Workers Rehabilitation & Compensation Act 1986

(South Australia)
What is Workers’ Compensation?

- *Workers compensation is compensation payable under the Workers Rehabilitation & Compensation Act 1986 (SA), to a worker who suffers an injury or illness arising from their employment*

- Through the Workers Compensation Scheme, workers are provided with rehabilitation, compensation & return to work services
  - Self-insured employers provide these same services to their staff

- Workers compensation payments might include reimbursement of any necessary & reasonable medical expenses, payment to cover loss of earnings (i.e. income maintenance), rehabilitation expenses & permanent impairment
What is Workers’ Compensation?

- Employers are required to have Workers compensation insurance

- Employers are either registered & pay a levy to WorkCover SA to manage their claims or be registered as a Self-insured employer & comply with the requirements set by WorkCover in the Code of Conduct for Self-Insurance

- Registered employers receive support in case management via the WorkCover Claims Management Agents

- Self-insured employers employ their own case management staff

- Additional external consultants & legal services may be engaged by both Registered & Self Insured employers depending on the complexity & nature of the claim
What does the Workers Rehabilitation & Compensation Act do?

- Sets up the structure of the South Australian Workers Rehabilitation & Compensation Scheme (the Scheme)

- Specifies how basic elements of the Scheme work, including:
  - worker entitlements
  - rehabilitation & return to work
  - claims management
  - employer levies
  - dispute resolution
How does the Scheme work?

- The Scheme is designed to assist workers & ensure they receive medical care, rehabilitation, compensation & support following a work related injury/illness **regardless of fault**

- Generally, workers are covered by the South Australian Scheme if they usually work in, or are based in South Australia, even if the injury happens outside the state

- The Scheme is primarily funded by levies collected from South Australia's employers. Self-insured employers meet all their own costs.

- WorkCover SA manages the Scheme & operates under the [WorkCover Corporation Act 1994 (SA)](#)

- WorkCover SA ensures that self-insured employers have appropriate systems & processes in place through regular evaluations

- WorkCover contracts out the administration of most workers compensation claims for registered employers. Self-insured employers manage their own claims administration.

- There are about 70 self-insured employers (including the University), as well as the State public sector agencies, that manage their own claims in accordance with the WorkCover SA performance standards
How does the Act impact the University?

- The University of Adelaide is a **self-insured employer** registered with WorkCover SA
  - This means that the University has delegations under the Act to:
    - determine (i.e. accept or reject) claims
    - pay compensation to the employee
    - rehabilitate workers
  - **All University of Adelaide Controlled Entities** also fall under the University’s self-insured licence.
  - This means that for workers in the Controlled Entities, compensation claims are administered through the University of Adelaide
How does the Act impact the University? (cont.)

- **All University and Controlled Entity employees** are entitled to workers compensation insurance if they sustain a workplace injury whether full-time, permanent, part-time, casual or on a fixed-term contract.

- If an employee aggravates a pre-existing injury at work, they are also entitled to compensation, but only if the employment contributed to the aggravation.

- If an employee contracts a work-related disease or illness, they are entitled to compensation if the employment contributed to the disease or illness.

- If an employee develops a psychosocial (mental) injury, they are entitled to compensation if they can prove that the employment contributed to the injury.

  - It should be noted however, that should a psychosocial (mental) injury arise from any reasonable action undertaken by the University in a reasonable manner then the injury is **not** compensable.
Scheme Entitlements

- A worker's entitlements will depend on the type of injury & what is considered 'reasonable' treatment, but can include:
  - payment of income maintenance
  - medical & associated costs related to the injury or illness
  - lump sum compensation for any permanent disability caused by the injury (depending on the extent to which the worker has been disabled)

- Return To Work plans and rehabilitation programs are used to assist workers & employers in managing workers' safe return to work & prevent further aggravation or recurrence of injuries
Ending weekly payments

**Weekly payments of compensation can be discontinued if a worker:**

- Is no longer incapacitated for work (i.e. returns to work on full wages)
- Does not cooperate when reasonably asked to do so
  - *For example; refuses to have a medical examination, undergo recommended treatment, undertake a work capacity assessment, participate in rehabilitation program or provide a medical certificate*
- Leaves Australia for more than 28 days without giving appropriate notification, or leaves the state for more than two months
- Loses their entitlement due to deemed earnings, or having some work capacity at the end of 130 weeks
- Resigns their job with the employer for reasons not connected to the injury/illness & they have some work capacity or return to work prospects
- Is legitimately dismissed for serious & wilful misconduct
- Reaches the usual retirement age for the industry
- Accepts a redemption lump sum (i.e. a voluntary agreement which allows the worker to receive a lump sum payment for all future entitlements) or otherwise agrees to end payments, having been fully informed of their options
Workplace Rehabilitation

- The aim of rehabilitation is to find the best ways to assist an injured/ill employee to return to meaningful & productive work at the earliest possible time in accordance with medical advice
  - Where it is not possible to return to the pre-injury job immediately a worker will be found alternative duties

- Workplace rehabilitation may involve:
  - provision of suitable duties & a graduated return to work plan
  - special assistance for severely injured workers
  - where appropriate on-the-job training to allow a worker to undertake alternative duties

- **An employer** must take all reasonable steps to assist or provide an injured worker with rehabilitation for the period for which the worker is entitled to compensation

- **A worker** must satisfactorily participate in rehabilitation as soon as they can after the injury is sustained & for the period for which they are entitled to compensation
Complaints, decisions & disputes

- Decisions by WorkCover SA or a self-insured employer about rehabilitation plans, payments & expenses can be challenged by filing a Notice of Dispute with the Workers Compensation Tribunal.

- The application must be made within one month of the disputed decision.

- Conciliation conferences are compulsory & there is a formal judicial hearing process.

- Complaints from injured workers, employers & other interested parties affected by the Scheme or a self-insurer may (on request) be investigated by the WorkCover Ombudsman, an independent officer who:
  
  - seeks to resolve complaints about the way services are delivered in the Scheme or by a self-insurer, including issues associated with rehabilitation & return to work.

  - provides free information & assistance to anyone experiencing difficulties with the management of a workers compensation claim.

  - reviews decisions to stop a worker’s weekly payments.
Self-insured employer obligations under the Act

The University & its controlled entities:

- Provide a safe & healthy work environment

The University of Adelaide:

- Register the group of entities as a self-insured employer group with WorkCover SA & register the University of Adelaide in all other states where staff may be based
- Pay the annual WorkCover self-insured employer levy & report to WorkCover SA the information required of self-insured employers
- Commit financial & management resources to comply with the Act
- Appoint a rehabilitation & return to work coordinator

If a worker is injured:

- Determine the claim
- Support & rehabilitate the worker to stay at, or return to work
Employee obligations under the Act

If you are injured:

- Report the injury to your employer as soon as practicable after sustaining the injury, either verbally or in writing
  - Failure to give prompt notice of the injury may affect a worker's ability to maintain a claim for compensation
- Lodge a claim for compensation within six months of the date of injury
- Provide the prescribed WorkCover Medical Certificate (WMC) to cover any time off work
- Participate in rehabilitation & Return to Work programs

NOTE: WorkCover actively investigates any suspected fraudulent claims
What can happen if the University or a Controlled Entity doesn’t comply?

- Various fines & penalties apply to employers under the Act

- A breach of the self-insurer Code of Conduct may limit or (at worse) cause the University to lose its self-insurer status
  - Such a breach could severely damage to the University’s reputation

- Additional penalties (including fines or prison) may also apply under other legislation, such as the [Fair Work Act 2009 (Cth)](https://www.gov.au/fair-work/legislation) or the [Work Health & Safety Act 2012 (SA)](https://www.worksafe.sa.gov.au/about/work-health-safety) to both the University or Officers of the University
Additional Resources

- **HSW website** - Information on workers compensation, claims management, lodgement of a claim & rehabilitation services
- **Gerald Buttfield** (Manager, Health, Safety & Wellbeing)
  - 8313 6079 / 0410 422 737
- **Deb Coulls** (Health, Safety & Wellbeing Senior Consultant)
  - 8313 0174
- **Workers Rehabilitation & Compensation Act 1986 (SA)**
- **WorkCoverSA Website**
- **WorkCover SA - Frequently Asked Questions**
- **WorkCover Ombudsman**
- **Workers Compensation Tribunal**
Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Workers Rehabilitation & Compensation Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Gerald Butfield, Manager, Health Safety & Wellbeing if you are unsure of your compliance obligations under the Act.