up the 'Payroll Expense' category to calculate at the relevant rate – use the last percentage as notified by your insurer. Update the rate when you get the adjusted premium notice based on actual wages declared for the previous period. Calculate the percentage on gross wages for employees. Select all employees to be included.
2. For contractors, set up a separate 'Workcover for Contractors' category, and select the relevant expense categories for the percentage to calculate against.
3. Create another payroll expense category called 'Superannuation on Workcover'. This percentage is  $9.5\% \times \text{insurance \%}$ . Select the superannuation threshold and select the relevant employees.

If not practical or not an option to set up via payroll, simply create a 'Prov for Workers Comp Insurance' journal that may be reversed when the Workers Compensation Insurance premium is processed.

## Leave and Workers Compensation

Employees on Workers Compensation can take unpaid parental leave if they are eligible.

If it is allowed under the state or territory Workers Compensation legislation, employees can take or accrue annual, personal, and long service leave. Contact the relevant Workers Compensation regulator in your state or territory for information about long service leave on Workers Compensation.

State	Annual Leave Accrue	Annual Leave can be taken	Personal Leave Accrue	Personal Leave can be taken	Long Service Leave Accrue
ACT	No	No	No	No	No
NSW	Yes	Yes	No	Yes – diff pd if PL higher	Yes
NT	No	No	No	No	No
QLD	Yes	Yes	Yes	Yes	Yes
SA	Usually, different if totally incapacitated 52 wks. or more	Yes, or paid out	Yes	No	Yes
TAS	Yes	Yes	No	No	Yes
VIC	Yes	Yes	No	No	Yes
WA	Yes	Yes	No	No	Yes, but only the first 15 working days in any year are considered as service where absence is due to sickness or injury

The award should also be consulted for information on entitlements for an employee who receives WorkCover payments.

## Superannuation on Workers Compensation

Some awards and registered agreements may give employees an entitlement to superannuation while absent from work on Workers Compensation.

Superannuation on Workers Compensation is not straightforward. Fair Work directs that super is not generally paid on Workers Compensation unless the employee is working. If the employee is required to attend meetings, training, or returns to work on an incrementally increasing basis, these hours are considered Ordinary Time Earnings and therefore superannuation is payable.

However, many modern awards require the employer to pay super while the employee is on Workers Compensation, regardless of attending work or not. Some awards have a time limit on the super payable, for example 1 year; other awards have no time limit. Some state legislation allows for super to be paid after a certain amount of time on Workers Compensation payments.

You must check the relevant award in conjunction with the state legislation and apply the rule that most benefits the employee.

## Public Holidays

Fair Work advises that employees are not entitled to public holidays whilst absent from work for injury and under WorkCover claim.

## COVID-19

State	COVID-19 Information ( <i>for declaration of wages and JobKeeper scheme</i> )
NT	<a href="#">NT WorkSafe – Workers' Compensation</a>
QLD	<a href="#">WorkCover Queensland – JobKeeper Payment Scheme</a>
VIC	<a href="#">WorkSafe Victoria – JobKeeper Payments: Information for employers</a>
NSW	<a href="#">SafeWork NSW – COVID-19 (Coronavirus)</a>
TAS	<a href="#">WorkSafe Tasmania – Workers compensation and JobKeeper</a>
SA	<a href="#">ReturnToWorkSA – ReturnToWorkSA and the Coronavirus (COVID-19)</a>
WA	<a href="#">WorkCover WA – COVID-19 Notice – JobKeeper and Wage Declarations</a>
ACT	<a href="#">ACT Workers Compensation Scheme: Commonwealth Jobkeeper Payments (PDF)</a>

## JobKeeper Payments

Please refer to your state's Workers Compensation rules for complete details.

Generally, the JobKeeper Top-up (when employees are working, and top-up paid) is not declared.

If an employee is being paid Workers Compensation and is fully incapacitated, the employee is not eligible for JobKeeper, and conversely if an injured worker receives JobKeeper they are not entitled to Workers Compensation.

JobKeeper Payments to employees								
Include on annual reconciliation	ACT*	NT*	NSW	QLD	SA	TAS*	VIC	WA
Employees stood down without pay; Employer pays employee \$1,500 per f/n top-up	✗	✗	✗	✗	✗	✗	✗	✗
Employee does not perform any work and does not receive normal pay. Receives JobKeeper. \$1500 subsidy via employer is excluded and many states do not cover employees at this point	✗	✗	✗	✗	✗	✗	✗	✗
Employee continues to work earning a wage of less than \$1,500 per fortnight. Receives JobKeeper top-up								
■ Wages earned	✓	✓	✓	✓	✗	✓	✓	✓
■ Top-Up	✗	✗	✗	✗	✗	✗	✗	✗
Employee currently earns \$1500 or more per fortnight (therefore no top-up) and employer receives \$1500 JobKeeper subsidy. Total payment is rateable	✓	✓	✓	✓	✗	✓	✓	✓
Employees working from home (NT is only state that mentions where employee working from)		✓						
Worker takes annual leave plus top-up from JobKeeper								
■ Annual leave	✓	✓	✓	✓	✗	✓	✓	✓
■ Top-up	✗	✗	✗	✗	✗	✗	✗	✗
<i>*not confirmed at time of writing</i>								

**SA:** The ReturnToWorkSA Board has decided that wage subsidy payments under the Commonwealth Government JobKeeper Program will **not** be considered remuneration for calculation of premium for 2020–21.

## Related References

- 🔒 ICB – Contractor or Employee
- 🔒 ICB – Guide to Employer Obligations
- 🔒 ICB – Payroll Resources
- ➡ [ACT] Access Canberra – Subcontracting and workers
- ➡ [NSW] SafeWork NSW – Contractors and labour hire
- ➡ [NT] NT WorkSafe – Definition of a Worker
- ➡ [QLD] WorkCover Queensland – Contractors
- 📄 [QLD] WorkCover Queensland – Wages definition manual (PDF)
- ➡ [QLD] Infographic: What payments do I declare to WorkCover?
- ➡ [SA] ReturnToWorkSA – Who is a worker?
- ➡ [SA] ReturnToWorkSA – ReturnToWorkSA and the Coronavirus (COVID-19)
- ➡ [VIC] WorkSafe Victoria – Contractors and workers guideline
- ➡ [WA] WorkCover WA – Contractors & subcontractors
- FWO – Annual leave & sick leave during workers compensation