

Australian Capital Territory

Workers Compensation (Statutory Lump Sum and Common Law) Protocol 2012 (No 1)*

Notifiable instrument NI2012–60

made under the

Workers Compensation Regulation 2002, regulation 100 (Approved protocols about certain documents and information)

1 Name of instrument

This instrument is the Workers Compensation (*Statutory Lump Sum and Common Law*) Protocol 2012 (No 1).

2 Commencement

This instrument commences on the day after it is notified.

3 Approved protocols for insurers

In accordance with regulation 100 of the *Workers Compensation Regulation 2002*, I approve the Statutory Lump Sum and Common Law Protocol.

Dr Chris Bourke, MLA
Minister for Industrial Relations
30 January 2012

*Name amended under Legislation Act, s 60



PROTOCOL FOR INSURERS

Protocol Number	2012-2
Protocol Name	Statutory Lump Sum and Common Law Settlement Protocol

Purpose

To establish a robust, transparent and accessible framework for the provision of information by Approved Insurers and Self-Insurers¹ in relation to statutory lump sum compensation and common law damages claims brought under the *Workers Compensation Act 1951*.² Fundamentally, the Protocol will enhance the level of transparency around the Scheme's performance and inform a general understanding of how the Scheme is operating.

Context – law and policy

The Act empowers the Minister to:

- Grant commercial Insurers a licence to provide workers' compensation insurance policies (known as compulsory insurance policies) to Territory employers in accordance with the Act;³ and
- Exempt certain Territory employers from the requirement to have these insurance arrangements with an Approved Insurer, instead authorising these employers to operate as approved Self-Insurers.⁴

Insurers are subject to the conditions, obligations and requirements enshrined in the Act, its associated Regulation, Approved Protocols and related instruments.

It is a condition of an Insurer's approval/exemption that any information required to be given to the Minister is given within 14 days after the day the information is asked for, or within a longer period allowed by the Minister.⁵

As a part of monitoring and continually improving the Scheme Insurers are required to provide information about the:

- calculation and determination of statutory lump sum compensation paid under the Act; and
- timing and nature of settlement of common law claims made against workers' compensation policies, including associated legal costs.

This protocol is approved by the Minister in accordance with s 100 of the Act and forms part of the conditions of approval and exemption to which the Insurers are subject.

¹ Hereinafter referred to as Insurers

² The Act

³ see s 145, the Act

⁴ see s 151, the Act

⁵ Regulation 76(1)

Reporting requirements

Insurers are required to submit the information and data set out below twice yearly - by close of business on the **15th January and 15th July** each year, commencing with the 2011/2012 policy year.⁶ The information must be provided electronically to the following address oir@act.gov.au

Common law settlements

Insurers are required to provide the following information in relation to all matters where a common law claim has been settled in the reporting period, irrespective of when the court proceedings were commenced:

- Insurer Claim No;
- Industry/ANZIC;
- Date of injury;
- Date initial liability accepted;
- Date CL proceedings commenced;
- Court;⁷
- Issue in dispute;
- Date of resolution;
- Type of resolution;⁸
- Damages paid (\$) - excluding costs;
- Date damages paid;
- Insurer legal costs (\$);
- Insurer's solicitor;
- Insurer's Barrister;
- Worker legal costs paid (\$);
- Legal costs paid - Workers' Solicitor;
- Legal costs paid - Worker's Barrister;
- Final incurred legal costs;
- Resolution as a % of incurred;
- Legal as a % of incurred.

Statutory lump sum compensation

⁶ The first report therefore falls due on 15 January 2012 for the period 1 July – 31 December 2011. The second report for 2011/2012 is required on 15 July for the period 1 January 2012- 30 June 2012.

⁷ Magistrates Court or Supreme Court

⁸ Defined as one of the following: negotiated settlement; settlement at conciliation; settlement pre hearing; judgement; proceedings withdrawn.

The following information and data is also required for all claims where statutory lump sum compensation is paid for a permanent injury under Part 4.4 of the Act during the reporting period:

- Insurer Claim No;
- Date of injury;
- Date initial liability accepted;
- WPI % or the percentage applied as per Schedule 1 of the Act;
- Statutory lump sum payment (\$); and
- Date of lump sum payment.

In addition to the above data, Insurers must provide information as to the method by which they calculate an injured worker's entitlement to compensation for permanent injury in accordance with Schedule 1 of the Act.

These requirements will be reviewed on completion of upgrades to the AIMS data warehouse by Chief Minister and Cabinet Directorate and any amendments to legislation that impact the Protocol.

Forms

Electronic form, Common Law Data for Approved Insurers available at www.worksafety.act.gov.au