

Industrial Relations and Workers' Compensation scheme review

Final Report | September 2026



The Honourable Jarrod Bleijie MP
Deputy Premier
Minister for State Development, Infrastructure and Planning
Minister for Industrial Relations
1 William Street
BRISBANE QLD 4000

Dear Deputy Premier

We are pleased to provide our report for the 2026 Industrial Relations and Workers' Compensation Scheme Review, conducted in accordance with the Terms of Reference issued by you as Minister for Industrial Relations.

Our review examined the operation of the *Industrial Relations Act 2016* and Queensland's workers' compensation scheme under section 584A of the *Workers' Compensation and Rehabilitation Act 2003*. In line with the Terms of Reference, it considered a range of emerging issues, including good faith bargaining, public sector productivity, scheme sustainability, psychological injury claims, fraud prevention, self-insurance arrangements, and measures to maintain confidence in Queensland's industrial relations and workers' compensation frameworks.

In undertaking the review, we considered written submissions and engaged with a broad range of stakeholders. We thank all contributors for their valuable insights.

Our findings and recommendations aim to support productive workplaces as well as strengthen the fairness, sustainability and integrity of Queensland's workers' compensation scheme.

We also wish to thank the officers of the Office of Industrial Relations for their support and assistance throughout the Review.

We thank you for the opportunity to undertake this review and commend the enclosed report to the Queensland Government for its consideration.

Yours sincerely

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Mr Glenn Ferguson AM
Lead Reviewer

A handwritten signature in dark ink, featuring a stylized 'G' and 'B' with a long horizontal stroke extending to the right.

Mr Gary Black
Reviewer

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Executive Summary

On 24 March 2026, the Deputy Premier and Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations announced an independent review of the *Industrial Relations Act 2016* (IR Act) and the *Workers' Compensation and Rehabilitation Act 2003* (WCR Act).

The IR Act and WCR Act play a central role in Queensland's employment-related legislative framework, including for public sector and local government employees. The review has been undertaken to assess whether these Acts remain effective and fit for purpose in the context of emerging workplace and workers' compensation scheme trends, while supporting productivity and a fair, balanced and sustainable workers' compensation scheme. The review also reflects the Queensland Government's commitment to being an employer of choice and ensuring value for taxpayers.

In relation to the IR Act, the review examines whether the legislative framework continues to achieve its objectives and respond to emerging issues, including good faith bargaining, public sector productivity, wage-setting mechanisms, worker advocacy and freedom of association. The IR Act has been in operation since 2017 and was last reviewed in 2021.

In relation to the WCR Act, the review considers whether changes are required to ensure Queensland's workers' compensation scheme remains effective, sustainable and fit for purpose. Particular attention has been given to developments since the 2023 statutory review, including increasing primary and secondary psychological injury claims, increased reporting of fraud and related offending, and the suitability of self-insurance arrangements. These issues have implications for workers, employers, insurers and the broader community, including risks to scheme integrity and sustainability.

This report presents the findings of the review and 104 recommendations to ensure Queensland's industrial relations and workers' compensation legislative frameworks continue to support fair, effective and sustainable outcomes for workers, employers and the community. A list of the recommendations is detailed on page 6 of this report.

The review was informed by extensive stakeholder engagement, including written submissions and consultation meetings involving representatives of employers, unions, workers and other key interest groups. In addition to stakeholder feedback, the review considered operational and scheme data, contemporary research, previous statutory reviews, and relevant interstate and national developments.

Industrial Relations

Recurring themes raised by stakeholders included the operation of wage-setting mechanisms under the IR Act, the need to balance freedom of association with the rule of law and a robust regulatory scheme for unions, and harmonisation with the Fair Work jurisdiction for national consistency and minimisation of regulatory burden.

Stakeholders representing both employees and employers raised concerns about collective bargaining and wage fixing in the jurisdiction. Most notably, multiple

stakeholders called for the review to consider which wage-setting mechanism under the IR Act should have primacy, noting the complex interactions between certified agreements, modern awards, government directives and the State Wage Case. It is noted submissions identified various options for reform in relation to direct ballots, legal representation, fit and proper person tests, conciliation and arbitration processes and alignment with the Fair Work system. However, there is complexity associated with all the propositions.

In recognition of this complexity, it is proposed that short term solutions be implemented to support sustainability, while consideration is given to the design and development of a contemporary system that is fit for purpose and reflects the expectations of both the workforce and Queenslanders as a whole. These more immediate solutions will prevent the continued provision of dual wage increases to state public sector employees and ensure that employee reliant on awards and the Queensland Minimum Wage continue to receive wage increases commensurate with their national system counterparts.

The short-term solution proposal is:

- the automatic application of Annual Wage Review decisions to the State Wage Case proceedings for those employees who are genuinely reliant on either award wages or the Queensland Minimum Wage, consistent with the South Australian industrial relations scheme; and
- after the conclusion of the current 2026 State Wage Case but prior to the commencement of the 2027 State Wage Case, the award wages for Queensland state public sector workers who regularly participate in collective bargaining cannot be increased as a result of the State Wage Case to ensure the primacy of wage-setting through collective bargaining, despite the provision of such increases in either existing certified agreements or a Directive made under the *Public Sector Act 2022*.

We recommend consideration be given to longer term, sustainable solutions which can be tailored to the unique issues within the jurisdiction while reflecting the expectations of both the workforce and Queenslanders as a whole. In doing so, the Queensland Government should consider public sector wage-setting mechanisms across Australian jurisdictions (and more broadly, as appropriate) to identify a way to provide for productivity and genuine bargaining, taking into account the way the public sector needs to operate to deliver for Queensland, as well as ensuring work value, fairness and equity, and safety net considerations are adequately provided for.

Workers' compensation scheme

Queensland's workers' compensation scheme (the scheme) is currently financially strong, however there are emerging trends which if not managed may have longer term impacts on sustainability. This includes:

- sustained and continual increases in the number of primary and secondary psychological injury claims. These claims have high direct and indirect costs on workers, employers, the scheme and the community;

- increasing claim durations with direct impacts not only on scheme costs and premiums through increasing statutory compensation payments and common law damages, but poorer outcomes for workers;
- reducing return to work rates for both psychological and physical injuries; and
- increasing fraud reporting which poses an unacceptable risk to the integrity and viability of the scheme and impacts both employers and workers.

Stakeholder feedback on the scheme centred primarily around concerns with the growth of psychological injuries and the claims management practices of WorkCover Queensland (WorkCover). Stakeholders also identified concerns with delays or inefficiencies across various parts of the scheme. They identified opportunities to strengthen the scheme's legislative and regulatory framework, claims management, fraud management, self-insurance and rehabilitation and return to work. Stakeholders also identified a different insurance model for consideration.

While some stakeholder feedback was received in relation to common law access, this was out of scope of the review.

Our analysis identified six key areas where action is required to support long term scheme sustainability. Action is required to:

- ensure the scheme has appropriate coverage of genuine work-related psychological injury claims;
- improve consistency and quality of insurer claims decision making and claims management practices with a focus on psychological injuries, rehabilitation and return to work;
- uplift insurer capability including through insurers being supported by appropriately qualified specialist medical expertise and clinical governance;
- ensuring the Workers' Compensation Regulator (the Regulator) has the appropriate tools to encourage continuous improvement and respond to non-compliance within insurers;
- broadening the scope of tools available to the scheme to prevent, detect and respond to fraud and related offending appropriately; and
- streamlining processes for assessing degrees of permanent impairment, reviewing insurer decisions and information provision.

Recommendations have been made to address these key action areas and explore areas for further scheme enhancement.

Terms of Reference

Industrial Relations

With respect to the IR Act, the reviewers will consider:

1. the operation and performance of the IR Act and whether it adequately supports workers and productivity in the workplace and provides for freedom of association;
2. requirements to ensure registered industrial organisations, their officials and employees operate in a way that supports productive and harmonious industrial relations and transparent and lawful conduct;
3. measures to ensure Queensland workers have adequate protections and fair conditions in their employment and are paid competitively;
4. good faith bargaining, and the interactions of the State Wage Case, Public Sector Wages Policy, and collective bargaining provisions of the Act noting the IR Act's jurisdiction for these matters is almost exclusively contained to employees and employers in the Queensland state public and local government sectors;
5. the implementation of recommendations from the Queensland Productivity Commission (QPC) inquiry into the construction sector and the CFMEU Commission of Inquiry in considering the above; and
6. any other matters the Reviewers deem relevant.

Workers' compensation scheme

For the purposes of section 584A of the WCR Act, the Deputy Premier instructs the reviewers to inquire into and report on the operation of the Queensland workers' compensation scheme. The reviewers will:

1. consider any emerging issues impacting the operation of Queensland's workers' compensation scheme, in particular:
 - the growth of primary and secondary psychological claims and its impact on injured workers, employers and the scheme;
 - the effectiveness of the existing offence of fraud and similar offences (e.g. providing false and misleading information) to ensure these remain fit for purpose;
 - the effectiveness of the scheme's management of fraudulent claims (or suspected fraudulent claims), including its preventative, detective, compliance and enforcement measures to manage fraudulent conduct within the workers' compensation scheme; and
 - any relevant laws applying in other Australian jurisdictions and reform;
2. consider whether the self-insurance scheme as it applies to workers and business is fit for purpose; and
3. consider measures to ensure Queensland's workers' compensation scheme is fair, sustainable, and protected, delivering confidence for workers, employers and taxpayers.

Consideration of any changes to common law under the WCR Act is excluded from the scope of the review.

The review of the workers' compensation scheme is being completed under section 584A of the WCR Act, which requires the Minister for Industrial Relations to ensure a review of the scheme is completed at least once every five years.

Glossary

Term	Definition
2015 IR Review	<i>A Review of the Industrial Relations Framework in Queensland: A Report of the Industrial Relations Legislative Reform Reference Group (2015)</i>
2018 WC Review	The second operational review of the workers' compensation scheme, undertaken in 2018 by Professor David Peetz.
2021 IR Review	<i>Five-year Review of Queensland's Industrial Relations Act 2016</i>
ABS	Australian Bureau of Statistics
Accepted claim	When the first decision about an application for compensation is to accept the claim. This excludes claims where the first decision is rejected, cancelled, withdrawn, report only, or common law only.
Accident Insurance Policy	A workers' compensation insurance policy that is compulsory for employers engaging workers. The policy covers the employer's liability for workers' compensation and damages arising from a work-related injury sustained by a worker, regardless of who or what caused the injury.
AD Act	<i>Anti-Discrimination Act 1991 (Qld)</i>
Agency/Agencies	Queensland public sector agency or agencies.
AHPRA	Australian Health Practitioner Regulation Agency
AHRC	Australian Human Rights Commission
AI Act	<i>Associations Incorporation Act 1981 (Qld)</i>
AMA5	American Medical Association's Guides to the Evaluation of Permanent Impairment, Fifth Edition
Assessor	Suitably qualified and experienced medical practitioners trained to assess a worker's degree of permanent impairment under the Guidelines for Evaluation of Permanent Impairment (AMA5).
Average premium rate	The average premium rate per \$100 of wages (expressed as a percentage), calculated by averaging the net premium assessed for the year as a proportion of the total wages declared by all employers for that year.
Average settlement cost	The average settlement cost of finalised common law claims, regardless of when payments were made. This excludes claims with a nil settlement.
AWR	Annual Wage Review
CFMEU	Construction, Forestry and Maritime Employees Union
Claims experience	An employer's claims experience, used to calculate premium, comprises the statutory claim amounts paid under the employer's Accident Insurance Policy for the preceding three years and the damages claim amounts paid under the policy for the two preceding years.
Common law claim	A court action commenced by a worker against their employer seeking damages arising from alleged negligence.

Damages	Amounts awarded to a successful litigant in a common law claim. Examples include general damages (compensation for pain and suffering) and economic loss (compensation for past and future loss of earnings or earning capacity).
DFV	Domestic and family violence
DPI	Degree of permanent impairment
DSM	<i>Diagnostic and Statistical Manual of Mental Disorders</i> (the number following the abbreviation refers to the edition).
ECQ	Electoral Commission of Queensland
FW Act	<i>Fair Work Act 2009</i> (Cth)
FWC	Fair Work Commission
FW Regulations	<i>Fair Work Regulations 2009</i> (Cth)
FWRO Act	<i>Fair Work (Registered Organisations) Act 2009</i> (Cth)
Health provider	A medical or allied health practitioner (for example, a doctor, medical specialist, physiotherapist, chiropractor or occupational therapist) who is registered with the relevant professional board.
Host employer	Except in a labour hire context, an employer who agrees to host an injured worker at their workplace when the worker is unable to participate in workplace rehabilitation with their original employer, such as through WorkCover's Recover at Work program.
HR Act	<i>Human Rights Act 2019</i> (Qld)
HWCA	Heads of Workers' Compensation Authorities
icare	Insurance and Care NSW
ILO	International Labour Organisation
Impairment	Under the <i>Workers' Compensation and Rehabilitation Act 2003</i> Act, an impairment is "a loss of, or loss of efficient use of, any part of a worker's body".
Injury	Under the <i>Workers' Compensation and Rehabilitation Act 2003</i> , an injury is "a personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury".
IP Act	<i>Information Privacy Act 2009</i> (Qld)
IR Act	<i>Industrial Relations Act 2016</i> (Qld)
IR Act 1999	<i>Industrial Relations Act 1999</i> (Qld)
IROLA Act	<i>Industrial Relations and Other Legislation Amendment Act 2022</i> (Qld)
IR Regulation	<i>Industrial Relations Regulation 2018</i> (Qld)
It Pays to Care report	<i>It Pays to Care: Bringing Evidence-Informed Practice to Work Injury Schemes Helps Workers and Their Workplace</i> , authored by the Royal Australasian College of Physicians and the Australasian Faculty of Occupational and Environmental Medicine.
Journey claim	A workers' compensation claim for an injury arising in the circumstances described in section 35 of the <i>Workers' Compensation and Rehabilitation Act 2003</i> , such as an injury

	sustained while travelling between the worker's home and place of employment.
Lodgements	All claims lodged with insurers, regardless of the outcome. This excludes cancelled claims but includes withdrawn and report-only claims.
MAT	Medical Assessment Tribunal
NES	National Employment Standards
NIISQ	Queensland's National Injury Insurance Scheme
Nil settlement	A settlement that finalises a common law claim with no damages paid.
NRTW Survey	Safe Work Australia's National Return to Work Survey.
NSW	New South Wales
NWE	Normal weekly earnings
OIR	Office of Industrial Relations
PAYG	Pay As You Go (taxation instalments)
Permanent impairment	An impairment that is stable and stationary and is not likely to improve with further medical or surgical treatment (section 38 of the <i>Workers' Compensation and Rehabilitation Act 2003</i>).
PID Act	<i>Public Interest Disclosure Act 2010</i> (Qld)
PIRS	Psychiatric Impairment Rating Scale
Premium rate	The premium rate per \$100 of wages for an individual employer.
PS Act	<i>Public Sector Act 2022</i> (Qld)
PSA Act	<i>Police Service Administration Act 1990</i> (Qld)
PSC	Public Sector Commission
PTSD	Post-traumatic stress disorder
Q-COMP	Formerly Queensland's workers' compensation authority. Q-COMP is now the Workers' Compensation Regulator.
QCAT	Queensland Civil and Administrative Tribunal
QCAT Review	2025-26 Review of the <i>Queensland Civil and Administrative Tribunal Act 2009</i> .
QES	Queensland Employment Standards
QIRC	Queensland Industrial Relations Commission
QOTE	Under the <i>Workers' Compensation and Rehabilitation Act 2003</i> (Qld), Queensland ordinary time earnings (QOTE) for a financial year means the amount of Queensland full-time adult ordinary time earnings declared by the Australian Statistician in the original series of the <i>Average Weekly Earnings</i> publication most recently published before the start of the financial year. If that amount is lower than the QOTE for the previous financial year, QOTE remains the amount applicable for the previous financial year.
Queensland Guidelines	<i>Queensland's Guidelines for Evaluation of Permanent Impairment</i>
Regulator (also referred to as the "Workers'	Queensland's independent Workers' Compensation Regulator (formerly Q-COMP).

Compensation Regulator")	
Rehabilitation	Under the <i>Workers' Compensation and Rehabilitation Act 2003</i> , the purpose of rehabilitation is to ensure a worker's safest and earliest possible return to work or to maximise the worker's independent functioning. Rehabilitation for return to work (also known as occupational, vocational or workplace rehabilitation) may include treatment by a range of health providers, work capacity assessments, and suitable duties programs.
Return to work	A worker's timely, safe and medically supported return to pre-injury duties, or other suitable employment, following a workplace injury.
RMA	Reasonable management action
RRTWC	Rehabilitation and return to work coordinator
Self-insurer	An employer that meets the legislative criteria to insure its workers directly rather than through WorkCover.
SIRA	State Insurance Regulatory Authority (New South Wales)
Suitable duties program	A program designed to help workers gradually return to work through a supervised process. It matches a worker's capacity with suitable duties and hours, with the aim of supporting a safe return to their normal duties.
SWA	Safe Work Australia
SWC	State Wage Case
Time lost claims	All accepted claims resulting in time lost from work, excluding fatalities.
TWU	Transport Workers' Union
Wages	The total amount an employer pays a worker, as defined in Schedule 6 of the <i>Workers' Compensation and Rehabilitation Act 2003</i> (Qld).
WCR Act	<i>Workers' Compensation and Rehabilitation Act 2003</i> (Qld)
WCR Regulation	<i>Workers' Compensation and Rehabilitation Regulation 2025</i> (Qld)
WCRS	Workers' Compensation Regulatory Services
WCS	Workers' compensation scheme
WHS	Work health and safety
WHS Act	<i>Work Health and Safety Act 2011</i> (Qld)
WHSQ	Workplace Health and Safety Queensland
WorkCover	WorkCover Queensland
Worker	Under the <i>Workers' Compensation and Rehabilitation Act 2003</i> , a worker is an individual employed under a contract of service (section 11) or specifically included under Schedule 2, Part 1, unless specifically excluded under Schedule 2, Part 2.
Workers' Compensation Regulator (also referred to as "the Regulator")	Queensland's independent Workers' Compensation Regulator (formerly Q-COMP).

Work-related injury	An injury arising out of, or in the course of, employment where employment was a significant contributing factor.
WPSS	Workers' Psychological Support Service.
WRP	Workplace rehabilitation provider.

List of recommendations

Rec	IR Recommendations
Queensland Employment Standards	
1	Consideration of National Employment Standards Inquiry outcomes That outcomes of the federal inquiry into the operation and adequacy of the National Employment Standards inform later consideration of the adequacy of the Queensland Employment Standards under the IR Act.
2	Alignment of Queensland Employment Standards entitlements with federal jurisdiction That the Queensland Government consider aligning the entitlements in the Queensland Employment Standards to mirror those in the National Employment Standards as a priority.
3	Continuous service – eligibility for long service leave That, on conclusion of the federal inquiry into the National Employment Standards, the Queensland Government consider if any amendments should be made to the long service leave provisions of the IR Act.
4	Termination of employment arising from temporary absence That the Queensland Government consider the interaction of the IR Act and <i>Workers' Compensation and Rehabilitation Act 2003</i> (Qld) provisions in relation to temporary absence due to illness or injury to ensure sufficient and consistent protections across the legislative schemes. Any supplementary changes to the <i>Industrial Relations Regulation 2018</i> (Qld) should be made to ensure consistency.
5	Parental leave interactions That, on conclusion of the National Employment Standards Inquiry, the Queensland Government review the interaction of particular parental leave provisions of the IR Act, namely sections 73 and 87B.
6	Flexible work requests That the Queensland Government consider amending the IR Act's provisions relating to flexible work requests to align with the Fair Work framework.
7	High income threshold That the IR Act be amended to exclude access to unfair dismissal protections for employees earning over the high-income threshold and covered by an award or agreement.
8	Continuous service – casual employees That the IR Act be amended to clarify what is “continuous service” when calculating long service leave entitlements. In particular, it should be expressly clarified that a casual employee's continuous service is broken for the purposes of calculating long service leave where there is a period of more than three months between the end of one casual engagement and the commencement of the next casual engagement.
Freedom of association	
9	Registered organisations framework The IR Act's registered organisations framework should be reviewed.

10 Consideration of COI outcomes

That the Queensland Government consider outcomes of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry on its completion. The Queensland Government should consider any amendments to the IR Act to support the findings of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry at this point in time.

11 Whistleblower protections

That the Queensland Government consider amending the IR Act to include protections for whistleblowers based on the protections in the *Fair Work (Registered Organisations) Act 2009* (Cth).

12 Review of 2022 amendments

That the Queensland Government review the operation of the amendments made to the IR Act by the *Industrial Relations and Other Legislation Amendment Act 2022* (Qld). This should include consideration of the IR Act's treatment of incorporated entities with an industrial purpose, and the current definition of "industrial activities".

13 Union Encouragement Policy

That the Queensland Government review its Union Encouragement Policy.

Registered organisations**14 Industrial organisations to represent eligible members**

Amend the relevant IR Act provisions to clarify that industrial organisations may only represent the interests of individuals who are members or eligible to be members of the industrial organisation. This change would reduce the prospect of demarcation disputes and would clarify the operation of right of entry provisions, rights to inspect employee records, and other provisions of the IR Act.

15 Publication of union rules

That the IR Act be amended to provide that the rules of all organisations registered under the IR Act must be publicly accessible (on the Queensland Industrial Relations Commission website). The Queensland Industrial Relations Commission should maintain a publicly accessible register of all organisations registered under the IR Act and the rules of each organisation.

16 Fit and proper person test

That, as included in the *Fair Work Act 2009* (Cth), the IR Act be amended to provide that union officials must comply with a robust 'fit and proper person' test which requires them to act lawfully and in their members' best interests, in order to exercise lawful right of entry powers.

17 Right of entry – time and wages

That the IR Act be amended to align the requirements for an exercise of an authorised officer's right of entry with those in the *Fair Work Act 2009* (Cth). In particular, the following is to be required:

- The authorised officer must have notified the employer or employer's representative of an intention to enter the workplace;
- The authorised officer must give the employer or employer's representative written notice of intention to enter the workplace;

- Such notice must be provided during working hours and at least 24 hours, but not more than 14 days, before the entry; and
- The notice must contain relevant particulars, including: the premises proposed for entry, the day of the entry, the name of the authorised officer and the employing organisation, and the provision of the IR Act under which entry is sought.

18 **Bargaining parties behaviour**

That the Queensland Government consider if measures should be provided for to bolster good faith bargaining requirements.

19 **Additional transparency measures**

That the Queensland Government consider introducing further measures to boost transparency in relation to public reporting obligations on registered organisations, including reporting obligations in relation to expenditure.

20 **Conduct of industrial ballots**

That the IR Act be amended to provide for the Electoral Commission of Queensland to conduct all industrial ballots.

21 **Balloting methods**

That the IR Act be amended to allow for the use of postal, electronic or other appropriate voting methods in the conduct of union elections to improve flexibility, efficiency and engagement.

22 **Time and wages records**

Clarify the policy intent underlying the broad right for an authorised officer to be provided access to time and wages records to ensure it is not used as a means of subverting existing mechanisms for access to information such as legal discovery processes.

Collective Bargaining

23 **Balloting – ability to direct ballot employees**

That, similar to the *Fair Work Act 2009* (Cth), the IR Act be amended to provide that where an application for certification of a negotiated agreement is made to the Queensland Industrial Relations Commission, the agreement may be put to employee ballot without obtaining in-principle agreement from the union(s) party to the agreement.

The ability to ballot employees in absence of in-principle agreement from the union/s party should be enlivened on conclusion of the peace obligation period. Parties should not be required to attend conciliation prior to balloting employees, but any ballot must occur prior to a decision being made to refer the negotiations to arbitration.

24 **Protected Industrial Action: Increased notice period**

That, similar to the *Fair Work Act 2009* (Cth), the IR Act be amended to require that a person intending to take protected industrial action must give written notice of the intention to all of the negotiating parties for the proposed bargaining instrument at least three working days before the action is taken, where the industrial action is responding to or occurring after industrial action taken by another party to the proposed bargaining instrument.

25 Consequences of protected industrial action

That the Queensland Government consider harmonising the consequences of protected industrial action in the IR Act with the *Fair Work Act 2009* (Cth) provisions, which mandate deductions of pay arising from the taking of protected industrial action.

26 Payment for strikes

That the Queensland Government consider amending the IR Act to provide that an employer must not pay an employee for a period where an employee engages in a strike.

27 Protected Industrial Action: Ministerial declaration terminating industrial action

That amendments to the IR Act be considered, similar to the *Fair Work Act 2009* (Cth), to enable the Minister to make a written declaration terminating protected industrial action for a proposed enterprise agreement if the Minister is satisfied that:

- a. the industrial action is being engaged in, or is threatened, impending or probable; and
- b. the industrial action is threatening, or would threaten to either endanger the life, the personal safety or health, or the welfare of the population or part of it; or to cause damage to the Queensland economy or an important part of it; or would be otherwise contrary to the public interest; or
- c. that it is in the public interest that protected industrial action taken by frontline or critical service delivery workers be terminated on the basis of concerns about service delivery impacts on the population or part of it.

The declaration will come into operation on the day that it is made.

28 Applications for suspension or termination of protected industrial action

That the IR Act be amended to reduce the burden on employer applicants and facilitate the granting of applications by the Queensland Industrial Relations Commission for suspension or termination of protected industrial action for a proposed bargaining instrument, where the Queensland Industrial Relations Commission is satisfied the action is or may cause significant economic harm to an employer covered by the proposed instrument.

Consideration should be given to lowering the threshold for imminent harm and protracted industrial action.

29 Protected Industrial Action in conciliation

That the IR Act be amended to disallow negotiating parties to take protected industrial action in relation to a bargain once an application for conciliation has been made.

30 Scope orders

That the IR Act be amended to require, similar to the *Fair Work Act 2009* (Cth), that the Queensland Industrial Relations Commission consider the impacts of a proposed scope order on an employer when considering whether to make such an order. Specifically, the Queensland Industrial Relations Commission must be satisfied that the order will not adversely impact the business or operational needs of the

employer, with regard given to the nature of the work performed, any budgetary consideration, and considerations on productivity.

31 Interim wage increases in arbitration

That the IR Act be amended to remove the ability for a party to apply for an interim wage increase in arbitration proceedings.

32 Matters considered in making arbitration determination

That the IR Act be amended to require the Queensland Industrial Relations Commission to consider particular matters when making an arbitration determination in proceedings for a negotiated agreement. The matters the Queensland Industrial Relations Commission must have regard to should align with the factors taken into account by the Fair Work Commission in making a workplace determination under the *Fair Work Act 2009* (Cth). These include:

- a. the merits of the case;
- b. the interests of the employers and employees who will be covered by the proposed negotiated agreement;
- c. the significance of any arrangements or benefits in a certified agreement to the parties covered by it;
- d. the public interest;
- e. how productivity might be improved in the enterprise or enterprises concerned;
- f. the extent of which the conduct of the bargaining representatives for the proposed enterprise agreement concerned was reasonable during bargaining for the agreement;
- g. the extent to which the bargaining representatives for the proposed enterprise agreement have complied with good faith bargaining requirements; and
- h. incentives to bargain at a later time.

In the alternative, that the Queensland Government consider amending the IR Act to require the Queensland Industrial Relations Commission to consider the following matters when making an arbitration determination:

- a. The fiscal position and strategy of the State of Queensland as employer and the impact of the decision on employment;
- b. Opportunities for mutual gains;
- c. Incentives to continue bargaining at a later time;
- d. the impact of any proposed change on government service delivery, particularly the delivery of essential services.

33 Conciliation

That the IR Act be amended to clarify that the date conciliation began is taken to be the day a negotiating party asks the Queensland Industrial Relations Commission to help the parties reach agreement.

34 Referral to arbitration

That the IR Act be amended to provide that the conciliating member in a matter may refer the matter to arbitration either:

- a. three months from the nominal expiry date of certified agreement or bargaining award that applies to the parties; or

- b. If satisfied that the parties are unlikely to reach agreement, at any time from the day conciliation of the matter started.

35 **Procedure for agreement certification**

That the IR Act be amended to reduce the burden on the parties in an application for certification or termination of an agreement by allowing the Queensland Industrial Relations Commission to be satisfied that the requirements for deciding an application to certify or terminate an agreement have been met, in circumstances where no submission has been made that the requirements have not been met. In drafting for this, consideration should be given to treatment to restore limited coverage or provide transitional coverage to employees if it is later identified that there were still employees reliant on the terminated agreement.

Wage-setting mechanisms

36 **Award variation and agreement rates**

That the Queensland Government consider amendments to the IR Act to:

- a. provide that the Queensland Industrial Relations Commission must not make an award variation where it proposes to incorporate certified agreement rates into the parent award;
- b. omit the ability of a party to apply to the Queensland Industrial Relations Commission for the inclusion of provisions from a directive into an award, despite current or prior application of the directive to the parties to the award.

37 **Interactions between awards and agreements**

That the IR Act be amended to:

- a. Include in its main purpose to ensure productive workplaces and adequate protections and fair conditions for employees;
- b. Reflect that the main purpose of the IR Act is to be achieved by ensuring productive workplaces and providing adequate protections and fair conditions for employees;
- c. Reflect that awards are a safety net rather than prevailing standards to clarify the interactions of awards and agreements.

Recommendations 39 and 40 should be considered in making these amendments.

38 **Adopt outcome of Annual Wage Review**

The IR Act should be amended to allow the Full Bench of the Queensland Industrial Relations Commission to adopt the outcome of the Annual Wage Review in the State Wage Case without receiving evidence or submissions or conducting a hearing, in the absence of an objection from an interested party. If a party objects, the Queensland Industrial Relations Commission should hear the matter *de novo*.

39 **State Wage Case increases in awards and agreements**

- a. That the Queensland Government consider repealing *Directive No. 12/12: State Wage Case and Certified Agreements*, noting it is inconsistent with the wage-setting model proposed in this Review.
- b. That the Queensland Government consult with the Office of Industrial Relations and key stakeholders in relation to an appropriate time to repeal this directive.

40 Primary wage setting mechanism

1. That the Queensland Government consult with interested parties to explore interactions of the wage setting mechanisms in the Queensland industrial relations jurisdiction, with a view to identifying the most appropriate primary wage setting mechanism. This should occur on conclusion of the current bargaining cycle and may include consideration of the continuing need for both an Award and an Agreement, as well as Independent Remuneration Tribunals and Expert Wage Setting Panels.
2. That, in the interim the Queensland Government consider:
 - a. Ensuring the State Wage Case continues to set wages for workers who are genuinely reliant on either award wages or the Queensland Minimum Wage; and
 - b. Amending the IR Act such that, after 1 September 2026, award wages for Queensland state public sector workers covered by a certified agreement are not increased as a result of the State Wage Case, despite any provision in certified agreements and Ministerial Directives.

Such amendments may include providing that the General Ruling made for the State Wage Case will specify the wage rates that increase for those reliant on Award wages or the Queensland Minimum Wage and not vary the award rates relevant to public sector workers covered by certified agreements.

Operation of the Industrial Court of Queensland and Queensland Industrial Relations Commission

41 Legal representation in the Queensland Industrial Relations Commission

That the IR Act be amended to provide for legal representation in any proceeding before the Queensland Industrial Relations Commission including promoting freedom of choice by restoring a worker's ability to choose their legal representative in proceedings and allowing a worker to choose to be represented by a private lawyer, a lawyer acting for the worker's union, or a lawyer acting for another association or entity.

42 Appeal from a Full Bench of the Queensland Industrial Relations Commission

That the Queensland Government consider amending the IR Act so that an appeal from a Full Bench of the Queensland Industrial Relations Commission where at least one of the members is a presidential member lies directly to the Court of Appeal.

43 Exercise of powers by Industrial Court of Queensland and Queensland Industrial Relations Commission – Decisions

That the IR Act be amended to extend to the entire jurisdiction of the Industrial Court of Queensland and Queensland Industrial Relations Commission to have the power, either on application or acting on its own volition, to dismiss a matter, or refrain from hearing a matter, further hearing, or deciding the matter, if the Industrial Court of Queensland or Queensland Industrial Relations Commission considers that further proceedings by the Industrial Court of Queensland or Queensland Industrial Relations Commission are not necessary or desirable in the public interest.

44 Recommendation to deal with vexatious litigants

That the IR Act be amended to empower the Queensland Industrial Relations Commission to make orders to deal with vexatious litigants and improve efficiencies in relation to these matters.

45 Paying out long service leave

That consideration be given to amending the IR Act, which permits the payment of long service leave instead of taking leave, to provide that if no industrial instrument or federal industrial instrument provides for an employee to be paid for all or part of an entitlement to long service leave (instead of taking the leave), then an employee with an entitlement to long service leave should be able to make application to his or her employer to be paid the long service leave instead of taking the leave; and that if there is a dispute, the dispute can be conciliated and arbitrated by the Queensland Industrial Relations Commission.

46 Public Sector Appeals

That the Queensland Government consider amending the IR Act to limit the jurisdiction of the Queensland Industrial Relations Commission to hear appeals against employment-related decisions made under the *Public Sector Act 2022* (Qld) to (only) disciplinary decisions.

**Status of the Industrial Court of Queensland,
Queensland Industrial Relations Commission and its members**

47 References to members of the Industrial Court of Queensland

That the IR Act be amended to clarify that the vice president or a deputy president of the Industrial Court of Queensland is a judge of the Industrial Court of Queensland.

48 Appointments to the Industrial Court of Queensland and Queensland Industrial Relations Commission

That the IR Act be amended to provide that a deputy president of the Industrial Court of Queensland may be appointed by way of commission by the Governor-in-Council. If accepted, the amendments should align the qualifications for appointment as a judge of the Industrial Court of Queensland to those of a judge of the Supreme and District Courts.

49 Exercise of powers by Industrial Court of Queensland - Appointment of the Vice President and a Deputy President (Court)

That amendments to the IR Act be considered to clarify the conditions and qualifications for appointment for members of the Industrial Court of Queensland.

50 Exercise of powers by Industrial Court of Queensland – Acting President

That the IR Act be amended to permit the Vice President to act as the president when the president is temporarily unable to perform the functions of the office.

51 Exercise of powers by Industrial Court of Queensland – President

That the IR Act be amended to clarify who is responsible for the administration of the Queensland Industrial Relations Commission, namely that the Vice President is responsible to the President for the administration of the Queensland Industrial Relations Commission and ensuring the orderly and expeditious exercise of the jurisdiction and powers of the Queensland Industrial Relations Commission.

52 Renaming the Queensland Industrial Relations Commission

That consideration be given to rename the Queensland Industrial Relations Commission to the Queensland Industrial Relations Court to ensure it clearly within the hierarchy of state courts and appropriately reflects the nature of its jurisdiction and the work it is now required to undertake.

53 Review structure of the Queensland Industrial Relations Commission

That consideration be given to a review of the structure of the Queensland Industrial Relations Commission including the appointment of additional commissioners to support operational efficiency

54 Punishment of contempt

That the IR Act be amended to empower the Queensland Industrial Relations Commission to punish a person for contempt of the tribunal.

55 Discretion to award costs

That the IR Act be amended to broaden the discretion of the Industrial Court of Queensland or Queensland Industrial Relations Commission to award costs, including where costs were incurred due to unreasonable acts or pursuit of proceedings without reasonable prospects of success.

Other**56 Industrial disputes and public sector appeals**

That the Queensland Government consider amending the IR Act to clarify that matters that are expressly non-appealable under the *Public Sector Act 2022* (Qld) cannot be subject of an industrial dispute under the IR Act.

57 Concurrent statutory claims under related legislation

That the Queensland Government consider if efficiencies can be improved in relation to the handling of concurrent or overlapping proceedings in the Queensland Industrial Relations Commission made under multiple statutory claims, arising from the same factual matrix. In particular, consideration should be given to claims brought under the IR Act's provisions for industrial disputes (section 261), unfair dismissal (section 317) and general protections (section 309), and parallel complaints under the *Anti-Discrimination Act 1991* (Qld), the *Human Rights Act 2019* (Qld) and the *Public Sector Act 2022* (Qld).

58 Chapter 10A IR Act

That the Queensland Government consider the status of Chapter 10A of the IR Act, with regard given to the outcomes of the applications for relevant minimum standards orders before the Fair Work Commission.

59 Public interest disclosures

That recommendation 84 of the 2023 Final Report into the Review of the *Public Interest Disclosure Act 2010* (Qld) be given effect by clarifying that the *Public Interest Disclosure Act 2010* (Qld) is an industrial law, and a public officer's eligibility to make a public interest disclosure is considered a workplace right.

60 Public Sector Appeals – Queensland Police Service

That the Queensland Government consider the most appropriate forum for determining disciplinary appeals for Queensland Police Officers. In doing so, regard

is to be given to the outcomes of the 2025-26 Review of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld).

61 **Remove outworkers and wages in rural mining industries divisions**

62 **Boxed directives**

That the Queensland Government consider measures to address exceptional or emergency circumstances (e.g. in the case of natural disasters and response to natural disasters, the 2032 Olympic and Paralympic Games). This could include, for example, reinstating “special/boxed directives” in relation to industrial relations entitlements so certain matters could be dealt with administratively in accordance with the *Public Sector Act 2022* (Qld).

If it is considered necessary to, for example, change nominal expiry dates for agreements so that bargaining is delayed during the key delivery period for the Olympics, it is noted that this may require legislative change, noting appropriate safeguards for employees would also need to be considered.

Rec	WCS Recommendations
Psychological injuries	
1	Employment contribution for psychological injuries 1.1 That the WCR Act be amended to add <i>'the major'</i> as a qualifier for work's <i>'significant contribution'</i> to a psychiatric or psychological injury, to increase the connection to employment for compensable psychiatric or psychological injuries.
2	Reasonable Management Action 2.1 That the WCR Act be amended to provide greater clarity on the meaning of 'reasonable management action' by: - confirming that 'management action' need not be perfect, provided it is reasonable overall; and - confirming employer investigations of alleged misconduct are an example of a type of 'management action' which precludes entitlement. 2.2 The Workers' Compensation Regulator review guidance material on reasonable management action for workers, employers and insurers.
3	Code of Practice for Claims Management for insurers That the Minister make a Code of Practice for Claims Management to drive improved, consistent and timely claims decision making and management across the scheme with a focus on primary and secondary psychological injury claims.
4	Independent review of impact of recommendations for psychological injuries That the Queensland Government, in consultation with the Workers' Compensation Regulator, undertake an independent review to determine whether the implemented changes have addressed the growth and impacts of psychological injuries within the scheme.
5	Assessing degree of permanent impairment process for psychological injuries That the WCR Act be amended to require the degree of permanent impairment process for psychiatric or psychological injuries be aligned with the degree of permanent impairment process for physical injuries.
6	Medical Expertise That WorkCover Queensland engage and actively utilise dedicated internal high level, centralised and specialist medical expertise (including psychiatric expertise) to strengthen claims management, clinical governance and staff capability.
7	Uplift in insurer capability That the Workers' Compensation Regulator consider the current practices of insurers in ensuring claims manager capability and whether guidance or a Code of Practice is required.
Fraud	
8	Claims management responses where reasonable belief of fraud That the WCR Act be amended to: Automatically stay a claim for compensation or damages on the commencement of a proceeding for fraud or attempted fraud offending under the WCR Act.

- Allow the authorised person to issue a direction that payment of lump sum compensation or claim for common law be stayed where there is a reasonable belief of fraud.
- Allow an authorised person to issue a direction to stop compensation where there is a reasonable belief of fraud (similar to the model used by WorkSafe Victoria).

9 **Commencement of proceedings for fraud and related offending**

That the WCR Act be amended to:

- allow proceedings for fraud to be taken, at the election of the prosecution, on indictment; and
- have proceedings commenced in a summary way under the *Justices Act 1886 (Qld)*, before a Magistrate.

10 **Maximum penalties for fraud and related offending**

That the WCR Act be amended to increase the penalty for fraud offences with consideration given to greater consistency with fraud and related offending under the Queensland and Commonwealth Criminal Codes.

11 **Notification of return to work (engaging in a calling)**

11.1 That the WCR Act be amended to:

- require a worker declaration in an approved form be provided to an insurer on a regular basis; and
- clarify that workers are required to notify insurers of any return to work.

11.2 That the *State Penalties Enforcement Regulation 2014* be amended to allow authorised persons of the Workers' Compensation Regulator to issue an infringement notice for failure to notify of an engagement in a calling.

12 **Limitation period for fraud and related offending**

That the WCR Act be amended to extend the current timeframe to commence a proceeding:

- for fraud only to regardless of when the matter of complaint arose
- for other offences to one year after the commission of the offence comes to the knowledge of the Workers' Compensation Regulator.

13 **Formal record of convictions for fraud and related offending**

That the Minister engage with the Attorney-General and Minister for Justice on including convictions for workers compensation fraud and related offending as Disclosable Court Outcomes on individual National Police Certificates.

Self-insurance

14 **Self-insurer licence renewal period**

The WCR Act be amended to extend the maximum self-insurance licence renewal period from four to five years for demonstrated very high performing insurers.

15 **Self-insurer health and safety management system auditing framework**

That the Workers' Compensation Regulator, review the current work health and safety audit requirement and framework to evaluate its ongoing efficiency, effectiveness and alignment with scheme objectives.

16 Liabilities at time of transfer between self-insurer and WorkCover Queensland

That the Workers' Compensation Regulator review the current requirements under the WCR Act and WCR Regulation for the transfer of liabilities between insurers to ensure adequacy and appropriate avenues of dispute resolution for any disagreement.

17 Specialised Insurance

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct a feasibility study including consideration of a pilot, to evaluate the financial, operational and regulatory impact for introducing specialised insurance into the Queensland workers' compensation scheme.

18 Self-insurers as a party to reviews and appeals

That the Queensland Government, in consultation with the Workers' Compensation Regulator, undertake a review to consider whether self-insurers should be a party for a review or subsequent appeal conducted by the Workers' Compensation Regulator.

Claims management and rehabilitation and return to work**19 Guidance and Code of Practice about rehabilitation and return to work for insurers**

19.1 That the Workers' Compensation Regulator review the current *Rehabilitation and return to work plan guideline – for insurers* and *Accredited rehabilitation and return to work program guideline – for insurers* to ensure that the expectations are appropriate for the stage of the claim and to ensure there is strong communication between stakeholders and quality, meaningful planning.

19.2 That the Minister make a Code of Practice for Rehabilitation and Return to Work for insurers to promote consistent, proactive and effective return to work outcomes across the scheme. This should have a focus on psychological injuries.

20 Guidance about rehabilitation and return to work for employers

20.1 Review the *Guideline for Standard for Rehabilitation* (Scheme Direction).

20.2 Review other current guidance and support available to employers to support them to meet their obligations for rehabilitation and return to work including consideration of the need for a Code of Practice. This should have a focus on psychological injuries.

21 Workplace Rehabilitation Service providers

That the Workers' Compensation Regulator consider whether a scheme direction should be made to ensure that each provider of workplace rehabilitation services meets certain requirements for their services including competency and professional standards and service delivery.

Insurer performance and compliance**22 Issuing of compliance notices**

That the WCR Act be amended to ensure compliance notices can be effectively used to address and enforce systemic non-compliance by insurers.

23 Enforceable undertakings for insurers

That the WCR Act be amended to introduce enforceable undertakings as a regulatory tool for insurer non-compliance.

24 Insurer compliance with document requests

That the WCR Act be amended to broaden sections 93 and 94 to apply to all insurers operating within the Queensland workers' compensation scheme.

25 Prosecutions to be managed by the Workers' Compensation Regulator

That the WCR Act be amended to mandate that all prosecutions within the scheme be initiated, managed and directed exclusively by the Workers' Compensation Regulator.

26 Publication of insurer performance and regulatory action

That the Workers' Compensation Regulator expand the public disclosure of insurer performance information by publishing the specific licence durations and performance assessments, conditions and regulatory or enforcement actions taken.

Compensation**27 Modernisation of calculation of weekly compensation**

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct an evidence-based review to determine whether weekly compensation calculations can be simplified and modernised.

28 Basic weekly payments

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct an evidence-based review of basic weekly payments to ensure the payments remains reasonable and fair for workers, employers and insurers.

Scheme coverage**29 Gig economy workers**

That the Queensland Government consider the status of section 11(1)(b), with regard given to the outcomes of the applications for relevant minimum standards orders before the Fair Work Commission.

30 Extend presumptive coverage to Queensland Parks and Wildlife Service firefighters

That the WCR Act be amended to extend presumptive firefighter coverage to Queensland Parks and Wildlife Service employees who perform firefighting duties.

Governance of independent medical examiners and assessments**31 Strengthen governance of independent medical examiners and assessors**

31.1 That the WCR Act be amended to establish a register of authorised independent medical examiners and assessors able to provide services to the scheme. The register is to be managed by the Workers' Compensation Regulator.

31.2 That the Queensland Government, in consultation with the Workers' Compensation Regulator and WorkCover Queensland, consider the most effective way to transition to the new model for independent medical examiners under the scheme.

32 Queensland's Guidelines for evaluation of permanent impairment

That the Queensland Government, in consultation with the Workers' Compensation Regulator, review whether *Queensland's Guidelines for evaluation of permanent impairment* remains the most contemporary, appropriate and evidence-based tool for assessing degrees of permanent impairment.

- 33 **Interstate rehabilitation and return to work coordinators and claims managers**
That the WCR Act be amended to remove the Queensland-based requirement for rehabilitation and return to work coordinators and for persons who perform self-insurer functions.

Review and appeal of insurer decisions

- 34 **Timeframe to lodge disputes**
That the WCR Act be amended to update the timeframe to lodge an application for review to 20 business days and the timeframe to lodge an appeal to 30 business days.

- 35 **Decision making timeframes for Review Unit**
That the Workers' Compensation Regulator, continue to focus on operational reforms to reduce the timeframes for the Workers' Compensation Review Unit to determine review applications, while maintaining procedural fairness and quality decision-making.

- 36 **Decisions to be referred to Review Unit by insurers**
That the WCR Act be amended to enable insurers to refer decisions to the Workers' Compensation Regulator for review within 20 business days of becoming aware there was a mistake of fact that was not reasonably available to the insurer at the time of their decision.

- 37 **Appeals for policy and premium matters**
That the WCR Act be amended to move appeals for premium and policy matters to the Queensland Industrial Relations Commission.

Other

- 38 **Insurer access to medical information**
That the Queensland Government, in consultation with the Workers' Compensation Regulator, review insurers' statutory power to access and obtain medical information.

- 39 **Access to worker's claims history**
That the WCR Act be amended to allow prospective employers to request a prospective workers' claims history summary from the Workers' Compensation Regulator for a fee.

- 40 **Use of workers' compensation documents for employment purposes**
That the Queensland Government, in consultation with the Workers' Compensation Regulator, review employers' permissible access and use of workers' compensation information.

- 41 **Provision of information statements**
That the WCR Act be amended to remove the requirement that employers provide an information statement on commencement of employment.

- 42 **Collaboration between the workers' compensation scheme, Workplace Health and Safety Queensland and industry**
That the leadership of the Office of Industrial Relations investigate and consider the systems, practices and policies necessary to maximise coordination between workers' compensation, workplace health and safety and industry, without compromising the objectives of either system.

Part 1: Industrial Relations

1.1 Introduction

1.1.1 Jurisdictional snapshot

There are an estimated 383,000 workers covered by the IR Act. Of these:

- 333,329 work in the Queensland state public sector;¹
- 45, 870 work in the Queensland local government sector; and
- Approximately 3,014 work in statutory bodies such as the Darling-Downs Moreton Rabbit Board and the Parents and Citizens Associations.

The majority of workers in this jurisdiction are covered by both an award and a certified agreement. It is estimated that only 7,641 workers in this jurisdiction are covered by a modern award but no certified agreement. As at 24 July 2026, the Queensland public sector has 36 certified agreements and the local government sector has over 70 certified agreements.²

In Queensland more broadly, there are estimated to be 3.04 million employed people.³ This means there are an estimated 2.66 million people working in the national jurisdiction under the FW Act. The national jurisdiction covers the majority of workers, 21.1% of whom are Award Dependent, with an estimated 23,900 reliant on the National Minimum Wage and an estimated 2.8 million workers covered by federal enterprise agreements.⁴

1.1.2 Objectives of Queensland's industrial relations jurisdiction

Queensland's industrial relations system is founded on a basis of cooperative industrial relations, a system committed to building safe, fair and productive workplaces and communities, where workers' and employers' rights are protected and advanced. The policy objective of the IR Act is to provide for a framework for the conduct of industrial relations within the State's industrial relations jurisdiction that is fair and balanced and supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders.⁵

The main purpose of the IR Act is to be achieved by several means, including:

- supporting a productive, competitive and inclusive economy, with strong economic growth, high employment, employment security, improved living standards and low inflation;
- promoting productive and cooperative workplace relations including by recognising

¹ *State of the Sector Report 2026*. State of Queensland (Public Sector Commission), p 31.

² *Public Service Agreements and Local Government Agreements*, Queensland Industrial Relations Commission (QIRC).

³ *Labour Force, Australia, June 2026*, Australian Bureau of Statistics (ABS).

⁴ *Annual Wage Review Decision 2026 [2026] FWCFB 3500*, pp 9 and 15, Fair Work Commission (FWC).

⁵ s 3 of the *Industrial Relations Act 2016* (IR Act).

mutual obligations of trust and confidence in the employment relationship;

- providing for a guaranteed safety net of fair, relevant and enforceable minimum employment conditions through the Queensland Employment standards;
- encouraging fairness and representation at work, and the prevention of discrimination, by recognising the right to freedom of association, the right to organise and the right to be represented; and
- encouraging representation of employees and employers by organisations that are registered under this Act.⁶

1.1.3 Key historical changes to Queensland's industrial relations jurisdiction

Prior to the 2015 review of the *Industrial Relations Act 1999* (Qld) (IR Act 1999), the IR Act and *Public Service Act 2008* (Qld) were amended in 2012 to clarify a number of processes involved in negotiations and arbitration, including protected industrial action.⁷ These amendments responded to Queensland's changed industrial relations jurisdiction following the referral of Queensland's private sector industrial relations powers to the Commonwealth, which largely limited the State jurisdiction to public sector and local government workers.

Previous to this, Queensland's industrial relations laws were last systemically reviewed in 1998 by an industrial relations taskforce (the Gardner Review).⁸ 150 of the 166 recommendations made in the final report of the Gardner Review were accepted and given effect in the IR Act 1999.⁹ When the IR Act was enacted in 1999, it covered both the private and public sectors.¹⁰

In 2005, the Federal Government developed a national workplace relations system by making major amendments to the *Workplace Relations Act 1996* (Cth)¹¹ (WR Act) via the *Workplace Relations Amendment (Work Choices) Act 2005* (Cth).¹² These amendments resulted in much of the private sector falling under the federal industrial relations jurisdiction and created confusion around appropriate industrial relations jurisdiction for businesses and organisations. On 1 July 2009, the WR Act was replaced by the *Fair Work Act 2009* (Cth)¹³ (FW Act). The Queensland industrial relations system has since reduced in scope, with the Queensland Government referring to the Commonwealth the power to cover non-incorporated entities in the private sector in 2010.¹⁴

By June 2015, the IR Act 1999 had been amended on 74 occasions¹⁵, resulting in complex numbering and a lack of overall coherence. Key changes include:

⁶ s 4 of the IR Act.

⁷ *Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Act 2012* and the *Public Service and Other Legislation Amendment Act 2012*.

⁸ *Review of industrial relations legislation in Queensland : report*, December 1998. Supreme Court Library Queensland

⁹ *Industrial Relations Bill 1999: Explanatory Notes*.

¹⁰ *Industrial Relations Act 1999* (IR Act 1999) (as enacted).

¹¹ *Workplace Relations Act 1996* (Cth), Federal Register of Legislation.

¹² *Workplace Relations Amendment (Work Choices) Act 2005* (Cth), Federal Register of Legislation.

¹³ *Fair Work Act 2009* (Cth) (FW Act), Federal Register of Legislation.

¹⁴ Referral commenced through amendments to the IR Act by the *Fair Work (Commonwealth Powers) and Other Provisions Act 2009*.

¹⁵ *Legislative History*, IR Act 1999.

- requirement for the Queensland Industrial Relations Commission (QIRC) to consider the prevailing economic conditions when determining wages and employment conditions;
- requirement for unions to hold a ballot of members before industrial action could be protected under law;
- provision for the Minister for Industrial relations to make a declaration to terminate industrial action if satisfied that the action threatened the safety and welfare of the community or threatened to damage the economy;
- expansion of the right of a party to access legal representation in the QIRC;
- introduction of the Queensland Employment Standards, the award modernisation process bargaining arrangements including the imposition of timeframes around conciliation and arbitration;

As the original IR Act was drafted for an industrial relations system comprised of both private and public sectors, in 2015 the Queensland Government announced a review of the Queensland's industrial relations jurisdiction (2015 IR Review), led by the Industrial Relations Legislation Reform Reference Group (Reference Group). The Terms of Reference for the review required the consideration of, and recommendations for Queensland's industrial relations framework, laws and tribunals including the structure, function and powers of those tribunals. The 2015 IR Review outlines the key elements to the core architecture of the system as a set of minimum standards, collective bargaining, a set of individual rights to fair treatment and an independent commission and court.¹⁶ Recommendations implemented as a result of the 2015 IR Review include:

- recognising collective bargaining as the cornerstone for setting wages and conditions;
- enshrining minimum employment conditions and standards;
- providing a right to fair treatment, general protections, workplace related anti-discrimination matters and anti-bullying protections in the state's industrial relations jurisdiction;
- introducing a right for all workers to request flexible work arrangements and a right to paid leave for victims of domestic and family violence;
- ensuring effective, transparent and accountable governance and reporting for registered industrial organisations and employer associations (consistent with the federal requirements under the *Fair Work (Registered Organisations) Act 2009*).¹⁷

1.1.4 Previous 2021 review of the IR Act

In 2021, a statutory five-year review of the IR Act (2021 IR Review) was conducted by independent reviewers Ms Linda Lavarch and Mr John Thompson. The 2021 IR Review found the IR Act was operating as intended and noted several areas where the IR Act may be updated to better reflect evolving community standards for the workplace.¹⁸

¹⁶ *A Review of the Industrial Relations Framework in Queensland: A Report of the Industrial Relations Legislative Reform Reference Group (2015) (2015 IR Review).*

¹⁷ *Fair Work (Registered Organisations) Act 2009 (Cth)* (FWRO Act), Federal Register of Legislation.

¹⁸ *Five-year Review of Queensland's Industrial Relations Act 2016 Final Report* (2021) (2021 IR Review).

Legislative amendments¹⁹ resulting from the 2021 IR Review sought to ensure the IR Act continued to promote the objectives of the IR Act by strengthening protections against workplace sexual harassment, ensuring employees covered by the IR Act have access to prevailing employment standards and introducing a jurisdiction to provide for minimum entitlements and conditions for independent courier drivers. Amendments also sought to clarify the rights and responsibilities of industrial organisations and other associations of employers and employees under the IR Act.

Amendments were also made to the operation of the State Wage Case (SWC) allowing the QIRC discretion to limit pay rates in awards pertinent to employees in the Queensland public sector where these rates were overtaking the rates settled upon in their certified agreements.²⁰

¹⁹ *Industrial Relations and Other Legislation Amendment Act 2022* (IROLA Act).

²⁰ s 43 of the IROLA Act and s 459A of the IR Act.

1.2 Queensland employment standards

1.2.1 Background

Minimum employment standards are a key feature of the national and state industrial relations systems in Australia. Generally, they operate to provide a legislated safety net of minimum employment standards, which can be improved upon but not diminished by conditions contained in modern awards or agreements negotiated between employers and their employees.

In Queensland's IR Act, the minimum employment standards are called the Queensland Employment Standards (QES) and are prescribed under Chapter 2, Part 3.²¹

Nationally, the FW Act prescribes a set of minimum standards called the National Employment Standards (NES) under Chapter 2, Part 2-2.²²

When the current IR Act was made in 2016, it sought to establish a single set of statutory minimum employment standards for the Queensland industrial relations system (i.e., predominantly state and local government employers and employees) based on long-standing entitlements and some amendments to be consistent with the NES under the FW Act. The QES includes (for example) minimum wage rates, annual leave, sick/carers' leave, parental leave, and bereavement/compassionate leave, and introduced a new statutory entitlement to paid domestic and family violence (DFV) leave.

Prior amendments to the Queensland Employment Standards

The Final Report of the 2021 IR Review found the QES provided a strong safety net of modern minimum standards for Queensland workers and recommended minor amendments to better align them with the NES.²³ The recommendation was accepted, and the IR Act was amended in 2022 in relation to annual and personal leave provisions with respect to public holidays, parental leave in cases of stillbirth, to extend the entitlements for adoption and cultural parental leave and to extend paid DFV leave to casual employees, consistent with changes introduced in the Fair Work jurisdiction in 2022.²⁴

In 2024, the parental leave provisions were amended, consistent with comparable changes to the FW Act, to provide flexibility in light of reforms to the national Parental Leave Payment Scheme. The requirement for employers to make superannuation contributions was also included as an amendment to make this a new minimum employment standard under the IR Act.²⁵

²¹ [Ch 2, Pt 3](#) of the IR Act.

²² [Pt 2.2](#) of the FW Act.

²³ [2021 IR Review](#), pp 39-47, recommendations 16-26.

²⁴ [ss 5-24](#) of the IROLA Act.

²⁵ [Pt 2](#) of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024*.

Protections for the QES

The 2016 IR Act introduced a general protections jurisdiction (Chapter 8) to prohibit and provide remedy for adverse action taken against a person (or entity) exercising (or opting to not exercise) their workplace rights under the IR Act.²⁶ This jurisdiction was based on and closely reflects the FW Act general protections jurisdiction.²⁷ The ‘general protections’ provide that a person (employer, individual, industrial organisation) must not take adverse action (including dismissal) against another person because the person has exercised a workplace right, such as the right to request a flexible work arrangement or take parental leave, or making a complaint they are entitled to make under the IR Act.²⁸

The IR Act also includes various avenues for employees to recover unpaid/underpaid wages and leave entitlements.²⁹

General protection or wage recovery claims are made to the QIRC, which can make orders including imposing a civil penalty under the IR Act for any contraventions.³⁰

Inquiry into the operation and adequacy of the NES

At the time of this review, an inquiry into the operation and adequacy of the National Employment Standards (NES Inquiry) was being undertaken by the federal House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training.³¹ The NES Inquiry was referred to the Committee on 24 November 2025. As at 11 August 2026, the inquiry continues to hold public hearings and has not yet set a reporting date.

The scope of the NES Inquiry is broad³², although some specific provisions are excluded because separate statutory review of those elements have occurred or will occur. More information on the NES Inquiry is available on the Australian Parliament House website.

1.2.2 Stakeholder views and findings

In relation to the QES, stakeholder submissions to this review called for harmonisation of entitlements under the QES and NES, and noted the federal NES Inquiry on foot at time of this Review and supported considering changes to the QES on completion of the inquiry and consideration of its findings.

We share the view that regard must be given to the outcomes of the NES Inquiry in due course, ahead of considering any changes to the QES. As such, our overarching recommendation in this respect is as follows.

²⁶ Ch 8 of the IR Act.

²⁷ Ch 3 of the FW Act.

²⁸ s 285 of the IR Act.

²⁹ Ch 9, Pt 2, Divs 3-6 of the IR Act.

³⁰ Ch 11, Pt 8 of the IR Act.

³¹ [Inquiry into the operation and adequacy of the National Employment Standards](#), Standing Committee on Employment, Workplace Relations, Skills and Training.

³² [Terms of Reference](#), Inquiry into the operation and adequacy of the National Employment Standards, Standing Committee on Employment, Workplace Relations, Skills and Training.

IR Recommendation 1: Consideration of National Employment Standards Inquiry outcomes

That outcomes of the federal inquiry into the operation and adequacy of the National Employment Standards inform later consideration of the adequacy of the Queensland Employment Standards under the IR Act.

Some matters highlighted by stakeholders in relation to QES when the NES Inquiry concludes are discussed below for reference.

Harmonising particular leave entitlements

Three submissions to this review sought amendment of the QES to include 10 days of paid reproductive health leave. Currently, the IR Act does not provide an entitlement to paid reproductive health leave. However, Queensland public sector employees may access up to 10 days of paid reproductive health leave per year via *Directive 07/24 – Reproductive Health Leave*.³³ This directive came into effect on 30 September 2024. Part-time employees may access the entitlement on a pro-rata basis, however casual employees are not entitled to paid reproductive health leave.

At time of writing, there is no entitlement to paid reproductive health leave in the Fair Work jurisdiction, although a bill introduced by Australian Green's Senator Larissa Waters proposing to amend the FW Act to provide employees of all genders to access 12 days of paid reproductive health leave in a 12-month period and to request flexible working arrangements when experiencing symptoms of perimenopause and menopause remains on the Senate Bills list.³⁴

To date, no Australian jurisdictions have a statutory entitlement to paid reproductive health leave. New South Wales (NSW)³⁵, Victoria³⁶ and Western Australia³⁷ provide public sector employees to up to five days paid reproductive leave.

Stakeholders also called for extension of paid cultural leave into the QES. The IR Act currently provides for up to five days of unpaid cultural leave to attend an Aboriginal or Torres Strait Islander ceremony the worker is required to attend by Aboriginal tradition or Island custom.³⁸ The leave must be taken by agreement with the employer, but the employer may not unreasonably refuse the leave.

The FW Act does not provide for cultural leave. In other Australian jurisdictions, cultural leave is not a legislated entitlement, but various states make provision for this via government cultural leave policies, or public sector agreements containing relevant required clauses.³⁹

³³ [Reproductive Health Leave \(Directive 07/24\)](#).

³⁴ [Fair Work Amendment \(Paid Reproductive Health Leave and Flexible Work Arrangements\) \(Cth\) Bill 2025](#).

³⁵ [M2022-09 - Paid Leave in the Event of a Miscarriage, Pre-Term Birth or When Undergoing Fertility Treatment](#), NSW.

³⁶ cl 58 of the [Victorian Public Service Enterprise Agreement 2024](#), Victoria.

³⁷ cl 28 of the [Public Sector CSA Agreement 2024](#), Western Australia.

³⁸ [Ch 2, Pt 3, Div 6, Subdiv 4](#) of the IR Act.

³⁹ Examples include cl 67 of the [Victorian Public Service Enterprise Agreement 2024](#), Victoria, cl 43 of the [Public Sector CSA Agreement 2024](#), Western Australia, and [Aboriginal and/or Torres Strait Islander Employee Cultural Leave Policy](#), SA Health.

Noting the entitlements in the QES are intended to provide at minimum the equivalent entitlements to those in the NES, we recommend consideration be given to aligning particular leave entitlements where appropriate.

IR Recommendation 2: Alignment of particular leave entitlements with federal jurisdiction

That the Queensland Government consider aligning the entitlements in the Queensland Employment Standards to mirror those in the National Employment Standards as a priority.

Accrual of long service leave – continuous service

Stakeholders raised the matter of *Fox v Infosys Technologies Ltd* [2024] QIRC 109, wherein the QIRC found that an employee was entitled to long service leave under the IR Act despite that most of the employee's service had been performed outside Queensland.⁴⁰ The employee was employed by Infosys in India from March 2012, later worked in Victoria and, shortly before his resignation, worked in Queensland for 18 days. At the time of his resignation, he had completed more than 10 years of continuous service with the employer.

The Full Bench of the QIRC considered the operation of sections 93 and 95 of the IR Act and held that the legislation does not require an employee's service to have a “substantial connection” with Queensland, finding that section 93 expressly provides that continuous service may be performed “wholly in the state or partly in and partly outside the state” and that, once an employee performs some service in Queensland, earlier interstate and overseas service may be counted towards the 10-year qualifying period.

The decision confirmed that under the current legislative framework, an entitlement to long service leave may arise where an employee has completed the requisite period of continuous service with the same employer and has performed only a limited period of work in Queensland. The ruling was upheld by the Court of Appeal⁴¹, and the High Court⁴² refused special leave for the employer to appeal the decision further.

Stakeholders raised concerns about the territorial reach of Queensland's long service leave provisions, described as having a wider reach than is appropriate for modern national and international workforces and as potentially discouraging the temporary deployment of specialist workers across jurisdictions. Amendment of section 93 was proposed so that interstate and overseas service only counts towards a Queensland long service leave entitlement where the service has a substantial connection with Queensland.

⁴⁰ [Fox v Infosys Technologies Ltd \[2024\] QIRC 109](#).

⁴¹ [Infosys Technologies Limited v Fox \[2025\] QCA 45](#).

⁴² [Infosys Technologies Limited v Fox \[2025\] HCADisp 153](#).

Consideration of the approaches taken in NSW and Victoria was also suggested, including the adoption of a substantial connection test for employees who perform work across multiple jurisdictions. More broadly, support was expressed for greater national harmonisation of long service leave legislation. Noting the strong support for change in this area, it is considered prudent to examine these provisions.

IR Recommendation 3: Accrual of long service leave – continuous service

That, on conclusion of the federal inquiry into the National Employment Standards, the Queensland Government consider if any amendments should be made to the long service leave provisions of the IR Act.

Termination of employment arising from temporary absence

The IR Act provides protections against dismissal and adverse action including where an employee is temporarily absent from work for illness or injury. Section 297 of the IR Act prohibits an employer from dismissing an employee who is temporarily absent from work because of a prescribed illness or injury, provided the absence meets specific statutory timeframes and evidentiary requirements or in circumstances where the absence is reasonable (applicable to employees who are members of the State Emergency Service or rural fire brigade or honorary ambulance officers whose absence is due to performing functions under the relevant legislation in an emergency situation).⁴³

Under section 8 of the *Industrial Relations Regulation 2018* (IR Regulation), a prescribed illness or injury exists if the employee promptly notifies their employer of an illness or injury for which the employee is absent for:

- two days or less, that the illness or injury will cause the employee to be absent from work and the approximate period of absence; or
- more than two days and the employee provides a medical certificate or other satisfactory evidence about the illness or injury and the approximate period of absence.⁴⁴

An injury or illness is not a prescribed illness or injury where the total absences in a 12-month period is more than three months and the employee is not on paid sick or carer's leave under Chapter 2, Part 3, Division 6, subdivision 1 or 2 of the IR Act.⁴⁵ In which case, the absence may not be regarded as 'temporary' and the employee may lose the specific protections against dismissal under the IR Act however, employers must manage terminations lawfully.

In contrast, the corresponding provision under the *Fair Work Regulations 2009* (Cth) (FW Regulations) specifically states that a period of paid personal/carer's leave does not include when an employee is absent from work while receiving workers' compensation.⁴⁶ While long term workers compensation absences are specifically regulated by the

⁴³ s 297 of the IR Act.

⁴⁴ s 8 of the *Industrial Relations Regulation 2018* (Qld) (IR Regulation)

⁴⁵ Ch 2, Pt 3, Div 6, Subdivs 1 and 2 of the IR Act.

⁴⁶ s 3.01(b) of the *Fair Work Regulations 2009* (Cth) (FW Regulations)

Workers' Compensation and Rehabilitation Act 2003 (Qld)⁴⁷, it may be opportune to consider harmonising with the national jurisdiction and determine if the provisions of and interaction of the IR Act and IR Regulations as they relate to providing adequate protections against dismissal for reason of temporary absence due to illness or injury are appropriate or if amendment is needed.

IR Recommendation 4: Termination of employment arising from temporary absence

That the Queensland Government consider the interaction of the IR Act and *Workers' Compensation and Rehabilitation Act 2003* (Qld) provisions in relation to temporary absence due to illness or injury to ensure sufficient and consistent protections across the legislative schemes. Any supplementary changes to the *Industrial Relations Regulation 2018* (Qld) should be made to ensure consistency.

Parental leave interactions

Submissions to this review noted inefficiencies in the operation of sections 73 and 87B of the IR Act. Section 73 provides for an application to extend parental leave for up to 104 weeks total.⁴⁸ Section 87B entitles employees who take less than 52 weeks of parental leave to up to 100 days of the remainder of that balance as unpaid flexible parental leave.⁴⁹ Stakeholders considered the drafting of section 87B complex and difficult to interpret. Further, it was raised that employers have no remedy under section 87B to decline or propose an alternative arrangement in response to a request for flexible parental leave under this section.

In particular, submissions were advanced that an employee whose request for extended parental leave under section 73 was declined or modified for valid operational reasons could make the same request to the employer under section 87B.

We recognise the complexity of the current arrangements in relation to the various types of parental leave entitlements under the IR Act, and the interaction of these provisions. To avoid any unintended consequences, it is recommended that the interaction of sections 73 and 87B be examined in detail. This should occur on conclusion of the NES Inquiry to maximise opportunities for harmonisation with the FW Act.

IR Recommendation 5: Parental leave interactions

That, on conclusion of the National Employment Standards Inquiry, the Queensland Government review the interaction of particular parental leave provisions of the IR Act, namely sections 73 and 87B.

Flexible work requests

Stakeholders generally supported maintaining broad access to flexible work arrangements, recognising their contribution to employee wellbeing, workforce participation, workplace inclusion, work-life balance, workforce attraction and retention, and the accommodation of caring responsibilities, disability and health-related needs.

⁴⁷ s 232B of the *Workers' Compensation and Rehabilitation Act 2003* (Qld) (WCR Act)

⁴⁸ s 73 of the IR Act.

⁴⁹ s 87B of the IR Act.

However, stakeholders raised concerns about whether the current framework appropriately balances employee access to flexibility with employers' responsibility to manage operational performance, service delivery, workplace culture, collaboration, team cohesion and workforce management requirements. Concerns were also raised regarding uncertainty about the extent to which employers can establish organisation-wide workplace attendance expectations, the potential for increased disputes, and inequities between employee groups with differing capacity to access flexible work arrangements.

Certain stakeholders were supportive of aligning the IR Act's flexible work provisions with those of the FW Act. Section 65 of the FW Act provides eligible employees with a right to request flexible working arrangements. Eligibility is limited to employees in prescribed circumstances, including those who are pregnant, have caring responsibilities, have a disability, are aged 55 years or older, or are experiencing family and domestic violence.⁵⁰ Employees are also generally required to have completed at least 12 months' continuous service before making a request. Employers must consider requests and respond within specified timeframes but may refuse a request on reasonable business grounds, including impacts on productivity, customer service, work organisation, staffing arrangements or business costs.⁵¹

Under Chapter 2, Part 3, Division 4 of the IR Act, all employees covered by the Queensland industrial relations system may request a flexible working arrangement.⁵² Unlike the FW Act, the entitlement is not limited to particular categories of employees or prescribed circumstances. Employees may request changes to their working arrangements, including changes to working hours, work location or the way work is performed. Employers must respond within 21 days and may grant a request in whole, in part, or subject to conditions. Any refusal, partial refusal or imposition of conditions must be based on reasonable grounds and supported by written reasons. Employees may also seek review of disputes through the QIRC.

It is considered that alignment of the IR Act's framework with that of the FW Act may assist Queensland State and Local Government employers to balance the needs of the employer as well as the employee when considering a flexible work request.

IR Recommendation 6: Flexible work requests

That the Queensland Government consider amending the IR Act's provisions relating to flexible work requests to align with the Fair Work framework.

High income threshold

Stakeholders raised concerns that the current operation of the unfair dismissal provisions in the IR Act limits the effectiveness of the high-income threshold as an eligibility criterion. Under section 315 of the IR Act, employees earning at least the high-income threshold are excluded from unfair dismissal protections only if they are not

⁵⁰ s 65 of the FW Act.

⁵¹ s 65A of the FW Act.

⁵² Ch 2, Pt 3, Div 4 of the IR Act.

employed under an industrial instrument and are not tenured public service officers.⁵³ Consequently, employees earning above the current high-income threshold of \$190,100 may still access unfair dismissal protections where they are covered by an award or agreement.

Certain stakeholders submitted that the current framework allows highly remunerated employees to access unfair dismissal protections notwithstanding that their earnings exceed the high-income threshold. Stakeholders noted that this outcome is particularly relevant within the Queensland industrial relations system, where cohorts of highly paid public sector employees remain covered by industrial instruments.

Stakeholders argued that the current approach reduces the practical significance of the high-income threshold and is inconsistent with the policy intent of directing unfair dismissal protections towards employees who are more vulnerable to workplace power imbalances.

Employees earning above the high-income threshold generally possess a level of remuneration, bargaining power, expertise and access to alternative remedies that reduces their reliance on statutory unfair dismissal protections. Restricting these individuals from making a claim for unfair dismissal may assist with the demands on the QIRC to hear and determine these matters, and support the efficient use of the QIRC's resources by focusing unfair dismissal protections on employees who are more vulnerable to the effects of dismissal.

IR Recommendation 7: High income threshold

That the IR Act be amended to exclude access to unfair dismissal protections for employees earning over the high-income threshold and covered by an award or agreement.

Continuous service – casual employees

Section 103 of the IR Act sets out how the continuity of service for casual employees is to be calculated.⁵⁴ This Review has heard from employer groups regarding the operation of this provision and in particular, the level of ambiguity regarding what constitutes as continuous service. This creates challenges and uncertainty for both employers and employees in the calculation and application of entitlements such as long service leave that rely on continuous service and may also result to inconsistent interpretations. This is particularly prevalent in industries/organisations where casual employment arrangements are customary and where work patterns may fluctuate due to operational requirements, seasonal demand, employee availability or in circumstances where the employee is not actively performing work i.e. certain types of leave or other absences.

To remedy this issue, stakeholders proposed amendments to provide a clearer definition of what constitutes 'continuous service' including how particular periods are to be treated for the purpose of calculating service-based entitlements (i.e. leave without pay

⁵³ s 315 of the IR Act.

⁵⁴ s 103 of the IR Act.

or suspension). Further, that the provisions expressly clarify that a casual employee's continuous service is broken for the purposes of calculating long service leave where there is a period of more than three months between the end of one casual shift and the commencement of the next casual shift or engagement.

We consider that amending the IR Act to provide clearer definition of what constitutes continuous service for casual employees is an effective measure to improve the operation and performance of the IR Act and mutually supports employers and employees by removing ambiguity and ensuring consistent application thus minimising prospects for potential disputes from different interpretations of the current provision.

IR Recommendation 8: Continuous service – casual employees

That the IR Act be amended to clarify what is “continuous service” when calculating long service leave entitlements. In particular, it should be expressly clarified that a casual employee's continuous service is broken for the purposes of calculating long service leave where there is a period of more than three months between the end of one casual engagement and the commencement of the next casual engagement.

1.3 Freedom of association

1.3.1 Background

In the context of modern industrial relations, freedom of association recognises the right of workers and employers to form and join trade unions for the protection of their interests. This right is enshrined in international law through Convention No. 87, *Freedom of Association of the Right to Organise Convention*⁵⁵ and Convention No. 98, *Right to Organise and Collective Bargaining Convention*⁵⁶, adopted by the International Labour Organisation (ILO) in 1948-49 and ratified by the Australian Government in 1973⁵⁷.

The ILO considers the freedom to establish organisations is the foremost among trade union rights, and outlines three principles upon which it depends:

- a. That no distinctions are made among those entitled to the right of association;
- b. That there is no need for previous authorisation to establish organisations; and
- c. That there is freedom of choice with regard to membership of such organisations.⁵⁸

The IR Act recognises the importance of freedom of association, stating that one of the primary ways by which to achieve the main purpose of the IR Act is by encouraging fairness and representation at work, and the prevention of discrimination, by recognising the right to freedom of association, the right to organise and the right to be represented.⁵⁹

Freedom of association is demonstrated in an industrial context by representation of workers and employers by recognised interest groups in industrial matters, including collective bargaining, industrial disputes and the making of modern awards. It is also demonstrated by ensuring individuals have the right not to join a registered organisation if they do not wish to and by ensuring those who exercise that right, are free of intimidation or pressure.

Current legislative framework

Queensland's industrial relations regime provides for the existence and operation of registered industrial organisations to represent employers and employees. The IR Act expressly encourages representation of employees and employers that are registered under the IR Act as a way in which the IR Act's main purpose is primarily achieved, and Chapter 12 of the IR Act sets out a system of regulation encompassing almost all aspects of registered organisations' internal operation and governance.⁶⁰ Chapter 1.4 of this report further discusses the regulation of registered industrial organisations.

The IR Act promotes the primacy of registered organisations by providing a scheme whereby organisations can seek and provide representation rights for employees,

⁵⁵ [C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#), International Labour Organization.

⁵⁶ [C098 - Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#), International Labour Organisation.

⁵⁷ [Australian Treaty Series 1974 No 3 \[1974\] ATS 3 and Australian Treaty Series 1974 No 5 \[1974\] ATS 5](#).

⁵⁸ Tajgman, D.; Curtis, K. *Freedom of association: A user's guide*. Geneva, International Labour Office, 2000.

⁵⁹ s 4(m), IR Act.

⁶⁰ s 4(n), and Ch 12 of the IR Act.

including standing rights in relation to particular matters. These include:

- a. Bargaining for certified agreements
- b. Standing as a party to modern awards
- c. Standing as a party to a claim brought in the QIRC by a worker who is a member of the organisation (or made by the organisation on behalf of said worker)
- d. Taking protected industrial action.

The IR Act acknowledges the existence of associations of workers or employers outside of those registered as organisations under the IR Act, defining an ‘association’ as an unincorporated entity, formed or carried on, to protect and promote its members interests.⁶¹

However, unregistered associations are not subject to the same regulation and requirements as registered organisations and do not have the same rights to represent members in industrial matters as registered organisations.

Since 2007, the IR Act has allowed the QIRC to order exclusive representation rights for a registered organisation where the QIRC is satisfied that the conduct of an unregistered association is preventing, obstructing or restricting negotiations or discussions between the employer and an organisation.

Chapter 12, Part 2 of the IR Act provides a framework for the registration of employee and employer organisations.⁶² Sections 607, 608 and 609 outline the criteria used to assess registration applications.

The requirements for registration of an employee organisation in section 608 represent a foundational pillar of the current Queensland industrial relations framework. Under section 608(1)(b)(ii) of the IR Act, the QIRC must be satisfied there is no other employee organisation to which members of the organisation could “conveniently belong” that would effectively represent them in a way consistent with the objects of the IR Act. The purpose of the “conveniently belong” rule is to prevent competition amongst unions with the ability to represent the same cohort of employees and the associated risks of demarcation disputes and protracted bargaining negotiations. The “conveniently belong” rule in section 608(1)(b)(ii) of the IR Act 2016 was carried over from section 420(1)(b)(ii) of the IR Act 1999.⁶³

Under section 11(1)(h)(ii) of the now-repealed *Industrial Organisations Act 1997*, an employee association was only eligible for registration if there was no other organisation to which members of the association could “more conveniently belong”.⁶⁴ A similar test is applied under section 19(1)(j) of the federal *Fair Work (Registered Organisations) Act 2009*.⁶⁵ In *Re CPSU, Community and Public Sector Union*,⁶⁶ the Australian Industrial Relations Commission considered the nature and effect of the phrase “more

⁶¹ [Schedule 5](#) of the IR Act.

⁶² [Ch 12 Pt 2](#) of the IR Act.

⁶³ [s 420\(1\)\(b\)\(ii\)](#) of the IR Act 1999.

⁶⁴ [s 11\(1\)\(h\)\(ii\)](#) of the *Industrial Organisations Act 1997*.

⁶⁵ [s 19](#) of the FRWO Act.

⁶⁶ *Re CPSU, the Community and Public Sector Union* (2000) 100 IR 296.

conveniently belong” in section 204 of the *Workplace Relations Act 1996* (Cth), which preceded the FW Act.⁶⁷ Section 204 deals with a change of name or alteration of eligibility rules of an organisation but mirrors the eligibility requirements for employee organisations in section 189.⁶⁸ The Full Bench found that section 204, together with other provisions of the *Workplace Relations Act 1996* (Cth), represented a shift away from the “principle of avoiding overlapping coverage and consequential competition between organisations” and towards “encouraging competition between organisations”.⁶⁹ This approach is sometimes referred to as “competitive unionism”.

In 2022, the IR Act was amended to further clarify that unregistered associations are unable to seek and provide representation rights for workers and employers.⁷⁰ These amendments arose from the recommendations of the Final Report of the 2021 IR Review, in which freedom of association was a key issue.⁷¹

The 2021 IR Review responded to concerns around the risk of employers and workers being confused about the ability to entities to represent industrial interests where the entity is not a registered organisation but is incorporated under the *Associations Incorporation Act 1981* (AI Act).⁷² These amendments sought to ensure the rights and privileges afforded to registered organisations were not given to unregistered entities who are subject to a lower level of scrutiny and governance obligations.

1.3.2 Stakeholder views

Whether the IR Act adequately supports freedom of association was raised in several submissions to this review by worker and employer groups. Registered organisations were largely supportive of the status quo, whilst unregistered entities called for an expansion of the rights of unregistered entities to represent members in industrial matters. Other submissions from employers offered alternative options to expand an individual’s ability to choose their representative in collective bargaining, without amending the criteria for registration under the IR Act.

Unregistered entities argue that expanded representation rights would promote true freedom of association by allowing members to be represented by an organisation of their choice and would ensure all workers have the same rights and protections regardless of which organisation they choose to represent them.

Conversely, registered organisations submit that the existing framework provides for freedom of association and the limitations imposed by the criteria for registration support consistency and stability in representation of workers and employers by bodies subject to extensive regulation.

⁶⁷ Ibid, [31]-[35], [85]-[99].

⁶⁸ s 204 of the [Workplace Relations Act 1996](#).

⁶⁹ Ibid, [80].

⁷⁰ [IROLA Act](#).

⁷¹ [2021 IR Review](#), pp 31-38.

⁷² [Associations Incorporation Act 1981](#).

Submissions calling for change suggested shifting the existing centralised industrial representation model to one based on genuine competition by allowing registration of multiple employee organisations with the ability to represent the same cohort of employees.

1.3.3 Findings

It is in the public interest to ensure that unions are acting lawfully and in the best interests of their members. If representational rights are extended beyond registered organisations, commensurate obligations and regulations must follow to ensure that any person or organisation representing a worker does so lawfully and in a way that represents the workers' interests.

We considered the approaches taken in comparable jurisdictions with broader representational rights for unregistered associations, namely, the frameworks in Victoria, Western Australia and the federal jurisdiction. It became apparent that these frameworks are markedly imperfect, with issues raised in connection with the conduct of bargaining agents and inefficiencies arising from a multiplicity of bargaining representatives.

Our primary consideration is the balancing of an individual's freedom of choice as it pertains to representation in industrial matters, with the need for industrial representatives to justify the rights afforded to them by discharging commensurate obligations to ensure a high standard of service delivery for the members it represents.

At time of writing of this report, the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry (COI) has been on foot for over 12 months, following its commencement on 1 August 2025.

The Terms of Reference of the COI require inquiry into misconduct by the CFMEU, and (among other matters) reviewing whether any law or policy change is needed in the construction industry or more generally, including changes relating to the implementation of a "fit and proper person" test for all union officials and any other reforms to ensure relevant misconduct is prevented.

There exists some overlap in the scope of matters under consideration by this review and the COI, respectively. Relevantly, the Terms of Reference for this review include consideration of whether the IR Act adequately supports productivity in the workplace, and requirements to ensure registered industrial organisations operate lawfully and transparently and support productive industrial relations. The Terms of Reference for this review also require that we support the implementation of recommendations from the COI in considering these matters.

The COI was initially due to deliver its final report by 31 July 2026. On 31 May 2026, the Crisafulli Government announced the COI had been extended until 3 December 2026 in response to the request of Commissioner Stuart Wood AM KC, who requested the extension due to the substantial volume of evidence and additional time needed to cross-examine relevant witnesses. The eighteen-month extension of the COI gives some indication of the volume and depth of issues for investigation in this area.

As a result, we have not had the benefit of considering the outcomes and findings of the COI in undertaking this review. Despite these constraints, we have carefully considered stakeholder submissions on the topic and identified areas for improvement in aspects of the IR Act's regulation of industrial organisations as set out below.

IR Recommendation 9: Registered organisations framework

The IR Act's registered organisations framework should be reviewed.

IR Recommendation 10: Consideration of COI outcomes

That the Queensland Government consider outcomes of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry on its completion. The Queensland Government should consider any amendments to the IR Act to support the findings of the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry at this point in time.

Whistleblower protections (registered industrial organisations)

A key term of reference for this review was to consider whether the IR Act's requirements currently ensure registered industrial organisations, their officials and employees operate in a way that supports productive and harmonious industrial relations and transparent and lawful conduct.

This review acknowledges the crucial role that employee organisations play in the Queensland industrial relations systems and recognise that ensuring appropriate checks and balances are in place to ensure their lawful conduct, is an expectation of the public. To that end, ensuring that there are robust whistleblower protections in place to allow the reporting of any potential corruption or suspected wrongdoing; is a key part of this process.

As currently drafted, the IR Act does not provide express whistleblower protections for employee organisation members seeking to report official misconduct or wrongdoing. While the IR Act provides some general conduct provisions for union officials such as the requirement to perform their duty with honesty, in good faith and proper purpose (section 714), take reasonable care and diligence (section 715) and to manage personal and official interests (section 716), and contravention of these provisions attract civil penalties of up to 5 years imprisonment, protections for whistleblowers would support the early intervention and investigation of a potential contravention, rather than prosecution after commission of an offence.⁷³

It has been recommended by several submissions that the whistleblower protections contained in the *Fair Work (Registered Organisations) Act 2009* (Cth) (FWRO Act) should be adopted, including provisions to support members of employee organisation to report suspected misconduct to the industrial umpire, empowers the umpire to investigate these issues and provides protections for whistleblowers from potential adverse action or reprisal.⁷⁴

⁷³ ss 714, 715 and 716 of the IR Act.

⁷⁴ Ch 11, Pt 4A of the FWRO Act.

It is the view of this review, that the approach taken by the FW Act is more aligned with the expectations of the community and comprehensive. It is therefore recommended that the IR Act should take a similar approach to whistleblower protections as that of the FWRO Act.

IR Recommendation 11: Whistleblower protections

That the Queensland Government consider amending the IR Act to include protections for whistleblowers based on the protections in the *Fair Work (Registered Organisations) Act 2009* (Cth).

2022 amendments to the IR Act and freedom of association

The *Industrial Relations and Other Legislation Amendment Act 2022* (IROLA Act) introduced a suite of amendments to the IR Act affecting employees' freedom of association that gave effect to recommendations from the 2021 IR Review. The final report for the 2021 IR Review identified stakeholder concerns about incorporated associations allegedly misrepresenting their ability to represent employees in industrial matters, and uncertainty about the status of industrial associations under the IR Act.

At the time of the 2021 IR Review, the matter of *Gilbert v Metro North Hospital Health Services & Others* [2021] QIRC 255⁷⁵ (*Gilbert*) was before the QIRC. The QIRC handed down its decision on 27 July 2021, when the 2021 IR Review was on foot, finding that an association incorporated under the AI Act did not have the right to represent its members under the IR Act. The 2021 IR Review noted the decision in its final report when recommending the amendments that would be implemented by the IROLA Act, noting the QIRC's view was consistent with section 602(1) of the IR Act, which excludes a corporation from seeking registration as an employee association.⁷⁶

Appeals against the decision were dismissed by the Industrial Court of Queensland in September 2023.⁷⁷

The stated intent of these amendments was to ensure 'the primacy of registered employer and employee organisations by providing a scheme whereby only industrial organisations can seek and provide representation rights for employees and employers', on the basis that registered organisations are subject to rigorous accountability and transparency obligations under the IR Act.⁷⁸ However, this Review heard concerns that amendments introduced by the IROLA Act unfairly limit freedom of association by restricting the participation of incorporated entities with an industrial purpose in industrial activities and removing protections for members of unregistered associations. These amendments are discussed below.

⁷⁵ *Gilbert v Metro North Hospital Health Service & Ors* [2021] QIRC 255.

⁷⁶ 2021 IR Review, p 34.

⁷⁷ See *Gilbert v Metro North Hospital Health Service & Ors* [2020] QIRC 84, *Gilbert v Metro North Hospital Health Service & Ors* [2021] QIRC 255, *Gilbert v Metro North Hospital Health Service & Ors* [2022] ICQ 35, and *Gilbert v Metro North Health and Hospital Service and Ors (No. 2)* [2023] ICQ 020.

⁷⁸ *Explanatory Notes* to the IROLA Bill 2022, p 1.

Incorporated entities with an industrial purpose

Chapter 11 of the IR Act was amended by the IROLA Act to create mechanisms to clearly distinguish registered organisations from incorporated entities and prevent incorporated entities from participating in industrial activities under the IR Act.⁷⁹ The amendments allow an objection on certain grounds to an application for incorporation under the AI Act or amendments to an incorporated association's rules. If granting the application would mean the incorporated association could reasonably be mistaken for a registered organisation, or an entity with the same functions as a registered organisation, this is grounds for an objection under section 578D of the IR Act.⁸⁰ The amendments also enabled the QIRC to make an order that a particular entity is not eligible for registration under the IR Act.

Section 483A (introduced by the IROLA Act) sets out eligibility for registration for the purposes of an order under chapter 12.⁸¹ Perhaps the most burdensome requirement under section 483A is satisfying the criteria (in sections 608 and 609) whereby the QIRC must be satisfied that, either, there is no organisation to which the applicant's members might belong, or, there is no organisation to which the members could conveniently belong that would effectively represent them in a way consistent with the objects of the IR Act.

Some stakeholders raised concerns that the IR Act's treatment of incorporated entities after the 2022 amendments may be inconsistent with freedom of association principles.

It is recommended that the Queensland Government consider whether the existing prohibition on incorporated associations with an industrial purpose unfairly restricts the freedom of individuals to be represented by the industrial entity of their choice and creates an unbalanced industrial relations framework.

Industrial activities

The IR Act includes protections for industrial activities (see Chapter 8, Part 1, Division 4) including a definition of "engages in industrial activity" at section 290.⁸² The definition provides protections for 'industrial organisations and limits the protections available to industrial associations that are not registered or eligible for registration under the IR Act. Prior to the 2022 amendments, "industrial activities" included activities associated with an "industrial association". Examples of engaging in "industrial activity" include establishing an industrial organisation, representing or advancing the views, claims or interests of an industrial organisation or seeking to be represented by an industrial organisation.

This definition of "industrial activity" under section 290 of the IR Act has implications for entities with an industrial purpose that are not registered or eligible for registration under chapter 12 of the IR Act. Section 291 provides that a person must not take adverse action against another person because of the other person's membership of or engagement with an industrial organisation, or lack of membership or engagement with

⁷⁹ Ch 11 of the IR Act and ss 41-55 of the IROLA Act.

⁸⁰ s 578D of the IR Act.

⁸¹ s 483A of the IR Act.

⁸² Ch 8, Pt 1, Div 4 of the IR Act.

an industrial organisation. However, section 291 does not protect members engaging in similar activities with an incorporated association if that entity is ineligible for registration under chapter 12 of the IR Act.

It is recommended that the Queensland Government consider whether the meaning of “engages in industrial activity” under section 290 of the IR Act unfairly limits protections for unregistered associations with an industrial purpose.

IR Recommendation 12: Review of 2022 amendments

That the Queensland Government review the operation of the amendments made to the IR Act by the *Industrial Relations and Other Legislation Amendment Act 2022* (Qld). This should include consideration of the IR Act’s treatment of incorporated entities with an industrial purpose, and the current definition of “industrial activities”.

Union Encouragement Policy

The *Queensland Government Commitment to Union Encouragement* (the ‘Union Encouragement Policy’) was introduced in 2015, with the intention of encouraging union membership in the Queensland Government.⁸³ As part of this policy, the government made a number of commitments including:

- acknowledging that union delegates have a role to play within the workplace and committing to not unduly hindering union delegates in the performance of their duties
- allowing employees full access to union delegates and officials during work hours to discuss any employment matter or seek union advice
- establishing joint union and employer consultation committees at a central and agency level and promoting paid industrial relations education leave
- providing a union application form to all employees at the point of engagement and
- providing unions with the details of new employees.

As discussed above, following the 2022 amendments to the IR Act and freedom of association provisions, the way in which an employee may be represented in industrial matters was altered significantly. This review makes recommendations that would, if accepted and implemented, significantly expand the rights and protections available to unregistered industrial associations and promote the freedom of employees to be represented by the industrial entity of their choosing, which may not be a registered union. For these reasons, the Review considers it timely to review the Union Encouragement Policy for consistency with the proposed amendments.

IR Recommendation 13: Union Encouragement Policy

That the Queensland Government review its Union Encouragement Policy.

⁸³ [*Queensland Government Commitment to Union Encouragement*](#).

1.4 Registered Organisations

1.4.1 Background

Queensland's industrial relations regime provides for the existence and operation of registered industrial organisations to represent employers and employees. The policy of providing for unregistered associations intended to allow time for associations to develop into registered employee organisations in employment areas where no other union coverage exists. Accordingly, treatment of registered organisations and unregistered associations differs in the IR Act.

1.4.2 Stakeholder views and findings

The regulation of registered organisations was raised by multiple stakeholders. Stakeholders generally considered Queensland's registered organisations framework to be robust, with particular stakeholders calling for introduction of additional transparency requirements on registered organisations and clarification of representation rights.

Issues canvassed in this review in relation to registered organisations are discussed below.

Industrial organisations to represent eligible members

Stakeholders have raised concerns about industrial organisations claiming a right to represent the interests of individuals who are not eligible to become members of those organisations. Under the current industrial relations framework in Queensland, an industrial organisation may only represent the interests of individuals who are members or eligible to become members of the organisation, with representation granting certain powers under the IR Act. For example, an authorised officer of an employee organisation may enter a workplace under section 350 of the IR Act to inspect the time and wages records of a member employee, or a person eligible to become a member employee.

It is recommended that the Queensland Government consider amending the IR Act to further clarify that an industrial organisation may not purport to represent the interests of an individual who is ineligible to become a member of the organisation. This may help address stakeholder concerns about demarcation disputes, the operation of right of entry provisions and the rights of union officials to inspect employee records.

IR Recommendation 14: Industrial organisations to represent eligible members

Amend the relevant IR Act provisions to clarify that industrial organisations may only represent the interests of individuals who are members or eligible to be members of the industrial organisation. This change would reduce the prospect of demarcation disputes and would clarify the operation of right of entry provisions, rights to inspect employee records, and other provisions of the IR Act.

Publication of union rules

The IR Act currently requires a registered industrial organisation to lodge a copy of its rules with the QIRC as a condition of registration,⁸⁴ and the rules are open to inspection by a person paying the required fee to the QIRC.⁸⁵

In effect, a person is unable to view the rules of registered organisation without seeking these from the Industrial Registrar and making payment for same. This limits access pertinent information about the organisation for prospective members and other interested persons, in absence of a compelling reason to do so.

Several stakeholder submissions suggested that requiring the rules of registered organisations to be made publicly available would support transparency in the operation of registered organisations. Submissions also noted the FW Act contains an equivalent requirement.

Based on the above we recommend amending the IR Act to adopt a similar approach to the FW jurisdiction to provide that the rules of all organisations be published on the QIRC website.

IR Recommendation 15: Publication of union rules

That the IR Act be amended to provide that the rules of all organisations registered under the IR Act must be publicly accessible (on the Queensland Industrial Relations Commission website). The Queensland Industrial Relations Commission should maintain a publicly accessible register of all organisations registered under the IR Act and the rules of each organisation.

Fit and proper person test

The IR Act provides a framework for authorised officers of registered industrial organisations to lawfully enter a workplace to inspect employee records or enquire into wages, hours and employment conditions covered by the IR Act or other relevant instrument. To become an authorised officer, a person must be an officer or employee of a registered industrial organisation and apply to the Registrar for authorisation.⁸⁶

Submissions to the Review noted discrepancies between the IR Act and the FW Act in relation to authorised officers. The FW Act requires that an authorised officer must be a 'fit and proper person' to hold the entry permit, and that in considering the application for a permit, the Fair Work Commission (FWC) must consider a range of factors.⁸⁷ This includes but is not limited to if the person has had a previous permit has been cancelled, suspended, or had conditions put on it, including a permit issued under national Work Health and Safety (WHS) laws; or been convicted of breaking an industrial law, or illegally entering a premises, fraud, dishonesty, committing intentional violence or damage.

⁸⁴ s 614 of the IR Act.

⁸⁵ s 616 of the IR Act.

⁸⁶ s 337 of the IR Act.

⁸⁷ s 513 of the FW Act.

The FWC may also consider ‘any other matters’ it considers relevant, allowing the FWC to exercise discretion to ensure that unsuitable union officials are properly identified and barred from receiving an entry permit, so that such persons may not simply enter a workplace on the basis of assisting a Health and Safety Representative (HSR).

When a person is deemed a fit and proper person under the FW Act, this impacts other regulatory frameworks that rely on the comprehensive considerations of the FWC to determine who should be allowed access to worksites. For example, a person must hold a valid FW entry permit to be eligible to obtain a WHS permit under Queensland’s *Work Health and Safety Act 2011* (WHS Act).

As it stands, a gap exists between the standard for entry under the WHS Act and the IR Act. We consider the right to enter into a workplace to exercise the powers of an authorised officer to be a privilege that ought to be limited to those who have demonstrated fitness to exercise such powers.

Accordingly, it is considered beneficial to adopt a similar fit and proper person test in the IR Act to align with the FW Act. The IR Act should be amended to make provision for this.

IR Recommendation 16: Fit and proper person test

That, as included in the *Fair Work Act 2009* (Cth), the IR Act be amended to provide that union officials must comply with a robust ‘fit and proper person’ test which requires them to act lawfully and in their members’ best interests, in order to exercise lawful right of entry powers.

Right of entry – time and wages

As noted above, submissions raised concerns about the exercise of right of entry powers by employee organisations including the potential misuse of entry rights for unauthorised purposes and with the intentional or unintentional effect of disrupting the workplace. Some stakeholders recalled instances of union officials making onerous demands to access records or providing allegedly false explanations of their reasons for entering the workplace. Stakeholders observed that employers are largely unable to question, challenge or refuse entry to officers displaying these behaviours.

Under section 348 of the IR Act, an authorised officer of an industrial organisation may enter a workplace to exercise certain rights under chapter 9, part 1, division 5, subdivision 2 the IR Act.⁸⁸ These rights include the right to inspect time and wages records of a member employee, or a person eligible to become a member employee, under section 350.

The COI has highlighted examples of right of entry powers being misused by officials. To help prevent these types of abuses, it is recommended the Queensland Government consider aligning right of entry powers under the IR Act with requirements under the federal FW Act. Under section 495 of the FW Act, a permit holder must provide notice to the employer at least 24 hours prior to exercising a right to inspect or access employee records and give reasons for exercising this right.⁸⁹ Harmonising section 348 of the IR

⁸⁸ s 348 and Ch 9, Pt 1, Div 5, Subdiv 2 of the IR Act.

⁸⁹ S 495 of the FW Act.

Act and section 495 of the FW Act would help minimise operational impacts, and ensure employers have ample time to access records for inspection and an understanding of the authorised officer's reasons for exercising the right of entry power.

The IR Act offers some protection against the misrepresentation or destruction of employee records by an employer after notice of entry by an authorised officer is given. Under sections 339 and 340 of the IR Act, an employer is required to keep a time and wages record with particulars for each employee.⁹⁰ An employer that destroys these records after notice of entry is given would therefore be in contravention of the IR Act. Further to this, section 924 provides that a person must not give an authorised industrial officer a document containing information the person knows is false or misleading in a material particular.⁹¹ Sections 339, 340 and 924 each carry a maximum penalty of 40 penalty units.

For a further discussion of the right to enter a workplace and inspect time and wages records under chapter 9, part 1, division 5 of the IR Act, see also recommendation 22 below.

IR Recommendation 17: Right of entry – time and wages

That the IR Act be amended to align the requirements for an exercise of an authorised officer's right of entry with those in the *Fair Work Act 2009* (Cth). In particular, the following is to be required:

- The authorised officer must have notified the employer or employer's representative of an intention to enter the workplace;
- The authorised officer must give the employer or employer's representative written notice of intention to enter the workplace;
- Such notice must be provided during working hours and at least 24 hours, but not more than 14 days, before the entry; and
- The notice must contain relevant particulars, including: the premises proposed for entry, the day of the entry, the name of the authorised officer and the employing organisation, and the provision of the IR Act under which entry is sought.

Bargaining parties' behaviour

It has been noted by several stakeholders that the conduct and behaviour of some bargaining representatives during negotiations have been less than exemplary. In accordance with section 173 of the IR Act, the obligation to bargain in good faith is primarily framed around procedural requirements, such as attending meetings, responding to proposals, and disclosing relevant information.⁹² The provision does not provide any guidance or standard around the expected behaviour of bargaining representative.

⁹⁰ ss 339 and 340 of the IR Act.

⁹¹ s 924 of the IR Act.

⁹² s 173 of the IR Act.

Certain submissions outlined experiences of being on the receiving end of such unprofessional behaviour during the negotiations for a replacement certified agreement, detailing how the conduct undermined the integrity of the bargaining process by creating a hostile environment, delaying meaningful progress, and discouraging open and constructive engagement between parties.

This review considers it desirable for the good faith bargaining obligations to be strengthened to ensure that the behaviour of bargaining representatives is appropriate and reflective of the standard expected of industrial advocates.

IR Recommendation 18: Bargaining parties' behaviour

That the Queensland Government consider if measures should be provided for to bolster good faith bargaining requirements.

Additional transparency measures

Several stakeholders have advocated to bolster the financial reporting requirements on registered industrial organisations to improve transparency in relation to union expenditure. Stakeholders noted the evidence being heard in various inquiries into union activities across Australian jurisdictions, including allegations of financial mismanagement and improper use of donations. Submissions called for the findings of such inquiries to be considered for application in Queensland as appropriate, which this review supports.

Stakeholders considered the IR Act's reporting obligations could be improved by aligning with more comprehensive obligations applicable to federally-registered unions under the *Fair Work (Registered Organisations) Act 2009* (FWRO Act). The FWRO Act requires preparation of a general purpose financial report and operating report for each financial year, which complies with the Australian Accounting Standards and other reporting guidelines, and includes all required disclosures.⁹³ Administered alongside the FWC, these rules safeguard high standards of member oversight, including how funds may be spent and conditions for loans, grants and donations.

Chapter 12, Part 11 of the IR Act imposes certain transparency and accountability requirements on registered industrial organisations.⁹⁴ These requirements include maintaining a written register of members that is available for inspection by the registrar or the organisation's members (sections 732-739), compliance with the organisation's financial policies and additional financial management requirements (sections 740-744), maintaining records of loans, grants and donations (sections 748 and 749), and compliance with accounts and auditing requirements (sections 750-801).

However, the FWRO Act reporting requirements are more comprehensive in some respects. For example, section 255 of the FWRO Act states that the reporting guidelines for registered organisations must include a requirement to show the total expenditure incurred by reporting units in relation to remuneration, advertising, operating costs, donations to political parties and legal costs for the financial year. Conversely, section

⁹³ s 253, and Ch 8 of the FWRO Act.

⁹⁴ Ch 12, Pt 11 of the IR Act.

765 of the IR Act is less prescriptive about what must be included in a reporting unit's guidelines with regards to expenditure.⁹⁵

We accept that aligning the IR Act with the comprehensive reporting requirements under the FWRO Act would create more consistent standards for registered industrial organisations across Australian jurisdictions and improve public transparency around union expenditure.

IR Recommendation 19: Additional transparency measures

That the Queensland Government consider introducing further measures to boost transparency in relation to public reporting obligations on registered organisations, including reporting obligations in relation to expenditure.

Conduct of industrial ballots

To ensure the transparency of industrial ballots and maintain confidence in the industrial relations system, it is proposed that the Electoral Commission of Queensland (ECQ), as an independent authority, facilitate any, and all, industrial relations ballots; including union official elections, enterprise bargaining employee ballots and protected industrial action ballots.

This recommendation is consistent with previous amendments introduced in the *Industrial Relations Act 1990* (IR Act 1990) and will ensure further oversight on key democratic industrial relations decisions. The IR Act 1990 provided that the election of union officials and any proposed amalgamation of unions was to be conducted by the ECQ (via an application to the Industrial Registrar), to prevent irregularities and reduce industrial conflict.⁹⁶ The expenses incurred were met by the State. The Australian Electoral Commission conducts elections and ballots for registered organisations as required by Commonwealth legislation, including the FW Act and the FWRO Act. The expenses of conducting such an election are also borne by the Commonwealth.

IR Recommendation 20: Conduct of industrial ballots

That the IR Act be amended to provide for the Electoral Commission of Queensland to conduct all industrial ballots.

Modern balloting methods

In accordance with the current registered organisation provisions of the IR Act, an organisation's rules must provide for elections for all elected offices of the organisation and that a ballot to decide an election must be a secret postal ballot or another type of secret ballot approved by the registrar.

⁹⁵ s 765 of the IR Act.

⁹⁶ Pt 14, Div 5 and Div 9, Subdiv 4 of the *Industrial Relations Act 1990*.

Having regard to the changes proposed in recommendation 20, requiring the ECQ to conduct all industrial ballots, this Review considers the broadening of allowable balloting methods (aside from the current secret postal ballots) to be appropriate, providing the ECQ with a flexible framework to facilitate the effective and efficient administration of industrial ballots.

IR Recommendation 21: Balloting Methods

That the IR Act be amended to allow for the use of postal, electronic or other appropriate voting methods in the conduct of union elections to improve flexibility, efficiency and engagement.

Time and wages records

Some submissions raised concerns around misuse of an authorised officer's power to access and inspect employee time and wage records. These concerns relate to the entry rights of authorised officers under chapter 9, part 1, division 5 of the IR Act.⁹⁷ The power to enter a workplace and inspect the time and wages records of a member employee, or a person eligible to become a member employee, is outlined in section 350 of this part. For further information, please see the relevant section above.

Examples of alleged misuse include unions seeking access to employee time and wage records for recruitment purposes, or as a means of circumventing existing mechanisms for access to information, such as the legal discovery process or the Right to Information legislative scheme. Some stakeholders also argued it is a breach of privacy for employees who are not members of an employee organisation to have their records inspected by an authorised officer of that organisation without the employee's consent.

To address these concerns, it is recommended that the IR Act be amended to clarify the underlying policy intent of the right to enter a workplace and inspect time and wages records under sections 348 and 350. This amendment would clarify that the right to inspect time and wage records should be exercised for the benefit of the organisation's members and not as a means of subverting existing mechanisms for access to information. This may include requiring the consent of an employee for the inspection of their records by an authorised officer.

IR Recommendation 22: Time and wages records

Clarify the policy intent underlying the broad right for an authorised officer to be provided access to time and wages records to ensure it is not used as a means of subverting existing mechanisms for access to information such as legal discovery processes.

⁹⁷ [Ch 9, Pt 1, Div 5](#) of the IR Act.

1.5 Collective Bargaining

1.5.1 Background

The IR Act establishes at Chapter 4 that the primary basis for deciding wages and employment conditions is through good faith collective bargaining, a process that recognises mutual agreement between employers and unions as the cornerstone of productive industrial relations. In cases where mutual agreement cannot be reached, the IR Act permits the QIRC to assist the parties to try and reach agreement or at least reduce the matters in dispute through conciliation. In situations where agreement is not able to be reached despite the assistance of the QIRC, the QIRC is empowered to arbitrate the dispute.⁹⁸ In making an arbitration determination, the QIRC is required to consider the merits of each parties' positions; and the impacts on employees and the employer to be covered by the determination. As part of the arbitration process, the QIRC is able to award interim wage increases.

Chapter 4 of the IR Act sets out in detail the process for engaging in collective bargaining and for the certification of agreements. A diagram of the bargaining process is at Figure 1.

In addition to certified agreements, the IR Act provides for the creation of bargaining awards, which are agreements between an employer and a particular group of employees covered by the same award. To date, no bargaining awards have been made.

The Queensland industrial relations system is unique in that employees may be covered by both a certified agreement and underpinning award. Nonetheless, the State's industrial relations system is characterised by high levels of certified agreement coverage with approximately 99 per cent of all state public sector workers (excluding senior officers and senior executives) being covered by certified agreements. Only a very small cohort of state public sector workers are reliant solely on awards. This is similarly reflected in the local government sector, with extensive agreement coverage and a small cohort of local government employees being award reliant.

Collective bargaining allows for employers and employees (though employee organisations) to negotiate wages and employment conditions beyond those provided for in the QES and the relevant modern award. These agreements are contemporary and usually valid for a period of up to 4 years before being required to renegotiated.

When negotiating a certified agreement, all parties are required to adhere to the good faith bargaining obligations in section 173 of the IR Act.⁹⁹ The IR Act's good faith bargaining provisions set out how parties are expected to negotiate and are modelled on section 228(1) of the FW Act.¹⁰⁰ These provisions also permit the QIRC to make directions about good faith bargaining, if it considers appropriate. Section 173 also sets out requirements for the parties to obtain and disclose prescribed gender-related information about the proposed agreement.

⁹⁸ Ch 4 of the IR Act.

⁹⁹ s 173 of the IR Act.

¹⁰⁰ s 228(1) of the FW Act.

The IR Act also recognises the right of each party to take protected industrial action to further support and advance their claims in the negotiations and sets out the circumstances and timeframes where protected action may be taken and the requirements for it to be taken.¹⁰¹

¹⁰¹ [Ch 4, Pt 8](#) of the IR Act.

Enterprise Bargaining Process

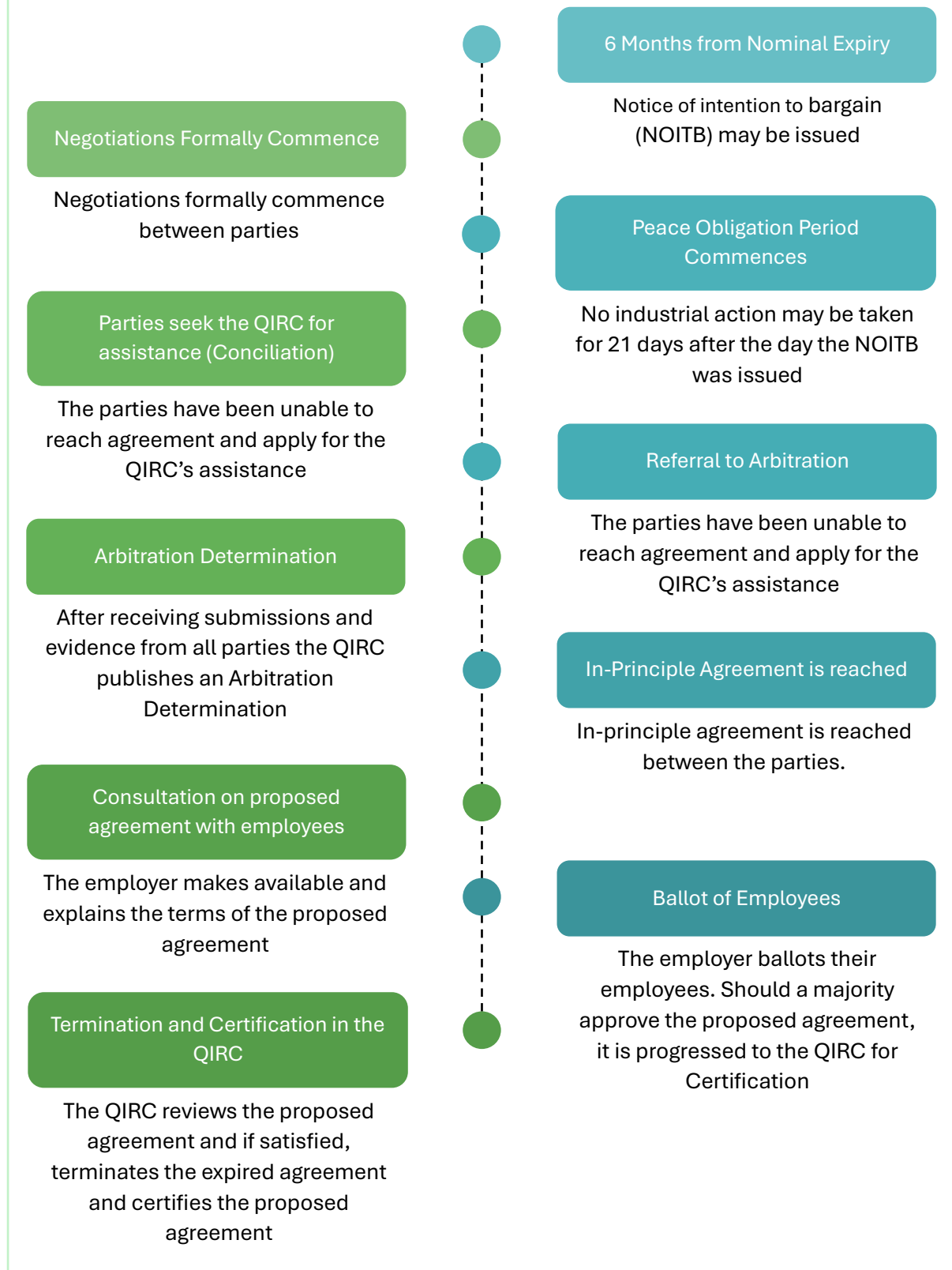


Figure 1: Enterprise Bargaining Process

1.5.2 Stakeholder views and findings

Numerous stakeholders to this review raised issues they experience with the collective bargaining process and some submitted suggestions for improvement. Key issues raised included:

- difficult for all parties to agree on the terms of a proposed agreement
- the impact and operation of protected industrial action
- the utility of scope orders and
- the behaviour and conduct of bargaining representatives.

Employee balloting in absence of in-principle agreement

As was noted in both the 2015 and 2021 reviews of the IR Act, collective bargaining in the Queensland public sector remains problematic for both government employers, and public sector unions.

In this review, submissions from both sides of the industrial relations landscape have highlighted the increasing difficulty in reaching agreement with all parties to a proposed agreement. Currently, the IR Act requires the employer and **all** employee organisations to reach in-principle agreement on the terms of a proposed agreement before it can be progressed to an employee ballot.¹⁰²

A recurring theme in submissions to this review was the issue of replacement certified agreements being delayed by one or more employee organisations. Stakeholders noted that these employee organisations often represent only a small percentage of employees covered by the replacement agreement and used their ability to withhold in-principle agreement as a negotiating tactic to secure additional concessions for their cohort. These stakeholders further noted that in some cases, due to some 'unreasonable claims' from some of these employee organisations, agreements with a majority of employee organisations agreeing on the terms (sometimes representing 90% of employees) were being forced into arbitration in the QIRC.

Whilst the existing provisions of the IR Act were intended to provide fairness for smaller cohorts of employees and ensure that they were not left behind or overlooked during enterprise bargaining, the current practical reality of public sector bargaining seems to be that these cohorts are leveraging the requirements of section 189(2)(a) (for all parties to agree on the terms of the agreement) to seek additional concessions from the employer beyond those provided to other employee organisations. Submissions noted that while the intention was to provide fairness for smaller cohorts under agreements, the arrangements have resulted in negative outcomes for larger cohorts under the same agreement who had accepted offers made but as a result of the protracted timeframes (from one employee organisation not agreeing) have then had to await arbitration outcomes.

In considering options for reform, regard was given to the significant number of agreements that were referred to arbitration during 2025 and 2026 and the resulting

¹⁰² s 189(2)(a) of the IR Act.

workload of the QIRC to conciliate and arbitrate these disputes. It is desirable to reduce the number of arbitrated matters in the QIRC, particularly where it could reasonably be believed that a majority of relevant employees that would be covered by a proposed agreement might vote in its favour.

To address this issue, we propose that the IR Act be amended to provide a pathway that permits an employer to directly ballot employees without the requirement for all employee organisations to agree on the terms of a replacement agreement. This would also align with the federal jurisdiction, which allows for direct employee balloting in particular circumstances.¹⁰³

IR Recommendation 23: Balloting – ability to direct ballot employees

That, similar to the *Fair Work Act 2009* (Cth), the IR Act be amended to provide that where an application for certification of a negotiated agreement is made to the Queensland Industrial Relations Commission, the agreement may be put to employee ballot without obtaining in-principle agreement from the union(s) party to the agreement.

The ability to ballot employees in absence of in-principle agreement from all union/s party should be enlivened on conclusion of the peace obligation period. Parties should not be required to attend conciliation prior to balloting employees, but any ballot must occur prior to a decision being made to refer the negotiations to arbitration.

Protected industrial action

Notice period

The right to take protected industrial action is a significant component in the collective bargaining process, with the IR Act recognising it as a legitimate industrial strategy in chapter 4, part 8.¹⁰⁴

Across employer submissions to this review, recommendations for consistency in notice periods for instances of proposed protected industrial action was a recurring theme. It was noted that under the current provisions¹⁰⁵ of the IR Act, at least three working days' notice is required to be provided only for the first time that a party sought to take protected industrial action and then subsequent action or retaliatory action (in response to a party taking protected industrial action) required notice only 'before the day it starts'.

These submissions noted that the Queensland Government is both a significant employer and often, the sole or primary provider of essential services to the community, such as healthcare, education, and other critical services. The right for employees to take protected industrial action in pursuit of their industrial interests was acknowledged, but submissions advanced that of equal importance is the need for government to ensure these essential services remain available.

¹⁰³ s 181 of the FW Act.

¹⁰⁴ Ch 4, Pt 8 of the IR Act.

¹⁰⁵ s 236 of the IR Act.

To balance these competing obligations, submissions proposed inclusion of a longer notice period that would allow government the time to ensure that measures are in place to support the delivery of these essential services during periods of lawful protected industrial action.

Stakeholders highlighted section 414 of the FW Act as containing appropriate notice requirements for protected industrial action and recommended aligning Queensland's requirements with those of the FW Act, with any necessary adjustments. Section 414 of the FW Act requires that notice be given three working days prior to the action taken.¹⁰⁶ The notice must be in written form and contain relevant particulars, including the nature of the action and the day on which it will start.

We consider this proposal to be sound. Requiring at least three working days' notice for all protected industrial action would assist frontline public sector agencies and local councils to put in place arrangements to enable continued delivery of essential services (notwithstanding the protected action) without restricting the ability for an employee organisation to take lawful protected action. We consider this would provide an appropriate balance between the interests of employees, employee organisations, employers and community expectations.

IR Recommendation 24: Protected industrial action – increased notice period

That, similar to the *Fair Work Act 2009* (Cth), the IR Act be amended to require that a person intending to take protected industrial action must give written notice of the intention to all of the negotiating parties for the proposed bargaining instrument at least three working days before the action is taken, where the industrial action is responding to or occurring after industrial action taken by another party to the proposed bargaining instrument.

Consequences of protected industrial action and payment for strikes

The IR Act recognises the right of workers and employers to take protected industrial action and governs when industrial action is protected,¹⁰⁷ not protected¹⁰⁸ and the process for engaging in industrial action.¹⁰⁹ The IR Act defines industrial action as two primary forms of action, a lockout or a strike in the definitions in the IR Act in Schedule 5.¹¹⁰

Industrial action is taken to be protected when the action is undertaken during the negotiation period for a proposed industrial instrument and the appropriate approvals have been sought from the QIRC.¹¹¹ The purpose of taking protected industrial action is so that employees and employers can support or advance their claims during the collective bargaining process.

As noted in this Review, the Queensland Government is in a unique position playing a dual role as both employer and provider of critical and essential services to the community. As such, this requires consideration of the appropriate balance between

¹⁰⁶ s 414 of the FW Act.

¹⁰⁷ s 233 of the IR Act.

¹⁰⁸ s 234 of the IR Act.

¹⁰⁹ ss 235 and 236 of the IR Act.

¹¹⁰ Schedule 5 of the IR Act.

¹¹¹ s 235 of the IR Act.

the delivering of services and protecting the safety and welfare of the community and the rights of workers to take protected industrial action.

The difference between protected industrial action and unprotected industrial action is significant due to the consequences that follow from each type of action. Where industrial action is “protected,” there is limited legal liability for taking the action, unless it has involved personal injury; or wilful or reckless destruction of, or damage to, property; or unlawful taking, keeping or use of property.¹¹² The employer must not prejudice an employee for engaging in protected action by e.g., dismissing the employee.¹¹³ However, it is lawful for the employer to exercise their discretion and refuse to pay the employee for the period of the industrial action.¹¹⁴ The remedies that could be sought by employees for actions by the employer as a result of taking protected industrial action (e.g. reinstatement, ‘adverse action’ or ‘general protections’ applications) are generally not available when taking unprotected industrial action.

In contrast, the comparable provisions under the FW Act restrict payment of wages to an employee for the total duration of the industrial action.¹¹⁵ Further, it is a contravention for the employer to make the payment to the employee and for the employee (or employee organisation) to ask for or accept payment for such periods (penalties apply in such circumstances).¹¹⁶

In evaluating the effectiveness of the collective bargaining framework, submissions identified a level of ambiguity regarding aspects of the industrial action provisions such as the payment of wages for employees engaging in protected action specifically in circumstances where partial work is performed or significant work stoppages occur, rather than a full withdrawal of labour (e.g. employees attending work but refusing to perform certain duties or attending work for only part of their rostered shift).

Some submissions identified an understanding that under current IR Act provisions, in circumstances where the employee has presented themselves for work on a given day, the employer is required to pay their full wages, notwithstanding the fact that the employee may not be performing the full scope of their role or working a full day. Other stakeholders expressed different interpretations which indicated that an employer would not be required to pay wages where the partial performance impacted the inherent requirements of the role.

Certain submissions argued that unlike traditional private sector bargaining, the wages public sector employees are receiving come from public funds that are meant to be used for the betterment of all Queenslanders. While these submissions acknowledge the right and legitimacy of employees taking protected industrial action, they also recognise the expectation that public funds are spent efficiently and productively, and ask that consideration be given to appropriate mechanisms that ensure that wages are only paid to employees for work that they actually perform.

¹¹² s 237 of the IR Act.

¹¹³ s 238 of the IR Act.

¹¹⁴ s 239 of the IR Act.

¹¹⁵ s 470 of the FW Act.

¹¹⁶ s 473 of the FW Act.

Concerns were also raised that the IR Act's definition of a "lockout" was overly narrow and does not recognise that many employers deliver operations across multiple regions and at a significant number of workplaces, each supporting distinct work programs and service delivery functions. Submissions argued the current definition does not support targeted responses to industrial action at a local or cohort level, which limits the employer's ability to respond proportionately to industrial action affecting only a specific work group or location.

In recognition of these matters, this review recommends that government consider harmonising the current treatment of consequences for protected industrial action with the approach taken by the FW Act.

Further, we recommend that the IR Act be amended to provide clarity around the payment of employee wages during strikes consisting of a full withdrawal of labour for any period, and for a partial work ban or restricted duties in addition to stating clearly that no payment of wages should be made where an employee has made the decision to take such strike action. The definition of "lockout" should also be amended to provide greater flexibility to employers to implement targeted or cohort-specific responses while maintaining service delivery.

IR Recommendation 25: Consequences of protected industrial action

That the Queensland Government consider harmonising the consequences of protected industrial action in the IR Act with the *Fair Work Act 2009* (Cth) provisions in relation to deductions of pay arising from the taking of protected industrial action (where labour is not fully withdrawn e.g. limited duties).

IR Recommendation 26: Payment for strikes

That the Queensland Government consider amending the IR Act to provide that an employer must not pay an employee for a period where an employee engages in a strike consisting of a full withdrawal of labour.

Ministerial declaration terminating protected industrial action

The IR Act recognises that protected industrial action is a legitimate IR activity and that its forcible suspension or termination should only be provided for in limited circumstances. The IR Act currently empowers the QIRC to order the suspension or termination of protected industrial action if the action is causing or threatening to cause significant economic harm to the employer or employees party to the proposed agreement, or endanger the life, personal health and safety or welfare of the State's population. Such orders may be made on application by a negotiating party or the relevant Minister.¹¹⁷

Some stakeholders expressed concern that the current suspension and termination mechanism does not enable cessation of protected industrial action in appropriate circumstances.

¹¹⁷ ss 240 and 241 of the IR Act.

Stakeholders considered the evidentiary bar for obtaining a suspension or termination of protected industrial action order from the QIRC to be extremely high, drawing attention to the fact that there has only been one successful application in the public sector under the current IR Act.

To address this, relevant submissions highlighted section 431 of the FW Act, which provides for the federal Minister for Employment and Workplace Relations to make a written declaration terminating protected industrial action for a proposed agreement.¹¹⁸ Whilst it is understood this (FW Act) power has never been used, its inclusion in the IR Act would provide an alternative mechanism for addressing significant protected industrial action without requiring detailed legal cases to be brought to and considered by the QIRC, and where it may be difficult to satisfy the evidentiary threshold required by sections 240 and 241 of the IR Act.

Having regard to the scope of the jurisdiction, which is almost exclusively comprised of the public and local government sectors, this Review considers it appropriate that the IR Act be amended to include a mechanism allowing the Minister to terminate or suspend protected industrial action in particular circumstances.

In acknowledgement of the importance of protected industrial action as a protected industrial activity which requires cogent and compelling reasons to terminate, such a declaration should only be able to be made in limited circumstances. These are proposed to be if the protected industrial action is contrary to the public interest, including if it relates to action taken by frontline or critical service delivery workers, or if the industrial action would threaten or is threatening life, personal health and safety, or the welfare of the population, in whole or in part, or damaging the Queensland economy or an important part of it.

IR Recommendation 27: Ministerial declaration suspending or terminating industrial action

That amendments to the IR Act be considered, similar to the *Fair Work Act 2009* (Cth), to enable the Minister to make a written declaration suspending or terminating protected industrial action for a proposed enterprise agreement if the Minister is satisfied that:

- (a) the industrial action is being engaged in, or is threatened, impending or probable; and
- (b) the industrial action is threatening, or would threaten to either endanger the life, the personal safety or health, or the welfare of the population or part of it; or to cause significant damage to the Queensland economy or an important part of it; or would otherwise be contrary to the public interest; or
- (c) that it is in the public interest that protected industrial action taken by frontline or critical service delivery workers be terminated on the basis of concerns about service delivery impacts on the population or part of it.

The declaration will come into operation on the day that it is made.

¹¹⁸ s 431 of the FW Act.

Applications for suspension or termination of protected industrial action

The provisions of the IR Act indicate a clear policy intent to support, as far as practicable, negotiating parties' ability to exercise their right to undertake protected industrial action as a means of working to negotiate agreement outcomes.

As discussed above, some submissions raised the high burden required to obtain an order to suspend or terminate protected industrial action, stemming from the limited criteria under which the QIRC may make such an order under sections 240 and 241.¹¹⁹

Submissions posited that as the Queensland industrial relations jurisdiction primarily covers public sector and local government workers, the effect of protected industrial action taken by these workers is not comparable to protected industrial action taken by private sector employees (i.e. for a single business). Protected industrial action, particularly by frontline public sector cohorts, has the potential to significantly affect a community's access to essential services. However, this disruption to critical frontline services would not ordinarily rise to the threshold of "significant economic harm" required by section 240 of the IR Act.

Stakeholders have asked this review to consider allowing the QIRC to suspend or terminate protected industrial action in situations where the action is causing a significant economic impact to the employer, noting that this is in effect a cost to the taxpayers of Queensland.

Having regard to the potential ramifications of public sector and local government sector cohorts taking protected industrial action and subsequent effects on the community, we consider it appropriate that the QIRC is able to take into account the impact on service delivery and economic impact on government employers. We recommend that amendments are considered that take into account what a reasonable threshold for seeking an order to cease protected industrial action (e.g. for significant economic harm) would look like, and to consider if the thresholds for what constitutes imminent harm and protracted industrial action remain appropriate.

IR Recommendation 28: Applications for suspension or termination of protected industrial action

That the IR Act be amended to reduce the burden on employer applicants and facilitate the granting of applications by the Queensland Industrial Relations Commission for suspension or termination of protected industrial action for a proposed bargaining instrument, where the Queensland Industrial Relations Commission is satisfied the action is causing or may cause significant economic harm to an employer covered by the proposed instrument.

Consideration should be given to lowering the threshold for imminent harm and protracted industrial action.

¹¹⁹ ss 240 and 241 of the IR Act.

Protected industrial action in conciliation

Another issue raised in relation to protected industrial action under the IR Act relates to when protected action may not be taken. Stakeholders noted that throughout the bargaining process, the only periods when protected action may not be taken are during the 21-day peace obligation period at the commencement of bargaining, and if/when an agreement has been referred to arbitration.¹²⁰

Submissions highlighted that the current framework allows for protected action during conciliation, with some stakeholders suggesting that this is being used as a negotiation tactic; for example, to place pressure on the employer to seek early referral to arbitration in a bid to cease industrial action (as protected action is not available once the agreement is in arbitration). Some submissions suggested this is inconsistent with good faith bargaining obligations and the intention of conciliation period (i.e. that it is intended to help support the parties to reach genuine agreement on matters in dispute).

We consider that a restriction on protected industrial action during the conciliation period would help support good faith bargaining by ensuring that negotiating parties can work through conciliation with the support of the QIRC to seek to resolve outstanding issues without the potential ‘threat’ of protected industrial action.

IR Recommendation 29: Protected industrial action in conciliation

That the IR Act be amended to disallow negotiating parties to take protected industrial action in relation to a bargain once an application for conciliation has been made.

Scope orders

Several stakeholders raised concerns around the practical utility of ‘scope orders’, which are a feature of the collective bargaining provisions under the IR Act.¹²¹ Under section 185 of the IR Act, a scope order may be made to include or exclude a cohort from a replacement agreement if the group was fairly chosen and is geographically, operationally or organisationally distinct.

Stakeholders submitted that the current process does not give appropriate weight to any adverse practical impacts that an employer may experience where cohort coverage is changing or where a scope order could result in an increased number of agreements to be bargained for and managed going forward. Some submissions argued that over time this has resulted or could result in a large number of agreements for the same employer, with impacts on how the employer is able to organise its business. This outcome is particularly relevant in the Queensland industrial relations jurisdiction, where the main employer groups in the jurisdiction are the Queensland Government departments, agencies and statutory bodies and local councils. The workforces of these employers can be very diverse in terms of roles and occupations which, through scope orders, could give rise to employers having to bargain for multiple agreements.

¹²⁰ s 234 of the IR Act.

¹²¹ Ch 4, Pt 4 of the IR Act.

Submissions noted employers having numerous variations of common employment conditions (such as employee consultation requirements) across its workforce due to the sheer number of agreements that they had to manage. Stakeholders noted these variations reduced the effectiveness of their operations by increasing complexity, reducing workforce mobility, and creating inefficiencies in bargaining, interpretation, administration and payroll processing.

It is further noted that since the introduction of the scope orders provisions, there have been few applications in the State jurisdiction. This may suggest that either the current configuration of certified agreement coverage is practical and appropriate, or that the provisions themselves need further amending to allow additional factors that may be relevant to ensure appropriate cohort coverage. We consider it desirable for a further review of this provision to ensure that it is fit for purpose.

IR Recommendation 30: Scope orders

That the IR Act be amended to require, similar to the *Fair Work Act 2009* (Cth), that the Queensland Industrial Relations Commission consider the impacts of a proposed scope order on an employer when considering whether to make such an order. Specifically, the Queensland Industrial Relations Commission must be satisfied that the order will not adversely impact the business or operational needs of the employer, with regard given to the nature of the work performed, any budgetary consideration, and considerations on productivity.

Interim wage increases in arbitration

Section 180 of the IR Act provides an arbitration framework in which the QIRC can use broad discretionary powers to resolve bargaining disputes.¹²² The QIRC must balance the interests and impacts on both employees and employers when making a binding determination.

Stakeholders raised concerns with the operation of section 180(2)(b) of the IR Act, which enables the QIRC to order an interim wage increase for employees after a proposed agreement has been referred to arbitration but before an arbitration determination has been decided.

Submissions posited that in effect, this provision pre-empts the QIRC's ultimate decision across all matters in dispute, as wage increases cannot be withdrawn or easily offset by other claims once ordered.

We consider that removing the ability for a party to apply for an interim wage increase in arbitration proceedings would provide several benefits, including allowing all matters to be determined concurrently.

¹²² s 180 of the IR Act.

IR Recommendation 31: Interim wage increases in arbitration

That the IR Act be amended to remove the ability for a party to apply for an interim wage increase in arbitration proceedings.

Matters considered in making arbitration determination

Submissions to this review identified discrepancies in the outcomes of bargaining negotiations between parties and arbitration determinations by the QIRC.

Under section 180(4) of the IR Act, the QIRC must consider at least the merits of the case, and the likely effect of the proposed arbitration determination on the employees and employers to whom the determination will apply. The IR Act does not require the QIRC to consider additional factors such as the public interest, impacts on productivity or compliance with good faith bargaining requirements.

Some stakeholders' submissions identified that the current arrangements have led to circumstances where an arbitrated outcome may be perceived by particular parties as more desirable than a negotiated outcome as a result of the comparatively limited requirements.

In comparison, section 275 of the FW Act lists factors the FWC must take into consideration when deciding the terms of a workplace determination.¹²³ A workplace determination is treated like an enterprise bargaining agreement and provides terms and conditions that apply to certain national system employees under the FW Act. Under section 269 of the FW Act, the FWC must make an intractable bargaining workplace determination if an intractable bargaining declaration has been made and the representatives have not settled the matters at issue during bargaining negotiations.¹²⁴

In making a relevant determination, both the IR and FW Act require consideration of the merits of the case and the impacts on employers and employees covered by the determination, however, the FW Act also requires consideration of the following factors:

- the public interest
- how productivity might be improved in the enterprise or enterprises concerned
- the extent to which the conduct of the bargaining representatives for the proposed enterprise agreement concerned was reasonable during bargaining for the agreement
- the extent to which the bargaining representatives for the proposed enterprise agreement concerned have complied with the good faith bargaining requirements; and
- incentives to bargain at a later time.

Under the current provisions, the QIRC may only consider a smaller set of factors when making an arbitration determination. Further, we consider that a number of these factors are active considerations for the bargaining parties (for example, the public

¹²³ s 275 of the FW Act.

¹²⁴ s 269 of the FW Act.

interest and productivity improvements), and ought to be able to be considered by the QIRC should the agreement be referred to arbitration. Amendments to the IR Act to require the QIRC to consider the impact of a proposed determination on (both) the State as employer, including its fiscal position, and the State as provider of government services (particularly essential services), could help balance these dual obligations.

While the scheme under the FW Act does not guarantee consistency between a negotiated outcome and an arbitration determination, we consider that aligning these considerations with those under the FW Act is likely to bring improvements.

IR Recommendation 32: Matters considered in making arbitration determination

That the IR Act be amended to require the Queensland Industrial Relations Commission to consider particular matters when making an arbitration determination in proceedings for a negotiated agreement. The matters the Queensland Industrial Relations Commission must have regard to should align with the factors taken into account by the Fair Work Commission in making a workplace determination under the *Fair Work Act 2009* (Cth).

These include:

- a. the merits of the case;
- b. the interests of the employers and employees who will be covered by the proposed negotiated agreement;
- c. the significance of any arrangements or benefits in a certified agreement to the parties covered by it;
- d. the public interest;
- e. how productivity might be improved in the enterprise or enterprises concerned;
- f. the extent of which the conduct of the bargaining representatives for the proposed enterprise agreement concerned was reasonable during bargaining for the agreement;
- g. the extent to which the bargaining representatives for the proposed enterprise agreement have complied with good faith bargaining requirements; and
- h. incentives to bargain at a later time.

In the alternative, that the Queensland Government consider amending the IR Act to require the Queensland Industrial Relations Commission to consider the following matters when making an arbitration determination:

- a. The fiscal position and strategy of the State of Queensland as employer and the impact of the decision on employment;
- b. The need to support workplace productivity;
- c. Opportunities for mutual gains;
- d. Incentives to continue bargaining at a later time;
- e. The impact of any proposed change on government service delivery, particularly the delivery of essential services.

Conciliation

Chapter 4, Part 3 of the IR Act provides for conciliation and arbitration by the QIRC.¹²⁵ Section 177 details the process and requirements that a conciliating member must follow to refer a matter to arbitration.

Section 177 requires the conciliating member to be satisfied that the negotiating parties have engaged in negotiations for a 'minimum period' before the conciliating member may refer them to arbitration.¹²⁶

Section 177(4) defines 'minimum period' as the latter of the following periods:

- (a) 6 months from the nominal expiry date of a certified agreement or bargaining award that applies to the parties;
- (b) 3 months from the day conciliation of the matter started.

Submissions to this review noted that the day conciliation is taken to commence is unclear, with ambiguity as to whether it is the day an application for conciliation is made, the date of the first mention, or the date of the first conciliation conference. This has caused uncertainty as to when the commissioner may refer a matter in conciliation to arbitration.

This issue is relevant to employer and employee bargaining representatives, as any delay in negotiations entering arbitration is likely to impact the time before an arbitration determination may be made. We consider that further clarity is desirable in this regard. It is therefore recommended that the IR Act be amended (e.g. section 177) to clarify that the 'day' conciliation begins is taken to be the day a negotiating party asks the QIRC to help the parties reach agreement.

IR Recommendation 33: Conciliation

That the IR Act be amended to clarify that the date conciliation began is taken to be the day a negotiating party asks the Queensland Industrial Relations Commission to help the parties reach agreement.

Referral to arbitration

Under the IR Act, arbitration is the final stage of any industrial dispute. Arbitration occurs after conciliation and involves the QIRC determining the disputed matters for the parties.

In the context of enterprise bargaining, section 177 of the IR Act details the arbitration referral process and notes the prerequisites the conciliating member must consider before making a referral. As discussed above, these include negotiating for at least the minimum period and the conciliating member forming the view that further conciliation is not reasonably likely to result in the parties reaching agreement.

¹²⁵ Ch 4, Pt 3 of the IR Act.

¹²⁶ s 177 of the IR Act.

Having regard to the minimum period requirement, submissions to this review suggested the IR Act could more effectively promote the timely resolution of negotiations by allowing for earlier referral to arbitration.

Stakeholders referred to their practical enterprise bargaining experience in which they note some negotiations have little to no reasonable prospects of reaching agreement and have consistently been referred to arbitration. It was submitted that an expedited referral pathway would assist all parties by prevent significant periods of unnecessary PIA and allow the parties to resolve issues in a more expedient manner.

We consider this proposal to have merit and likely to result in productivity improvements in the bargaining process, as well as promoting efficient use of the resources of the QIRC. It is in the interests of all parties that disputes are resolved in a timely manner, and, where parties agree that a negotiation has no reasonable prospects of reaching agreement, there should be a mechanism that allows for prompt referral of the matter to arbitration to facilitate the efficient resolution any issues.

IR Recommendation 34: Referral to arbitration

That the IR Act be amended to provide that the conciliating member in a matter may refer the matter to arbitration either:

- a. three months from the nominal expiry date of a certified agreement or bargaining award that applies to the parties; or
- b. if satisfied that the parties are unlikely to reach agreement, at any time from the day conciliation of the matter started.

Procedure for agreement certification

Chapter 4, Part 5 of the IR Act outlines the process of enterprise agreement certification.¹²⁷ Sections 195 through to 203 of the IR Act detail the requirements that the QIRC must consider when deciding whether to certify a proposed bargaining instrument.

In addition to these requirements, section 250 of the IR Act and section 6 of the IR Regulation impose additional documentary requirements that must accompany applications to the certification of a proposed bargaining instrument.

These include the mandatory provision of two affidavits that detail the wage-related information of employees who will be covered by the proposed agreement and the steps taken in the instrument to ensure equal remuneration for equal work,¹²⁸ and an accompanying affidavit that details declarations and facts about the parties to the agreement, the composition of the coverage of the instrument and the conduct of the parties.¹²⁹

Submissions to the review raised concerns that the current process for agreement certification imposes a significant administrative and documentary burden, noting that a certification application alone requires at least three affidavits that provide similar

¹²⁷ Ch 4, Pt 5 of the IR Act.

¹²⁸ s 250 of the IR Act.

¹²⁹ s 6 of the IR Regulation.

information. Stakeholders also noted that this is compounded by the additional documentary evidence that they need to prepare to terminate an expired agreement.

We consider it appropriate to enable the QIRC to dispense with particular documentary requirements, in circumstances where it is satisfied that the requirements to decide the application have been met and no parties have submitted otherwise. This would simplify the application process to reduce the burden on applicants, avoid duplication, and promote efficient allocation of the resources of the QIRC. We acknowledge that a streamlined pathway may increase the likelihood of an agreement being terminated in error (for example, where it was erroneously considered that no employees were reliant on the relevant agreement), and so also recommend that provision be made to restore or provide transitional coverage for relevant employees in such circumstances.

IR Recommendation 35: Procedure for agreement certification

That the IR Act be amended to reduce the burden on the parties in an application for certification or termination of an agreement by allowing the Queensland Industrial Relations Commission to be satisfied that the requirements for deciding an application to certify or terminate an agreement have been met, in circumstances where no submission has been made that the requirements have not been met.

In drafting for this, consideration should be given to treatment to restore limited coverage or provide transitional coverage to employees if it is later identified that there were still employees reliant on the terminated agreement.

1.6 Wage-setting mechanisms

1.6.1 Background

Wages and conditions of employment in Queensland's industrial relations jurisdiction are established through a framework of legislation, industrial instruments, modern awards, directives and policies.

At its most fundamental level, the IR Act establishes and mandates a set of minimum employment conditions, known as the QES. The QES cannot be displaced under any circumstances and provide employees with an entitlement to such things as a minimum wage, maximum weekly hours, superannuation, as well as various forms of paid leave like annual and sick leave.¹³⁰

Building upon the minimum entitlements of the QES are modern awards. Under the IR Act, the QIRC is effectively the custodian of the modern awards, and the requirements for the QIRC in exercising its powers in relation to modern awards are set out in Chapter 3 of the IR Act (see section 141).¹³¹ Modern awards provide for more detailed wages and conditions of employment across an occupational cohort (e.g. teachers, nurses) or group of cohorts (the 'streams' of the local government awards).

The modern award rates of pay are adjusted each year by the QIRC via a general ruling, a process colloquially called the State Wage Case (SWC). These adjustments are to ensure that modern awards rates of pay are fair and contemporary in the context of living standards generally prevailing in the community and reflect the prevailing employment conditions of employees covered by them.

The next layer up in setting conditions is agreements. Certified agreements are, in the words of the IR Act, intended to be 'the primary basis under this Act on which wages and employment conditions are decided.'¹³² Certified agreements are industrial instruments created through mutual agreement by an employer and one or more employee organisations, in which wages and employment conditions are further defined, and generally provide a higher level of specificity to modern awards. A key point of distinction for certified agreements is that before they can be approved by the QIRC, they must pass the no disadvantage test.¹³³ A certified agreement passes the no disadvantage test if it does not disadvantage or reduce an employees' entitlements or protections.¹³⁴ In practical terms, this means that the wages and conditions of a certified agreement must, on the whole, provide for enhanced conditions compared to those contained in the relevant modern award.

While these three layers each play a distinct role and work together to provide for the employment framework, the interactions of these layers allow for a modern award to apply at the same time as a certified agreement. This adds complexity to the industrial relations system and allows for situations where an employee may have some of their

¹³⁰ [Ch 2, Pt 3](#) of the IR Act.

¹³¹ [s 141](#) and [Ch 3](#) of the IR Act.

¹³² [s 163\(a\)](#) of the IR Act.

¹³³ [s 199](#) of the IR Act.

¹³⁴ [Ch 4, Pt 5, Div 3](#) of the IR Act.

wages and terms and conditions provided by a certified agreement and some from a modern award. This differs from the Federal jurisdiction where a modern award cannot apply to an employee where their employment is covered by an enterprise agreement.

1.6.2 Stakeholder views

Numerous stakeholders to this review have made detailed submissions on the practical challenges they experience with the current wage setting framework in the IR Act.

Bargaining

Turning to bargaining, both union and employer submissions detail significant concerns with enterprise bargaining as an effective wage setting mechanism.

Employer submissions were largely uniform in their view that enterprise bargaining has effectively 'run its course' and that what occurs in the public sector is not 'true bargaining'. The submissions observe that in traditional private sector enterprise bargaining, negotiations would involve each party making concessions or trade-offs in the pursuit of their interests; often resulting in an agreement that is balanced between the interests of workers and the continued viability of the business. It was suggested that these balanced agreements do not tend to occur in the public sector due to a number of reasons including:

- the requirements that a certified agreement must pass a no-disadvantage test limits the trade-offs that an employer may seek from employees
- the limited ability of employee organisations to identify or unwillingness to exchange measurable productivity gains to offset any enhancement to wages and working conditions
- the prevalence of award rates exceeding certified agreement rates and the impacts of successive high State Wage Case increases; disincentivising parties to reach agreement and
- the attractiveness of arbitration as a means of obtaining additional claims above the Public Sector Wages Policy (PSWP) set by the government.

Submissions by employee organisations varied more broadly but generally outlined similar issues about the effectiveness of enterprise bargaining. Employee organisations argued that government's approach of establishing a PSWP effectively restricts the parameters an agency or department may negotiate within. They consider the establishment of a PSWP is inconsistent with the spirit of enterprise bargaining and is the main reason that agreement is not being reached in negotiations.

It is clear that both employers and employee organisations have fundamental issues with the current approaches and perceptions surrounding enterprise bargaining. Whilst a clear solution has not been identified, it follows that any proposed changes to enterprise bargaining provisions would benefit from further industry consultation.

State Wage Case

The State Wage Case (SWC) is the annual process by which a Full Bench of the QIRC reviews the Queensland Minimum Wage and rates of pay and allowances contained in modern awards.

A significant number of stakeholders detailed proposals for potential reforms to the SWC. Interestingly, although views on the suitability and role of the SWC as a wage-setting mechanism varied by submission, there appeared to be a general consensus that the annual SWC process should be automatically aligned to the FWC's Annual Wage Review (AWR), which sets the national minimum wage.

It was noted that for at least the last 12 years, the outcomes of the SWC have mirrored those of the AWR. However, the procedural evaluative exercise required by the SWC process requires considerable outlay by the parties both in terms of resourcing time and in some circumstances expenditure. In its 2023 SWC Ruling, the QIRC stated the evidence it required to be adduced in future SWC proceedings.¹³⁵ This involved identifying relevant differences between the cohorts covered by the AWR and SWC, and economic and social conditions specific to Queensland and of relevance to the SWC determination. Once identified, evidence is to be led as to their impact on the issues in the SWC.

Submissions from public sector employers detailed how the SWC interacts with certified agreements, contributing to the issue of dual wage setting mechanisms under the IR Act. The IR Act provides for collective bargaining to be the primary method of setting wages in Queensland, however, employees can and do receive wage increases through both the SWC and certified agreements. The interactions of modern awards, certified agreements and the SWC are discussed further below.

Employer submissions to this review indicated that this arrangement was undermining the primacy assigned to collective bargaining under the IR Act. These submissions cited concerns about this arrangement leading to circumstances where existing agreements were not honoured and in some instances leading to a view that no agreement could be reached between the parties and only arbitration could resolve the issue of wages. Employer submissions also identified concerns about the complexity of the dual wage setting arrangements leading to increased risk of underpayments.

Submissions from employee organisations largely recommended that the SWC adopt the AWR outcome. Some stakeholders recommended that the SWC be the primary wage setting mechanism for public sector wages by excluding wages from the enterprise bargaining process entirely, on the basis of it being perceived that government has already predetermined wage outcomes through its PSWP. At the same time, some stakeholders identified that the adoption of SWC outcomes for wages was inappropriate for a jurisdiction with a markedly different workforce composition than the Fair Work jurisdiction, and expressed concerns about the level of fiscal uncertainty attributable to such an arrangement.

While stakeholder views around the SWC as a primary wage setting mechanism vary, given the outcomes in the SWC have so closely reflected the AWR for many years, and

¹³⁵ [Declaration of General Ruling \(State Wage Case 2023\) \(No 3\) \[2024\] QIRC 111 \[154\]-\[158\]](#).

in the absence of any objection from the parties, it is considered that implementing a streamlined way to align the SWC with the AWR would be a desirable reform. Furthermore, based on the evidence provided, it seems prudent that the relationship between the SWC and certified agreements, particularly around wages, is given further consideration and refined if needed.

Modern Award and Certified Agreement Interaction

While the IR Act expressly provides that collective bargaining is intended to be the primary method of setting wages in Queensland, section 19 of the IR Act allows for both a modern award and certified agreement to apply to an employee at the same time, with the certified agreement prevailing to the extent of any inconsistency.¹³⁶

Public sector employers submitted that amendment of this provision could clarify the purpose and relationship between certified agreements and modern awards. These submissions observed a blurring of lines between 'safety net' entitlements in a modern award, and the 'enhanced' conditions in a certified agreement, and attributed significant issues in enterprise bargaining and the overall employment framework to this issue.

Reference was made to the historic incorporation of certified agreement rates of pay into modern awards in 2011, and the 'leapfrogging' of wages that, due in part to successive high State Wage Cases increases, has resulted in modern award rates consistently exceeding certified agreement rates. This issue was said to be further compounded by the introduction of clauses in Certified Agreements and a Ministerial Directive that provide for the award rate to become payable where it is higher than the rate under a certified agreement.¹³⁷ Several submissions clearly identified concerns that this issue had, in a number of instances, resulted in a perceived need to arbitrate agreements. It was also identified as undermining agreements that had already been struck on wages.

1.6.3 Findings

Award variation and agreement rates

As noted above, the dual wage setting functions of collective bargaining and the State Wage Case were a recurring theme in submissions to this review. It was noted by employers that the interaction of these two mechanisms has been compounded by decisions of the QIRC and Industrial Court, the *State Wage Case and Certified Agreements Directive No. 12/12* (Directive 12/12) and certified agreement clauses currently in place.

Stakeholder submissions supported collective bargaining as the primary mechanism for negotiating wage increases but highlighted the complexities of SWC on the outcomes.

Currently, section 458(1) of the IR Act provides that the QIRC may make general rulings about an industrial matter for employees bound by an industrial instrument if multiple inquiries into the same matter are likely; or a Queensland minimum wage for all employees.¹³⁸ Section 458(2) of the IR Act requires that the QIRC must make a general

¹³⁶ s 19 of the IR Act.

¹³⁷ *State Wage Case and Certified Agreements (directive 12/12)*.

¹³⁸ s 458 of the IR Act.

ruling about a Queensland Minimum Wage (QMW) for all employees at least once each calendar year.

In last year's *Declaration of General Ruling (State Wage Case 2025) [2025] QIRC 229* the QIRC noted the: *"Full Bench of the QIRC has adopted a clear position that in order to fulfill its statutory obligations under the IR Act it must embark upon a forensic process with respect to the presentation, nature and substance of the evidence in order to determine the State Wage Case."*¹³⁹

The 2025 SWC Decision also referenced the previous decisions (2023 SWC (Declaration of General Ruling (State Wage Case 2023) (No 3)) that recognised: *"whilst the Full Bench will have regard to the FWC conclusions, in exercising its statutory function, the Commission is required to bring an independent mind to the task of determining whether, in all the circumstances, the FWC's determination ought to be properly adopted."*

Further, the 2025 SWC Decision the QIRC also noted that the: *"parties, consistently with the above approach, have structured their individual cases recognising the FWC determination as being a significant factor to be considered but also recognising the evaluative exercise that the Full Bench must undertake."*

Stakeholder positions in previous SWC decisions including unions and employer groups have supported the adoption of the AWR decision. Submissions note that it is the intent of the legislation that the SWC provide an increase that directly impacts on low-paid, award-reliant workers who do not participate in collective bargaining.

However, submissions have also raised concerns around the indirect impact of SWC decisions on a much larger number of State public sector and local government workers who regularly participate in the collective bargaining process under the IR Act.

SWC wage increases are also flowed on to awards by virtue of clauses contained in certified agreements, as well as award rates are applied through the Directive 12/12 in its application to state public service officers covered by collective agreements. It was argued in submissions that this mechanism effectively provides 'two bites of the cherry' and undermines the primacy given to collective bargaining under the IR Act.

Public sector agencies' submissions also noted that this situation has created uncertainty in planning and managing their fiscal responsibilities to deliver services for Queenslanders.

We consider that the current arrangements of flowed-on wage increases are unsustainable and cause significant uncertainty for employers. Amendments to cease this mechanism are considered prudent.

¹³⁹ [Declaration of General Ruling \(State Wage Case 2025\) \[2025\] QIRC 229](#) [20]

IR Recommendation 36: Award variation and agreement rates

That the Queensland Government consider amendments to the IR Act to:

- a. provide that the Queensland Industrial Relations Commission must not make an award variation where it proposes to incorporate certified agreement rates into the parent award;
- b. omit the ability of a party to apply to the Queensland Industrial Relations Commission for the inclusion of provisions from a directive into an award, despite current or prior application of the directive to the parties to the award.

Interactions between awards and agreements

As outlined by the QIRC previously in the *Declaration of General Ruling (State Wage Case 2024)* [2024] QIRC 244 [30] – [31]¹⁴⁰, the IR Act obliges the QIRC to review two bodies of evidence in considering the SWC:

- firstly, a body of evidence that permits the QIRC to undertake an evaluative function having regard to the matters in ss 141 and 142 of the IR Act and assess the qualities of the safety net by reference to the statutory criteria, to ensure the QIRC establishes and maintains wages that are fair and just; and
- secondly, evidence identifying relevant differences between the national workforce and Queensland workers who are not national system employees.

Since the State's referral of its residual private sector industrial relations powers to the Commonwealth in 2010 under the *Fair Work (Commonwealth Powers) and Other Provisions Act 2009*¹⁴¹, most employees in Queensland within the private sector are covered by the FW Act.

This has meant that the State's industrial relations jurisdiction is limited to covering predominately employees within the Queensland Government sector, local government sector and small statutory bodies. The Queensland Government submission to the 2026 SWC has estimated that award-reliant employees are 'extremely small' at around 1.5% to 2% of the State's jurisdiction, meaning that the most workers are covered by certified agreements.¹⁴²

The 2026 Queensland Government SWC submission also notes that the Queensland Government employs approximately 333,329 workers in the State jurisdiction and of these approximately 1,898 are award reliant. It is also noted that the local government sector employs approximately 45,870 workers of which 44,231 are covered by certified agreements and 1,639 are award reliant.

The current dual wage setting system does not support productive workplaces and is unnecessarily complex in ensuring adequate protections and fair conditions for employees. Ensuring productive public sector workplaces should be a key aim of a State industrial relations system that delivers value for Queensland taxpayers.

¹⁴⁰ *Declaration of General Ruling (State Wage Case 2024)* [2024] QIRC 244 [30] – [31]

¹⁴¹ *Fair Work (Commonwealth Powers) and Other Provisions Act 2009*.

¹⁴² *Queensland Government Submission*, 2026 State Wage Case, p 4.

A State industrial relations systems should also provide adequate protections and fair conditions for employees that is supported by safety net of minimum wage and awards. It is therefore important to clarify the interactions between awards and agreements in wage setting to ensure the State industrial relations system supports productive workplaces.

IR Recommendation 37: Interactions between awards and agreements

That the IR Act be amended to:

- a. Include in its main purpose to ensure productive workplaces and adequate protections and fair conditions for employees;
- b. Reflect that the main purpose of the IR Act is to be achieved by ensuring productive workplaces and providing adequate protections and fair conditions for employees;
- c. Reflect that awards are a safety net rather than prevailing standards to clarify the interactions of awards and agreements.

Recommendations 39 and 40 should be considered in making these amendments.

Adopt outcome of Annual Wage Review

Stakeholders made recommendations to streamline the operation of the SWC. There was a general consensus among stakeholders that the SWC should be automatically aligned to the AWR in the absence of applications and evidence to the contrary.

Section 458(2) of the IR Act requires that the Full Bench of the QIRC make a general ruling about a Queensland minimum wage for all employees at least once per year. This process is known as the State Wage Case (SWC). The QIRC also reviews modern award wages and relevant allowances at this time.

Requirements for general rulings are set out at section 459 of the IR Act.¹⁴³

In section 459A, the QIRC is given discretion to exclude particular employees or classes of employees under an award from the application of a general ruling.¹⁴⁴ This discretion is enlivened if a SWC increase would result in the wages payable under an award to equal or exceed those payable under a relevant certified agreement, arbitration determination, or a directive under the *Public Sector Act 2022*. This provision was intended to address the interactions between awards, certified agreement provisions and Directive 12/12 which enable award rates to become payable where it is higher than the rate under a certified agreement.

Decisions of the SWC generally adopt decisions of the AWR, which sets the national minimum wage. Between 2011 and 2025, the SWC has mirrored the outcome of the AWR.

In its 2023 SWC Ruling, the QIRC stated the evidence it required to be adduced in future SWC proceedings. This involves the QIRC taking an evaluative function to assess the qualities of the safety net with reference to the statutory criteria under sections 141 and 142 of the IR Act, and identifying relevant differences between the cohorts covered by

¹⁴³ s 459 of the IR Act.

¹⁴⁴ s 459A of the IR Act.

the AWR and SWC and economic and social conditions specific to Queensland and of relevance to the SWC determination. Once identified, evidence is to be led as to their impact on the issues in the SWC.¹⁴⁵

Such evidence is required even in circumstances where the parties do not object to the adoption of the AWR to support the Full Bench's evaluation as required under the IR Act. There is a significant time, resource and financial cost associated with this exercise, particularly if expert evidence is required. It is also acknowledged that there is considerable time and effort that goes into the making of a State Wage Case decision to ensure due consideration is given to each parties' submissions and evidence. At times this consideration may extend beyond the 1 September operative date, leading to concerns from employees who are genuinely reliant on the State Wage Case.

The Review noted the recent inclusion of section 100A to South Australia's *Fair Work Act 1994* (FWA SA) as a method for this. Section 100A(3) of the FWA SA enables the South Australian Employment Tribunal (SAET) to adopt the AWR outcome in its SWC via declaration.¹⁴⁶ The SAET will not be required to take evidence or submission, or conduct a hearing, unless an interested party objects. Section 100A(4) FWA SA provides for steps required to be taken if the SAET proposes to adopt the AWR outcome, being:

- the SAET must take reasonable steps to ensure all persons with a likely interest in the SWC are given a reasonable opportunity to be heard;
- at least 21 days before making the declaration, publish a notice setting out the terms of the proposed declaration and that the declaration will be made in the absence of any objections.

If an objection from an interested party is received, the SAET must hear the matter *de novo*.

We consider this to be an appropriate model for adoption in Queensland.

IR Recommendation 38: Adopt outcome of Annual Wage Review

The IR Act should be amended to allow the Full Bench of the Queensland Industrial Relations Commission to adopt the outcome of the Annual Wage Review in the State Wage Case without receiving evidence or submissions or conducting a hearing, in absence of an objection from an interested party. If a party objects, the Queensland Industrial Relations Commission should hear the matter *de novo*.

State Wage Case increases in awards and agreements

Streamlining wage setting mechanisms was identified as a key issue for public sector agencies. The current situation of Directive 12/12 overriding certified agreement rates has introduced a high level of complexity and uncertainty for departments and agencies. Previous SWC decisions have noted the operation of clauses contained within certified agreements which allows for increases from the SWC to be applied to employees' entitlements under that agreement; for example, clause 2.11 of the *State Government Entities Certified Agreement 2023*.¹⁴⁷ This situation has served to frustrate stakeholders,

¹⁴⁵ Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111 [154]-[158].

¹⁴⁶ s 100A of the *Fair Work Act 1994* (SA).

¹⁴⁷ Cl 2.11 under the *State Government Entities Certified Agreement 2023*.

confuse employees, create industrial difficulties and provided a lack of fiscal certainty about employee expenses.

Whilst a potential solution lies within the IR Act already, history shows that without changes to legislation, current agreement clauses and the repeal of the Directive No.12/12, the continued existence of such mechanisms creates an absence of compelling grounds to exercise the discretion under s 459(2) or 459A (*Declaration of General Ruling (State Wage Case 2023) (No. 3)* [2024] QIRC 111, [146]-[153]).

To better support more productive workplaces in the public sector it is therefore necessary to restore the QMW and Awards as a strong safety net that underpins collective bargaining.

IR Recommendation 39: State Wage Case increases in awards and agreements

- a. That the Queensland Government consider repealing *Directive No. 12/12: State Wage Case and Certified Agreements*, noting it is inconsistent with the wage-setting model proposed in this Review.
- b. That the Queensland Government consult with the Office of Industrial Relations and key stakeholders in relation to an appropriate time to repeal this directive.

Primary wage setting mechanism

The IR Act provides that collective bargaining is the primary basis under which wages and employment conditions are to be decided under its legislative scheme.¹⁴⁸ However, stakeholders representing unions, employers and government agencies have highlighted the practical reality that wages and conditions are established through a complex framework of legislative standards, industrial instruments, modern awards, directives and policies.

Contributing to this complexity is the issue of award rates equalling or exceeding rates payable under a relevant agreement, or 'leapfrogging'. This 'leapfrogging' often leads to circumstances where public sector workers may receive the benefit of multiple wage increases during the course of a year, in contrast to many other Queensland workers who do not receive the benefit of multiple increases. 'Leapfrogging' is unique to Queensland and not found in other Australian jurisdictions. It can be attributed to:

- a. The ability for an employee to be covered by both a certified agreement and a modern award at the same time (section 19 IR Act)¹⁴⁹;
- b. The ability to flow on rates from certified agreements into a modern award (section 145 IR Act)¹⁵⁰; and
- c. The inclusion of arrangements which allow for the award rate to become payable where it exceeds the certified agreement rate (via clauses in certified agreements)¹⁵¹.

¹⁴⁸ s 163 of the IR Act.

¹⁴⁹ s 19 of the IR Act.

¹⁵⁰ s 145 of the IR Act.

¹⁵¹ Examples include the *State Government Entities Certified Agreement 2023* CI 2.11(6), *Queensland Public Health Sector Certified Agreement (No. 12) 2025*, CI 2.2, and the *Department of Education Certified Agreement 2025* CI 1.9(f).

We recommend a two-fold approach to addressing this issue. Firstly, workers in the Queensland industrial relations jurisdiction who are genuinely award-reliant or in receipt of the Queensland Minimum Wage ought to receive the benefit of increased wages flowing from the automatic application of the AWR decision in the SWC.

Secondly, the SWC should not apply to workers who regularly participate in collective bargaining and benefit from negotiated outcomes, despite the existing provision of any contrary arrangement. This would help prevent the dual wage setting which has been occurring and restore primacy to the collective bargaining process, while ensuring timely and efficient outcomes for workers reliant on award wages or the Queensland Minimum Wage.

The story that unfolded through submissions was that although stakeholders may have different focus points, to some extent most if not all stakeholders have expressed some difficulty or frustration with the current system and its interacting elements. It may be that, as one submitter put it, the true ideology of enterprise bargaining is dead for the government sector, and the theoretical model simply no longer works in a setting where it is hard to quantify, measure and cost productivity measures and there is fiscal constraint on government/s in delivering services to the public and paying its employees.

We have recommended an immediate adjustment to the current broken system, so these issues are resolved as soon as practicable. Having provided solutions to the current problems as identified we have also recommended the government think deeply about the best and primary way to set wages in this jurisdiction, and for discussions to be held with key parties to consider all options including elements of the current system and other methodologies like independent remuneration tribunals or a wage setting panel/s.

IR Recommendation 40: Primary wage setting mechanism

1. That the Queensland Government consult with interested parties to explore interactions of the wage setting mechanisms in the Queensland industrial relations jurisdiction, with a view to identifying the most appropriate primary wage setting mechanism. This should occur on conclusion of the current bargaining cycle and may include consideration of the continuing need for both an Award and an Agreement, as well as Independent Remuneration Tribunals and Expert Wage Setting Panels.
2. That, in the interim the Queensland Government consider:
 - a. Ensuring the State Wage Case continues to set wages for workers who are genuinely reliant on either award wages or the Queensland Minimum Wage; and
 - b. Amending the IR Act such that, after 1 September 2026, award wages for Queensland state public sector workers covered by a certified agreement are not increased as a result of the State Wage Case, despite any provision in certified agreements and Ministerial Directives.

Such amendments may include providing that the General Ruling made for the State Wage Case will specify the wage rates that increase for those reliant on Award wages or the Queensland Minimum Wage, and not vary the award rates relevant to public sector workers covered by certified agreements.

1.7 Operation of the Industrial Court and QIRC

1.7.1 Background

The IR Act establishes a specialised system of courts and tribunals (the Industrial Magistrates Court, the QIRC and the Industrial Court) for dealing with industrial matters and disputes in Queensland.

The Industrial Court is established under Chapter 11, Part 1 of the IR Act.¹⁵² It is a superior court of record in Queensland.¹⁵³ Its jurisdiction includes hearing and determining appeals from Industrial Magistrates and the QIRC.¹⁵⁴ Its membership must consist of:

- a Supreme Court Justice as the President;¹⁵⁵
- a Vice President; and
- Deputy President.¹⁵⁶

The Industrial Court is then constituted by any of these members sitting alone.¹⁵⁷ The Industrial Court must be constituted by the President when hearing an appeal against a decision of the full bench, and the Vice and Deputy President/s may hear and decide interlocutory proceedings relating to the appeal.¹⁵⁸

The QIRC is established under Chapter 11, Part 2 of the IR Act. It is a court of record in Queensland.¹⁵⁹ Its jurisdiction includes hearing and determining 'industrial matters' (listed in Schedule 1 of the IR Act) and other matters for which the QIRC has jurisdiction under other Acts.¹⁶⁰

The IR Act sets out the composition for the QIRC. It consists of the following members:

- The President (who must be a Supreme Court Justice)
- a Vice President
- Deputy President and
- Industrial Commissioner (members who have a high level of experience in business, industry or a relevant entity; or have suitable experience, qualifications and standing in the community).¹⁶¹

¹⁵² Ch 11, Pt 1 of the IR Act.

¹⁵³ s 407 of the IR Act.

¹⁵⁴ s 424 of the IR Act.

¹⁵⁵ s 413(1) of the IR Act.

¹⁵⁶ s 409 of the IR Act.

¹⁵⁷ s 410 of the IR Act.

¹⁵⁸ s 559 of the IR Act.

¹⁵⁹ s 429 of the IR Act.

¹⁶⁰ s 447 of the IR Act.

¹⁶¹ ss 432 and 442 of the IR Act.

The appellate body for appeal matters is a *full bench* of the QIRC which is constituted by a presidential member (President or Vice President or Deputy President) and two or more members (Industrial Commissioners).¹⁶² The QIRC (other than the full bench) is constituted by a commissioner sitting alone.¹⁶³

The Review heard from various stakeholders seeking measures to empower the Industrial Court and QIRC to streamline its operations to enable them to better manage workload and allocate time and resources more efficiently. These issues are discussed in this section.

1.7.2 Legal representation

The scheme of legal representation under the IR Act is significantly more limited than in the FW Act. Parties cannot seek legal representation in public service appeals, in arbitration proceedings and some other proceedings.¹⁶⁴ Parties must apply to have legal representation in dispute proceedings unless there is consent between the parties.¹⁶⁵ Allowing legal representation, or the QIRC's discretion to permit it, in circumstances where it would support the prompt and efficient delivery of justice may be desirable.

The current provisions of the IR Act do not permit access to external legal representation, or in some cases the QIRC itself to grant access to external legal representation for parties to some matters in the QIRC, despite the efficiency and access to justice the representation may support.

The current arrangements can be summarised as follows:¹⁶⁶

Table 1: Current arrangements for external legal representation under the IR Act.

Proceeding type	Ability to be externally legally represented
Public sector appeal	No ability to be externally legally represented
Proceedings before the QIRC generally (other than a Full Bench)	If: 1. All parties consent; or 2. For a proceeding relating to a matter under a relevant provision – the QIRC gives leave
Proceeding before a full bench excluding arbitration	By leave of the Full Bench
Proceeding before the Industrial Court	If: 1. all parties consent; or 2. the court gives leave; or 3. the proceedings are for the prosecution of an offence
Arbitration	No ability to be externally legally represented

These arrangements for legal representation operate despite the intentions of the legislature as outlined in the 2015 IR Review Report to align legal representation with the provisions in the FW Act which provide for legal representation through a process of

¹⁶² s 432 of the IR Act.

¹⁶³ s 410 of the IR Act.

¹⁶⁴ s 530 of the IR Act.

¹⁶⁵ s 530 of the IR Act.

¹⁶⁶ s 530 of the IR Act.

applying for leave which may be granted by the Commission.¹⁶⁷ The experience in applying for legal representation in the Fair Work jurisdiction is understood to be largely a formality, in contrast to the circumstances in the Commission.

It is notable that legal representation is strictly excluded in Public Sector Appeal proceedings and this aligns with the nature of the QIRC as a lay tribunal and ensures that where an employee seeks to challenge issues relating to their employment they do not have to argue against external counsel and ensures that the proceedings can be dealt with efficiently and with less complexity.

Stakeholder submissions demonstrated strong support for expanded legal representation rights in the QIRC. The issue was raised among a variety of stakeholders, with submissions calling for further clarity and amendments to expand the rights in seeking legal representation at the QIRC.

Legal representation in the Queensland Industrial Relations Commission

Currently, section 529 and 530 of the IR Act sets out who may appear before the QIRC (member or full bench), Court of Appeal, Industrial Court or an Industrial Magistrates Court allowing representation by lawyers and other prescribed persons under certain circumstances and for certain matters. In most cases, parties may be legally represented by a lawyer if the parties consent or if leave is granted by the QIRC.¹⁶⁸

Section 530(1A) and section 530(2) prohibit legal representation entirely where proceedings relate to public sector appeals, arbitration as part of collective bargaining, repayment of unlawful private employment agent fees, or recovery of unpaid wages or superannuation.

However, section 530(5) provides that a party is not considered to be represented by a lawyer if that person is an employee or officer of the party or industrial organisation representing the party. This provision allows registered employee and employer industrial organisations to represent their members without the requirement to seek leave.

Some stakeholders took issue with amendments to the IR Act in 2022 which further restricted representation rights.¹⁶⁹ Following these amendments, section 529(2)(c) of the IR Act provides that a party or person to a proceeding may not be represented by an employee or officer of an entity, other than a registered organisation, which purports to represent the industrial interests of employees or employers. Section 529 does not provide any scope for the relevant tribunal to grant leave for members or employees of an unregistered association to act as representatives in a proceeding. Some stakeholders submitted that the 2022 changes to representation rights unfairly limit the freedom of employees and employers to associate with and be represented by the industrial entity of their choice.

¹⁶⁷ Pt 11.7 of the [2015 IR Review](#).

¹⁶⁸ [s 530\(1\)\(e\)](#) of the IR Act.

¹⁶⁹ [IROLA Act](#).

We understand the policy intent of the current scheme for legal representation in the QIRC is to create an accessible and relatively informal ‘layperson’s’ jurisdiction. However, submissions to this review have also highlighted that the restriction of legal representation can have negative impacts on the efficient resolution of these matters and has broader detrimental impacts on the resourcing of the QIRC and Industrial Court.

It is proposed to allow for access to external legal representation in any proceeding with the consent of all parties or by leave of the QIRC. This would allow parties to be represented by a lawyer where it is apparent this would be of benefit to resolve the matter where this is agreed by all parties to the dispute, or if the QIRC considers it desirable. Importantly, the proposed change would restore an individual’s freedom to choose their legal representative in proceedings before the QIRC by removing the prohibition on representation by a legally qualified officer or employee of an unregistered industrial entity.

IR Recommendation 41: Legal representation in the Queensland Industrial Relations Commission

That the IR Act be amended to provide for legal representation in any proceeding before the Queensland Industrial Relations Commission promoting freedom of choice by restoring a worker’s ability to choose their legal representative in proceedings and allowing a worker to choose to be represented by a private lawyer, a lawyer acting for the worker’s union, or a lawyer acting for another association or entity.

1.7.3 Appeal from a Full Bench of the QIRC

Section 554 of the IR Act provides for an appeal from the QIRC to the Court of Appeal by an aggrieved person to a decision of a full bench constituted by the president and two or more other members on the ground of an error of law or excess, or want, of jurisdiction.¹⁷⁰ If the person wishes to go beyond these two grounds, they must seek leave from the Industrial Court to do so. Section 557 outlines grounds for an appeal to the Industrial Court by a Minister or other person aggrieved by a decision of the QIRC.¹⁷¹ Under section 559, an appeal made under section 557 must be heard and decided by the Industrial Court constituted by the President.¹⁷²

The Review heard proposals for streamlining the process of appealing a decision of the QIRC. One stakeholder recommended allowing a decision of the QIRC with any presidential member sitting to be appealed directly to the Court of Appeal without requiring an intervening appeal to the Industrial Court. We consider this would be an appropriate and effective change in the appeals arrangements. Implementing this change would likely require amendments to sections 554, 557 and 559 of the IR Act. Streamlining appeals in this way would support the efficient use of presidential members and timely resolution of industrial matters.

¹⁷⁰ s 554 of the IR Act.

¹⁷¹ s 557 of the IR Act.

¹⁷² s 559 of the IR Act.

IR Recommendation 42: Appeal from a Full Bench of the Queensland Industrial Relations Commission

1. That the Queensland Government consider amending the IR Act so that an appeal from a Full Bench of the Queensland Industrial Relations Commission where at least one of the members is a presidential member lies directly to the Court of Appeal.
2. That the IR Act be amended to provide for legal representation in any proceeding before the Queensland Industrial Relations Commission including promoting freedom of choice by restoring a worker's ability to choose their legal representative in proceedings and allowing a worker to choose to be represented by a private lawyer, a lawyer acting for the worker's union, or a lawyer acting for another association or entity.

1.7.4 Exercise of powers by Industrial Court and QIRC – Decisions

Section 541 of the IR Act provides the Industrial Court and QIRC with broad discretionary powers to manage proceedings efficiently and fairly. However, the powers conferred upon the QIRC under these provisions are limited to an “industrial cause”¹⁷³ as defined by the IR Act. Consequently, the discretionary powers of the Industrial Court and QIRC cannot be exercised in proceedings that are not within the remit of an “industrial cause.”

If broadened, the power conferred under section 541 could be extended to the entire jurisdiction of the Industrial Court and QIRC to have the power, either on application or acting on its own volition, to dismiss a matter, or refrain from hearing a matter, further hearing, or deciding the matter, if the Industrial Court or QIRC considers that further proceedings by the Industrial Court or QIRC are not necessary or desirable in the public interest. Such a power would enable the Industrial Court or QIRC to create efficiencies and discretion to resolve and dispose of matters that have minimal prospects of success at an earlier stage in the proceedings.

IR Recommendation 43: Exercise of powers by Industrial Court of Queensland and Queensland Industrial Relations Commission – Decisions

That the *Industrial Relations Act 2016* (Qld) be amended to extend to the entire jurisdiction of the Industrial Court of Queensland and Queensland Industrial Relations Commission to have the power, either on application or acting on its own volition, to dismiss a matter, or refrain from hearing a matter, further hearing, or deciding the matter, if the Industrial Court of Queensland or Queensland Industrial Relations Commission considers that further proceedings by the Industrial Court of Queensland or Queensland Industrial Relations Commission are not necessary or desirable in the public interest.

¹⁷³ [Schedule 5](#) of the IR Act.

1.7.5 Dealing with vexatious litigants

The IR Act provides QIRC with a wide range of powers to manage proceedings, including broad powers to make orders and directions it considers appropriate,¹⁷⁴ powers to stay or dismiss applications in certain circumstances,¹⁷⁵ and powers incidental to the exercise of its jurisdiction.¹⁷⁶ However, the QIRC is a statutory tribunal whose powers are confined to those expressly conferred by the IR Act. Unlike superior courts, it does not possess an inherent jurisdiction to manage vexatious litigants or prevent the commencement of abusive proceedings.

While the IR Act enables the QIRC to dismiss applications that are frivolous, vexatious or otherwise lacking merit, these powers nonetheless require fulfilment of several procedural steps before an application may be dismissed. This places an ongoing burden on QIRC resources and respondent parties, who must respond to each new filing regardless of its merit. It is also relevant to consider the impact of aggrieved and vexatious persons on the officers of the Industrial Registry and other tribunal members, staff and users.

The Review identified that the IR Act does not provide the QIRC with an effective mechanism to manage vexatious litigants at the tribunal level, unlike comparable tribunals.

While the *Vexatious Proceedings Act 2005* (Qld) provides for restraint orders, that regime requires separate proceedings in the Supreme Court and is generally regarded as a remedy of last resort.¹⁷⁷ The Review considered that a more practical and proportionate approach would be to provide the QIRC (and Industrial Court if needed) with an express statutory power to manage vexatious litigants within its own jurisdiction.

It is proposed to include a process to help deal with circumstances where a person repeatedly files vexatious or unmeritorious applications, or where a person is conducting themselves in a way in which it would be unreasonable and possibly unsafe to expect Registry or QIRC staff to continue to engage with the person. This process would be similar to those available in other jurisdictions. It would be proposed to amend the IR Act to introduce an express power enabling the QIRC to require a repeat vexatious litigant to obtain leave before filing further proceedings. This would help prevent unmeritorious applications being lodged in the first place, reducing the burden on QIRC resources and respondent parties. It would also help ensure the safety of Registry and QIRC staff.

IR Recommendation 44: Dealing with vexatious litigants

That the IR Act be amended to empower the Queensland Industrial Relations Commission to make orders to deal with vexatious litigants and improve efficiencies in relation to these matters.

¹⁷⁴ s 451 of the IR Act.

¹⁷⁵ s 456 of the IR Act.

¹⁷⁶ s 539 of the IR Act.

¹⁷⁷ *Vexatious Proceedings Act 2005*.

1.7.6 Paying out long service leave

Section 110 of the IR Act provides arrangements when payment of an entitlement to long service leave is permitted instead of taking the leave.¹⁷⁸

Where there is a long service leave entitlement, it may be only be paid out in one of two ways:

- where an industrial instrument provides for this, or
- where the employee makes application to the QIRC for an order and the QIRC orders the payment.

The QIRC may only order payment to be made in lieu of taking the leave limited to compassionate reasons or for grounds of financial hardship.

As shown by Table 2, matters seeking payment of long service leave in lieu of taking leave under section 110 of the IR Act absorbs a large proportion of the QIRC's workload. In 2019-2020, there were 745 applications compared to 1,008 applications in 2024-2025. Overall, the data over the last five years demonstrates that applications seeking payment for long service leave are approximately half of all matters filed under the IR Act and a large proportion of all matters filed at the QIRC. It is assumed the sustained demands seeking payment of long service leave in lieu of taking leave may indicate ongoing employee preference to access entitlements due to financial pressures, rather than a preference for taking leave.

Table 2: Long Service Leave applications under section 110, IR Act

	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Number of matters cashing out of long service leave, s 110, IR Act	745	689	720	882	1,082	1,008
Total matters filed under IR Act	1,627	1,696	1,737	1,954	1,886	1,944
Total matters filed in the QIRC	2,672	2,978	3,302	3,143	3,125	3,340

Source: QIRC Annual Reports 2019-2020 to 2024-2025.¹⁷⁹

To alleviate the QIRC's workload, we recommend amending the IR Act to permit an employee who is entitled to long service leave to make application to their employer seeking payment for long service leave in lieu of taking the leave, in the absence of a provision in an industrial instrument which allows for the pay out of LSL. If there is an entitlement, the employer can make the decision to pay out the leave, and if there is a dispute, the dispute could be conciliated or arbitrated by the QIRC. Such an amendment would also help with QIRC resource management, with members' time more efficiently utilised resolving disputes about such claims. It would be necessary to ensure safeguards for a number of reasons. We consider that any application by an employee for payment of long service leave in lieu of the taking of a specified amount of long service leave must be:

- made in writing
- addressed to the employer

¹⁷⁸ s 110 of the IR Act.

¹⁷⁹ [QIRC Annual Reports](#).

- signed by the applicant and the applicant's signature must be witnessed by another person.

An accurate record would also be required to be kept in the employer's time and wages records.

IR Recommendation 45: Paying out long service leave

That consideration be given to amending the IR Act, which permits the payment of long service leave instead of taking leave, to provide that if no industrial instrument or federal industrial instrument provides for an employee to be paid for all or part of an entitlement to long service leave (instead of taking the leave), then an employee with an entitlement to long service leave should be able to make application to his or her employer to be paid the long service leave instead of taking the leave; and that if there is a dispute, the dispute can be conciliated and arbitrated Queensland Industrial Relations Commission.

1.7.7 Public Sector Appeals

Chapter 3, Part 10 of the *Public Sector Act 2022* (PS Act), provides a mechanism for public sector employees to seek an external review of certain employment-related decisions (appealable decisions) that affect them.¹⁸⁰ and who may appeal.¹⁸¹ These appealable decisions include decisions about: conversions; directives; discipline; fair treatment; promotion, suspension without pay; transfers; work performance directions; or other decisions under other Acts that provide for appeal.

The intention of the appeals framework is to establish a deliberate and structured system of review, under which only specified categories of decisions may be challenged through the public sector appeals process.

The QIRC has jurisdiction to hear and determine appeal matters and is required to deal with appeals in a manner that is fair, just, informal, economical, and quick, as guided by the principles of the IR Act.

Historically, PS Act appeals have been heard and decided by several bodies and officers as set out in Table 3:

Table 3: Jurisdiction to hear and decide public service appeals

Period	Body
1/7/2020 - current	QIRC (following amendments made to the PS Act in 2020 that PS Appeals will be heard by the QIRC under the IR Act rather than the PS Act).
1/7/2012 – 30/6/2020	QIRC members (previously appeals officers) heard appeals under the <i>Public Service Act 2008</i> .
1/11/2010 – 30/6/2012	Statutory role of appeals officer who was appointed as a Senior Executive of the public service. Sessional adjudicators were also used as required by a delegation from the appeals officer

¹⁸⁰ s 131 of the Public Sector Act 2022 (PS Act).

¹⁸¹ s 133 of the PS Act.

1996 – 2010	Appeals made to the Public Service Commissioner (who delegated power under the legislation to appropriately qualified public service employees to hear and decide appeals of public service employees).
1990-1996	Commissioner for Public Sector Equity or the Classification Review Tribunal.

Source: *Public Service Appeals Annual Report 2019-2020 (Public Service Commission)*.¹⁸²

Matters dealt with by the QIRC are increasing in complexity and occupy a large proportion of the QIRC's workload resulting in increased work for members, despite a large volume of relevant case precedent. As set out in Table 4, public sector appeals make up a significant amount of the QIRC's workload.

Table 4: Public Sector Appeals under PS Act, and repealed *Public Service Act 2008*

	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Number of appeals filed	282	543	846	512	238	226
Total matters filed	2,672	2,978	3,302	3,143	3,125	3,340

Source: *QIRC Annual Reports 2019-2020 to 2024-2025*.¹⁸³

An option proposed to better utilise the limited resources of the QIRC would be to restrict the external rights of appeal under the PS Act for (only) disciplinary appeals to be heard at the QIRC (that is, an appeal from a public sector employee who is directly aggrieved by the decision to discipline, if that employee is entitled to appeal under a directive, or a former employee who is directly aggrieved by a disciplinary declaration made under section 95 of the PS Act). Such a proposal would require consideration of what body or officer will hear the other categories of appeals currently allowed under section 131 of the PS Act. Further, this proposal would free up some of the QIRC's capacity should the Government accept the recommendation to transfer the police officer disciplinary jurisdiction from the Queensland Civil and Administrative Tribunal (QCAT) to the QIRC (recommendation 60).

IR Recommendation 46: Public sector appeals

That the Queensland Government consider amending the *Industrial Relations Act 2016* (Qld) to limit the jurisdiction of the Queensland Industrial Relations Commission to hear appeals against employment-related decisions made under the *Public Sector Act 2022* (Qld) to (only) disciplinary decisions.

1.7.8 References to members of the Industrial Court

The Industrial Court is established as a superior court of record in Queensland. However, the Vice President and the Deputy Presidents (Court) are not expressly conferred the title of judge, in contrast to the approach adopted by the South Australian Employment Tribunal and the New South Wales Industrial Court. The Vice President and Deputy Presidents (Court) are the only members of a superior court of record in Australia to not be recognised as such. We recommend this anomaly be corrected for clarity and consistency.

¹⁸² *Public Service Appeals Annual Report 2019-20*, Public Sector Commission.

¹⁸³ [QIRC Annual Reports](#).

IR Recommendation 47: References to members of the Industrial Court of Queensland

That the IR Act be amended to clarify that the vice-president or a deputy president of the Industrial Court of Queensland is a judge of the Industrial Court of Queensland.

1.7.9 Appointments to the Industrial Court and QIRC

The IR Act provides for the appointment of a person as a deputy president of the Industrial Court.¹⁸⁴ However, the section is silent on how the appointment is to be affected, leading to uncertainty. Further, the qualifications for appointment of a vice-president or Deputy President of the Industrial Court should be clarified and aligned to those of the Supreme and District Courts.¹⁸⁵ We recommend that this process be clarified.

IR Recommendation 48: Appointments to the Industrial Court of Queensland and Queensland Industrial Relations Commission

That the IR Act be amended to provide that a deputy president of the Industrial Court of Queensland may be appointed by way of commission by the Governor-in-Council. If accepted, the amendments should align the qualifications for appointment as a judge of the Industrial Court of Queensland to those of a judge of the Supreme and District Courts.

1.7.10 Exercise of powers by Industrial Court - Appointment of the Vice President and a Deputy President (Court)

Sections 418 and 421 of the IR Act sets out the criteria and process for appointment as Vice President and Deputy President.¹⁸⁶ Section 418(2)(b) and 421(2)(b) provides having either high-level experience in business or industry or in a relevant entity; suitable experience, qualifications and standing in the community to be appointed as the vice-president of the court or appointed as a Deputy President (Court). These differ from the qualifications required by the *Supreme Court of Queensland Act 1991*. The recommendation below aims to standardise the requisite qualifications for judicial peers.

IR Recommendation 49: Exercise of powers by Industrial Court of Queensland - Appointment of the Vice President and a Deputy President (Court).

That amendments to the IR Act be considered to clarify the conditions and qualifications for appointment for members of the Industrial Court of Queensland.

¹⁸⁴ s 421 of the IR Act.

¹⁸⁵ Judicial appointments are made under the s 59 of the *Constitution of Queensland Act 2001* and are conducted in accordance with the *Protocol for judicial appointments in Queensland*.

¹⁸⁶ ss 418 and 421 of the IR Act.

1.7.11 Exercise of powers by Industrial Court – Acting President

Section 416 of the IR Act allows the Governor in Council to appoint a Supreme Court judge as an acting president where the President can temporarily not perform the functions of office.¹⁸⁷ This clause applies only if the president temporarily cannot perform the function of office. While acting as president, the nominated person can attend sittings and give a decision or otherwise complete a proceeding. A decision given is taken to be a decision of the president. It was suggested in submissions to this review that providing for the Vice President to act as the president in such circumstances would promote the efficient resolution of matters before the QIRC.

IR Recommendation 50: Exercise of powers by Industrial Court of Queensland – Acting President

That the IR Act be amended to permit the Vice-President to act as the president when the president is temporarily unable to perform the functions of the office.

1.7.12 Exercise of powers by Industrial Court – President

Section 417 of the IR Act provides for the functions of the Vice-President.¹⁸⁸ However, the IR Act does not deal with who is responsible for the administration of the QIRC. Section 412 (functions of the president) only deals with the Industrial Court.¹⁸⁹

We consider there may be some utility in amending section 417(2) drawing from section 51(1) of the *Supreme Court of Queensland Act 1991* to provide for a provision prescribing that subject to section 412, the Vice President is responsible to the President for the administration of the QIRC and for ensuring the orderly and expeditious exercise of the jurisdiction and powers of the QIRC.¹⁹⁰

IR Recommendation 51: Exercise of powers by Industrial Court of Queensland – President

That the IR Act be amended to clarify who is responsible for the administration of the Queensland Industrial Relations Commission, namely that the Vice-President is responsible to the President for the administration of the Queensland Industrial Relations Commission and ensuring the orderly and expeditious exercise of the jurisdiction and powers of the Queensland Industrial Relations Commission.

1.7.13 Renaming the QIRC

The QIRC is established as a court of record pursuant to section 429 of the IR Act.¹⁹¹ However, the breadth and depth of the QIRC's jurisdiction has significantly expanded since its inception in 1917. The QIRC is no longer purely an 'Industrial Tribunal'. The

¹⁸⁷ s 416 of the IR Act.

¹⁸⁸ s 417 of the IR Act.

¹⁸⁹ s 412 of the IR Act.

¹⁹⁰ s 51(1) of the *Supreme Court of Queensland Act 1991*.

¹⁹¹ s 429 of the IR Act.

QIRC's jurisdiction has expanded beyond its traditional remit of industrial relations matters for the public sector, local government, and other State-related entities, to encompass matters involving constitutional corporations, particularly under the *Anti-Discrimination Act 1991* (AD Act)¹⁹² and the WHS Act¹⁹³, or wage recovery matters under both the IR Act and FW Act. It may be prudent to consider if the tribunal's current name accurately reflects its functions.

Further, this review heard that there is often confusion between the QIRC being a "Commission" akin to, for example, the Public Sector Commission or the Queensland Human Rights Commission. There is also a misunderstanding that the QIRC is a division of the Office of Industrial Relations (OIR) or some other public sector entity and not an independent court of the State. That misunderstanding could be easily remedied by renaming the QIRC to the Queensland Industrial Relations Court. The amended name would ensure that the QIRC fits clearly within the hierarchy of state courts and renaming of the QIRC would more appropriately reflect the nature of the jurisdiction and the work it is now required to undertake.

If this recommendation is adopted, any name change should ensure the continued validity of decisions made under the name of the QIRC and provide any transitional coverage necessary to ensure no unintended impacts on the ability of parties to bring claims and appeal decisions, and for members of the QIRC to do hear and determine same.

IR Recommendation 52: Renaming the QIRC

That consideration be given to rename the Queensland Industrial Relations Commission to the Queensland Industrial Relations Court to ensure it clearly within the hierarchy of state courts and appropriately reflects the nature of its jurisdiction and the work it is now required to undertake.

1.7.14 Review Structure of the QIRC

As noted earlier in this chapter, the expanded remit of the QIRC and the perception of its evolution beyond a lay tribunal was raised throughout this review, both in relation to conceptual matters like the type of disputes that should be heard by the tribunal, and more practical matters, like access to legal representation in proceedings before it.

In making the recommendations above, we have contemplated the nature of the QIRC and how it may be empowered to deal with the matters before it in a way that is fair, efficient and sustainable. This has included consideration of the structure and legislative framework underpinning the tribunal and its functions.

In doing so, we considered what we understand to be a current ambiguity around the QIRC's status as a 'court of a State'.

The term 'court of a State' primarily comes from constitutional law jurisprudence and is identified by evaluating whether it has certain judicially accepted characteristics of a Court. Historically the QIRC has operated on the basis that it is a court of the state. This

¹⁹² s 174B of the *Anti-Discrimination Act 1991*.

¹⁹³ Pt 5, Divs 3, 6 and 7A, Pt 6, Div 3, Pt 7 Divs 5 and 6, Pt 12, Div 4 and Pt 13, Div 7 of the *Work Health and Safety Act 2011* (WHS Act).

position is based upon the jurisdiction of the QIRC from the IR Act and other Acts, the terms of the IR Act itself, the functions and powers of the QIRC and the terms upon which each Commissioner is appointed.

The following characteristics are relevant to that evaluation:

- the conferring upon the body of judicial power, the authority and duty to decide controversies and to discharge functions traditionally regarded as the subject of judicial power or analogous to such functions
- the reality and appearance of decisional independence (from the executive and the legislature) and impartiality, including terms of appointment that are consistent with decisional independence
- the application of procedural fairness
- adherence, generally, to the open court principle
- the provision of reasons for the courts' decisions and
- the ability to enforce its own orders.

This Review has not identified any judicial decision in which the question of whether the QIRC is a 'court of a State' within the terms of Chapter III of the Constitution has been authoritatively determined. For example, in *State of Queensland v Together Queensland* [2012] QCA 353 (2013) 301 ALR 457; [2014] 1 Qd R 257, the Court of Appeal for the purposes of argument, and without finally determining the issue, proceeded on the basis that the QIRC was a court of the state.¹⁹⁴ However, in *Witthahn v Wakefield* [2025] QSC 164, Treston J's statement that the QIRC was not a court of the state was *obiter dictum*, being an incidental statement which was not necessary for the determination of the case before the court and lacking the force of precedent.¹⁹⁵

There is a current matter before the Court of Appeal where the issue of the QIRC as a court of the state is under consideration. The issue is likely to be ventilated before a Full Bench of the Commission in AD/2023/13 & AD/2024/69 – Lisa Liang-Godber v Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and Arts and Others. Indicating that a constitutional interpretation issue had arisen, 78B notices were issued under the *Judiciary Act 1903* (Cth).¹⁹⁶ The matter has been adjourned to a date to be fixed. Once issued, the decision in this matter should be considered for relevance in any broader review of the structure of the QIRC.

As noted in the discussions on long service leave payments and appeals pathways above, the Review also identified concerns about the volume of matters managed by the QIRC. In 2024-25, 1,944 matters were filed in the QIRC under the IR Act and 3,340 matters were filed in the QIRC in total (see Table 2 above). The Review also heard reports that matters dealt with by the QIRC are becoming increasingly complex, with significant workload impacts on the QIRC and its members, and which lead to increased timeframes for resolution of matters and finalisation of decisions. It is therefore recommended that the Queensland Government consider the appointment of additional commissioners to support the efficient management of matters filed in the QIRC. In doing so, regard

¹⁹⁴ *State of Queensland v Together Queensland* [2012] QCA 353 (2013) 301 ALR 457; [2014] 1 Qd R 257.

¹⁹⁵ *Witthahn v Wakefield* [2025] QSC 164, [56]-[79].

¹⁹⁶ s 78B of the *Judiciary Act 1903* (Cth)

should be given to particular recommendations of this report which would, if accepted, change the jurisdiction of the QIRC (see recommendations 56 and 60).

IR Recommendation 53: Review structure of the QIRC

That consideration be given to a review of the structure of the Queensland Industrial Relations Commission including the appointment of additional commissioners to support operational efficiency.

1.7.15 Punishment of contempt

Section 428 of the IR Act provides jurisdiction for the Industrial Court for contempt of court and provides how such matters are to proceed.¹⁹⁷ However, there are no such provisions in the IR Act providing jurisdiction to the QIRC for contempt of the QIRC and how these matters are to proceed.

To uphold the authority of the QIRC, preserve decorum and ensure compliance with court orders and maintain safe orderly proceedings, the QIRC ought to be given a power to punish a person for contempt of the QIRC. Provisions could be modelled from section 219 of the *Queensland Civil and Administrative Tribunal Act 2009* which deals with punishment of contempt.¹⁹⁸

IR Recommendation 54: Punishment of contempt

That the IR Act be amended to empower the Queensland Industrial Relations Commission to punish a person for contempt of the tribunal.

1.7.16 Discretion to award costs

Under section 545 of the IR Act, the default rule for the Industrial Court and QIRC is that a person must bear their own costs in relation to a proceeding¹⁹⁹ regardless of the outcome unless the Industrial Court or QIRC has ordered costs to another party²⁰⁰ or a representative of a party.²⁰¹

While the IR Act permits the Industrial Court and QIRC to exercise discretion to order costs to another party under section 545(2)(a), the scope is limited to permitting costs orders where a claim was vexatious or brought without reasonable cause or had no reasonable prospects of success.

This Review heard concerns regarding the Industrial Court and QIRC's discretionary scope to award costs under section 545(2)(a). Submissions argued the discretion was overly narrow in comparison with the FW Act, and inconsistent with the position in the former IR Act 1999.²⁰² The IR Act 1999 provided a broader costs regime, permitting the Industrial Court and QIRC to make costs orders in circumstances where a party committed an "unreasonable act or omission" that caused costs to be incurred by the

¹⁹⁷ s 428 of the IR Act.

¹⁹⁸ s 219 of the *Queensland Civil and Administrative Tribunal Act 2009*.

¹⁹⁹ s 545 (1) of the IR Act.

²⁰⁰ s 545 (2)(a) of the IR Act.

²⁰¹ s 545 (2)(b) of the IR Act.

²⁰² s 335(1)(b) of the IR Act 1999.

opposing party.

The 2015 IR Review, which led to the making of the current 2016 iteration of the IR Act, considered the costs regime for the Queensland industrial relations jurisdiction and recommended the inclusion of provisions in relation to the awarding of costs apply to any party who caused costs to be incurred because of an “unreasonable act or omission” in connection with the conduct or continuation of the matter.²⁰³ There appears to be no clear rationale for why this recommendation was not given effect in the IR Act.

This Review considers it an appropriate measure to improve the operation and performance of the IR Act and harmonisation with the FW Act to amend the IR Act to permit the QIRC to punish a person for contempt of the tribunal, including where costs were incurred due to unreasonable acts or pursuit of proceedings without reasonable prospects of success.

IR Recommendation 55: Discretion to award costs

That the IR Act be amended to broaden the discretion of the Industrial Court of Queensland or Queensland Industrial Relations Commission to award costs, including where costs were incurred due to unreasonable acts or pursuit of proceedings without reasonable prospects of success.

²⁰³ Recommendation 67 of the [2015 IR Review](#).

1.8 Other

1.8.1 Industrial disputes and public sector appeals

The PS Act sets out employment-related decisions that are not appealable under that Act including decisions relating to probation, termination of employment, superannuation and workers' compensation matters, most classification decisions, certain senior executive employment decisions, and non-appealable appointments.²⁰⁴

However, the PS Act does not expressly provide for the status of non-appealable decisions within the broader industrial relations framework. Specifically, the legislation does not clearly state whether a decision that is non-appealable under the PS Act may nevertheless be pursued as an industrial dispute under the IR Act. Although the IR Act excludes matters that are the subject of a public service appeal from being industrial matters,²⁰⁵ and the PS Act excludes certain decisions from the operation of the IR Act,²⁰⁶ neither Act expressly addresses whether all non-appealable PS Act matters are similarly excluded.

Stakeholders have submitted that this creates uncertainty regarding the intended finality of non-appealable decisions and the interaction of the PS Act and the IR Act. We agree that without clarification, there is a risk of inconsistent outcomes across review mechanisms, which could undermine the coherence of the statutory framework and weaken finality in decision-making.

We recommend rectifying this issue by amending the IR Act to specify that non-appealable employment related decisions under the PS Act cannot be pursued as an industrial dispute under the IR Act.

IR Recommendation 56: Industrial disputes and public sector appeals

That the Queensland Government consider amending the IR Act to clarify that matters that are expressly non-appealable under the *Public Sector Act 2022* (Qld) cannot be subject of an industrial dispute under the IR Act.

1.8.2 Concurrent statutory claims under related legislation

This Review has heard from stakeholders regarding the current operation of the IR Act which permits an applicant to pursue multiple statutory claims under the IR Act, AD Act, *Human Rights Act 2019* (HR Act) and PS Act arising from the same factual matrix. This has potential to result in inefficiencies, particularly if the QIRC does not have appropriate discretionary powers permitting it to streamline proceedings.

This Review has made a number of recommendations which, if accepted, will clarify the interaction of the IR Act with other legislation such as the PS Act and broaden the powers of the QIRC (and the Industrial Court), including providing discretionary powers to help manage proceedings (e.g. concurrent or overlapping proceedings arising from the same factual matrix). Recommendations 44 and 45 propose to permit the QIRC (and the

²⁰⁴ s 132 of the PS Act.

²⁰⁵ s 9(2)(b) of the IR Act.

²⁰⁶ s 141 of the PS Act.

Industrial Court) to dismiss a matter including vexatious complaint, or to refrain from hearing or deciding a matter if the QIRC (or Industrial Court) considers that further proceedings are not necessary or desirable in the public interest. Recommendations 47 and 56 seek to clarify the interaction between the PS Act appeals framework and the IR Act's industrial dispute jurisdiction. Further, the intent of recommendation 56 is to grant the QIRC (and the Industrial Court) with powers to award costs where costs were incurred due to unreasonable acts or pursuit of proceedings without reasonable prospects of success.

We also note a review of Queensland's human rights and anti-discrimination framework is currently underway and is expected to be completed by March 2027.

We consider it sensible to adopt a pragmatic approach to address matters involving multiple statutory claims arising from the same factual matrix and recommend assessing if efficiencies in hearing these matters can be improved further.

IR Recommendation 57: Concurrent statutory claims under related legislation

That the Queensland Government consider if efficiencies can be improved in relation to the handling of concurrent or overlapping proceedings in the Queensland Industrial Relations Commission made under multiple statutory claims, arising from the same factual matrix. In particular, consideration should be given to claims brought under the IR Act's provisions for industrial disputes (section 261), unfair dismissal (section 317) and general protections (section 309), and parallel complaints under the *Anti-Discrimination Act 1991* (Qld), the *Human Rights Act 2019* (Qld) and the *Public Sector Act 2022* (Qld).

1.8.3 Chapter 10A IR Act – Independent Couriers

In 2022, amendments were introduced to the IR Act to insert new Chapter 10A²⁰⁷, which empowered the QIRC to set minimum working standards for independent couriers²⁰⁸ and order penalties for breaches, including an unfair activation of service or contract termination. Consequently, courier drivers operating in Queensland can apply to the QIRC under Chapter 10A for orders setting minimum standards of remuneration and work conditions under their contracts of services. Chapter 10A has been in force since 4 November 2024 and two applications have been made regarding unfair termination of a contract, with one matter being resolved at conference and the other matter being discontinued²⁰⁹. The reviewers are also advised that a comparable number of similar applications have been made in 2025-26.

Chapter 10A and the FW Act include provisions to ensure that two orders cannot apply to the same cohort.

²⁰⁷ [Ch 10A of the IR Act](#).

²⁰⁸ [s 406B of the IR Act](#).

²⁰⁹ [QIRC Annual Report 2024-2025](#).

The federal *Closing Loopholes Act 2023* (Cth)²¹⁰ and *Closing Loopholes No. 2 Act 2024* (Cth)²¹¹ introduced a raft of changes in the national Fair Work jurisdiction including for independent contractors under ‘regulated worker’²¹² and ‘employee like worker’²¹³ provisions. The amendments created a jurisdiction for the FWC to issue minimum standards orders (MSOs), setting legally enforceable minimum standards for employee-like workers who provide services to a digital platform,²¹⁴ regulated road transport contractors²¹⁵ and road transport contractual chains²¹⁶. The amendments came into effect on 26 August 2024.

The FWC has been considering applications made by the Transport Workers Union (TWU) seeking MSO’s²¹⁷ to cover:

- employee-like workers who perform ‘last mile’²¹⁸ delivery work (MS2024/1)
- road transport contractors who perform ‘last mile’²¹⁹ delivery work (MS2024/2) and
- employee-like workers who perform ‘on demand’ delivery work (MS2024/3)

These three cases were joined and are being determined by an Expert Panel for the road transport industry (the Expert Panel).

On 17 August 2026, the Expert Panel issued the first MSO for employee-like workers who perform ‘on demand’ delivery work (MS2024/3), effective from date of issue. The MSO would cover employee-like workers who undertake on-demand delivery of ‘consumables’ (food, beverages, liquor) or supermarket groceries and operators of the digital labour platforms that facilitate or arrange that work which primarily applies to businesses like Uber Eats and DoorDash.

The MSO includes terms about vehicles, consultation (including a feedback forum), records, fines, insurance, dispute resolution, right to (unpaid) time away, information sharing, workplace delegates rights, minimum safety net rates, and a gig worker information sheet.

At the time of writing, the FWC had determined to issue an interim order for employee-like workers who perform ‘on demand’ delivery work to ensure these workers receive the benefits of the MSO immediately and was considering the MSO for employee-like workers who perform last mile delivery work (MS2024/1) and road transport contractors who perform ‘last mile delivery work (MS2024/2). Once the terms of any proposed MSOs for last mile applications are determined, the FWC will review the interim order issued for on demand workers.

²¹⁰ [Fair Work Legislation Amendment \(Closing Loopholes\) Act 2023](#).

²¹¹ [Fair Work Legislation Amendment \(Closing Loopholes No. 2\) Act 2024](#).

²¹² s 15G of the FW Act.

²¹³ s 15P of the FW Act.

²¹⁴ s 15L of the FW Act.

²¹⁵ s 15Q of the FW Act.

²¹⁶ s 15RB of the FW Act.

²¹⁷ [TWU regulated workers minimum standards order applications \(MS2024/1-3\)](#), FWC.

²¹⁸ Last mile delivery work relates to the “transport by road of goods, wares or other things from transportation-hubs, logistics centres, distribution facilities, warehouses, storage facilities and other like locations, to their ultimate destination.” [FWC Decision \[2026\] FWCFB 167](#), paras 2-4.

²¹⁹ [FWC Decision \[2026\] FWCFB 167](#), paras 2-4.

This Review has heard concerns from employer groups regarding the operation of Chapter 10A and the overlap of state and federal legislation which creates uncertainty and significant legal complexity and increased regulatory burden, compliance risks, and costs for businesses, particularly those with national and multinational operations from having to comply with overlapping state and federal legislation with respects to the same work.

We acknowledge the federal developments since Chapter 10A commenced, and it can also be seen that some applications for unfair termination of contracts are being made under the Chapter 10A provisions. Under the circumstances, we consider that repealing Chapter 10A in due course would likely be a practical and sensible measure that supports both a harmonised approach and also the operation and performance of the IR Act, without diluting protections available to courier drivers. However, we contend that it would be prudent to wait until the federal matters are settled and consult with relevant stakeholders before considering repealing Chapter 10A.

IR Recommendation 58: Chapter 10A, Industrial Relations Act 2016 (Qld)

That the Queensland Government consider the status of Chapter 10A of the IR Act, with regard given to the outcomes of the applications for relevant minimum standards orders before the Fair Work Commission.

1.8.4 Public interest disclosures

The *Public Interest Disclosure Act 2010 (Qld)* (PID Act) is Queensland's primary whistleblower protection legislation.²²⁰ The PID Act is a key part of Queensland's accountability and integrity framework and is designed to prevent, uncover and combat corruption and wrongdoing in Queensland's public sector. The PID Act supports ethical conduct by encouraging a culture of proactive disclosure in the public sector about wrongdoing by providing protection from reprisals to persons making public interest disclosures.

On 22 November 2022, the Queensland Government announced a Review of the PID Act led by the Honourable Alan Wilson KC, following recommendations made by the 2022 Coaldrake Review into the culture and accountability in the Queensland public sector.²²¹

The final report released on 8 August 2023 delivered 107 recommendations including for a new and simplified act; an expanded reach for a streamlined PID framework; higher threshold for disclosable conduct; more effective management and processes for managing PIDs supported by enhanced oversight; and protections against adverse consequences supplemented by remedies if they occur for whistleblowers.²²²

The PID Review noted a technical issue in the operation of industrial relations laws when they involve claims under the PID Act. In particular, the IR Act does not expressly provide protections from unfair dismissal when a worker makes a complaint under the PID Act. While the IR Act contains protections against adverse action, these protections are within the context of a workplace right and definition of an "industrial law" (being the IR Act or

²²⁰ *Public Interest Disclosure Act 2010*.

²²¹ *Review of culture and accountability in the Queensland public sector – Final Report 28 June 2022*, Rec 11.

²²² *Final Report – Review of the Public Interest Disclosure Act 2010*, 2023.

another Act regulating the relationships between employers and employees).²²³ A recent QIRC decision added further complexity to this issue, ruling that the PID Act is not an industrial law for the purposes of the IR Act.²²⁴

The PID Review also noted that the earlier IR Act 1999 expressly stated that a dismissal of an employee was unfair if the dismissal was because the employee made a complaint under the PID Act.²²⁵ The provisions in the IR Act 1999 were superseded by the current IR Act which provides for general protections against dismissal and adverse action. However, there are no provisions in the current IR Act that expressly provide for general protections from unfair dismissal and adverse action because an employee made a complaint under the PID Act.

The PID Review determined clarity is needed to ensure the PID Act is to be considered an “industrial law” for the purposes of the IR Act, and that making a public interest disclosure is a workplace right under section 284 of the IR Act. The PID Review made the following recommendation:

Recommendation 84: It should be put it beyond doubt that the Act is an industrial law of the purposes of the Industrial Relations Act 2016, either in the new Act or by amending the Industrial Relations Act 2016. A public officer’s eligibility to make a PID should also be considered a workplace right for the purposes of section 284 of the Industrial Relations Act 2016.

On 8 November 2024, the Premier and Minister for Veterans, the Honourable David Crisafulli provided the Attorney-General and Minister for Justice and Minister for Integrity, the Honourable Deb Frecklington with a Charter Letter committing to better protect whistle-blowers and restore integrity to government and implement the recommendations of the PID Review.

The PID Review recommendations corresponding to the IR Act amendments were raised as part of the IR Act Review. We consider it opportune time to implement recommendation 84 of the PID Review. To give effect to recommendation 84, it is appropriate to amend the IR Act to extend the general protection provisions against adverse action arising from a disclosure and, also mitigate any actual detriment when such a disclosure is made.

IR Recommendation 59: Public interest disclosures

That recommendation 84 of the *2023 Final Report into the Review of the Public Interest Disclosure Act 2010* (Qld) be given effect by clarifying that the *Public Interest Disclosure Act 2010* (Qld) is an industrial law, and a public officer’s eligibility to make a public interest disclosure is considered a workplace right.

1.8.5 Public sector appeals – Queensland Police Service

This Review heard concerns regarding the interaction between the IR Act and the PS Act insofar as they regulate the employment, review and appeal rights of Queensland public

²²³ *Final Report – Review of the Public Interest Disclosure Act 2010*, 2023, pp 203-204.

²²⁴ *Kelsey v Logan City Council & Ors* (No.8) [2021] QIRC 114 [35], [62]-[63] and [747].

²²⁵ s 73 (2)(f)(i) of the IR Act 1999.

sector and the *Police Service Administration Act 1990* (Qld)²²⁶ (PSA Act) covering the regulation of independent reviewable disciplinary decisions applicable to Queensland police service officers.

Queensland police service officers are governed by the Chief Executive of a unit of public administration (Queensland Police Commissioner) and the Crime and Corruption Commission. The PSA Act expressly states that the QIRC and the Industrial Court do not have jurisdiction regarding a matter that has been, is being, or may be reviewed under Part 9 of the PSA Act even though it may be, or be about, or arise out of, an industrial matter within the meaning of the IR Act.²²⁷

Currently, QCAT has jurisdiction to hear appeals against police disciplinary decisions under the PSA Act and the *Crime and Corruption Act 2001*.²²⁸ QCAT also has jurisdiction to hear and decide an allegation of corrupt conduct against a police officer or unsworn QPS staff who is a prescribed public servant, other than a police officer.

If QCAT finds that corrupt conduct is proven against the person, QCAT may make any order the Queensland Police Commissioner could make under the PSA Act and may make orders including dismissal, reduction in rank or salary, forfeit or defer a salary increment, or payment of a fine.²²⁹

All QPS employees are employed by the state. Sworn employees are police officers who have sworn the Oath of Office under the PSA Act and who deliver a police or police-related service to an external customer. Unsworn employees provide operations, administrative and technical support and are employed under the PS Act.

Proceedings for disciplinary breaches against police officers in QCAT may be brought by the Queensland Police Service (QPS) or the Crime and Corruption Commission (CCC). The jurisdiction of QCAT to hear charges against public servants alleged to have committed a breach is purely disciplinary; it is concerned with a person's fitness for employment or whether their employment should be changed in some way.

This Review heard that there is interest in QCAT's police disciplinary jurisdiction being transferred to the QIRC, with the main reason being to streamline the QCAT and QIRC processes for Queensland Police Service police officers and staff members.

It is understood this matter is also being considered in the 2025-26 Review of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Review), the findings of which should inform any potential move of jurisdiction.²³⁰ The final report of the QCAT Review was due to the Attorney-General by 31 July 2026. As at time of writing, this report has not yet been tabled in Parliament and made public.

²²⁶ [Police Service Administration Act 1990](#) (PSA Act).

²²⁷ [s 9.1A](#) of the PSA Act.

²²⁸ [Ch 5, Pt 2, Div 2](#) of the *Crime and Corruption Act 2001*.

²²⁹ [s 219I](#) of the *Crime and Corruption Act 2001*.

²³⁰ [2025-26 Review of the Queensland Civil and Administrative Tribunal Act 2009](#) (QCAT review).

The QCAT Review published Issues Paper 10 – Occupational Regulation referring to significant delays, a perceived loss of expertise and inconsistency in decision-making experienced by stakeholders in QCAT and that they consider QIRC would be able to hear these matters more efficiently.²³¹

As noted earlier in this report, the QIRC is also subject to an increasing workload and must carefully manage its operations to mitigate delays. The *2024 – 2025 Annual Report of the President of the Industrial Court of Queensland* highlights that workload continues to be influenced by legislative developments and expansion of the QIRC's jurisdiction and, despite a decrease in the number of filings, there has been a measurable increase in the complexity of matters flowing to the Industrial Court.²³² This trend is expected to persist into the foreseeable future.

Should the QCAT Review recommend for the jurisdiction of police disciplinary matters to be transferred from QCAT to the QIRC, we understand this would require amendment of the IR Act to enable this change. To meet the intent of streamlining the existing QCAT and QIRC disciplinary jurisdictions, we would recommend the existing QPS sworn officer disciplinary jurisdiction should not be changed in nature.

Careful drafting will be required to ensure these disciplinary matters are not brought within the IR Act's definition of an industrial matter. Sworn officer police disciplinary matters are not 'industrial' in nature and if they are not delineated appropriately, there may be potential for unintended consequences which would detract from the intent to streamline the jurisdiction. For example, the IR Act provides for the making of interlocutory applications, which may have the effect of delaying resolution of a matter.

IR Recommendation 60: Public Sector Appeals – Queensland Police Service

That the Queensland Government consider the most appropriate forum for determining disciplinary appeals for Queensland Police Officers. In doing so, regard is to be given to the outcomes of the 2025-26 Review of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld).

1.8.6 Outworkers and wages in rural mining industries

Chapter 9, Part 2, Divisions 4 and 5 of the IR Act established a framework for the recovery of wages for clothing outworkers and workers in rural and mining industries.²³³ These provisions reflect historical arrangements retained in the IR Act at the time as transitional arrangements to safeguard any potential risk of unintended consequences such as unintentionally excluding this group of workers from having protections applying to them. The Review identified that Divisions 4 and 5 are now obsolete and no longer have practical application as the statute of limitations for the recovery of wages has since passed following the referral of Queensland's private sector industrial relations powers to the Commonwealth. The provisions are therefore no longer fit for purpose to give rise to claims or liabilities.

²³¹ *Issues Paper 10 – Occupational Regulation*, QCAT Review.

²³² *2024 – 2025 Annual Report of the President of the Industrial Court of Queensland*, pp 10, 14-15 and 51-52.

²³³ Ch 9, Pt 2, Divs 4 and 5 of the IR Act.

The Review recommends repealing Chapter 9, Part 2, Divisions 4 and 5 to remove obsolete provisions from the IR Act and improve the clarity and accessibility of the legislation.

IR Recommendation 61: Remove outworkers and wages in rural mining industries divisions

Remove outworkers and wages in rural and wages in rural mining industry divisions.

1.8.7 Boxed directives

Prior to the commencement of the IR Act, the former IR Act 1999 allowed for the Queensland Government to make special “boxed” directives in prescribed circumstances, with the power to override awards and certified agreements.²³⁴ Since the making of the 2016 IR Act, the PSC is prevented from making directives that touch on industrial relations entitlements, instead these are the domain of the Minister for Industrial Relations.²³⁵

Directives of the Minister for Industrial Relations cannot be used to ‘reduce or provide for wages and conditions of employment which are less favourable than those contained in awards or agreements’.²³⁶ This sets a high threshold and may make it difficult to challenge a directive where there is no impact on the majority of the workforce, only one or two employees can demonstrate a detriment, or an alternative benefit is provided in lieu such as flexi time instead of overtime.

It is noted that the 2032 Brisbane Olympic and Paralympic Games may require public sector officers to be mobilised and engaged under separate industrial arrangements bespoke to the duties they will perform. They may require various changes to ways of working such as scheduling and the taking of public holidays.

In the submissions received, a government stakeholder raised the reinstatement of special directives in relation to industrial relations entitlements. It was considered that allowing the Queensland Government the power to issue such directives would support a consistent approach to employment matters across the public sector, with directives issued in accordance with the PS Act 2022. A benefit of this approach would be improved administrative efficiencies, enabling special matters to be addressed through ministerial directive-making powers.

It is acknowledged that certain emergent or exceptional circumstances such as the 2032 Brisbane Olympic and Paralympic Games, may in some circumstances unexpectedly or uncontrollably coincide during a collective bargaining round. This may impact key service delivery due to the availability and mobilisation of critical, specialised and administrative resources across the Queensland Government. In such circumstances, it may be considered necessary to amend nominal expiry dates for certified agreements to delay bargaining during a key delivery period. Legislative change may be required to

²³⁴ Examples include the [Change of Pay Date for Employees of Queensland Health \(Directive 03/12\)](#) and the [Early retirement, redundancy and retrenchment \(Directive 04/12\)](#).

²³⁵ s 1122 of the Industrial Relations Act 2016 (as passed) amending s 53 of the *Public Service Act 2008*, and retained in [Ch 6, Pt 5](#) of the PS Act.

²³⁶ s 223 of the PS Act.

achieve this noting that appropriate safeguards for employees will also be a key consideration.

IR Recommendation 62: Boxed directives

That the Queensland Government consider measures to address exceptional or emergency circumstances (e.g. in the case of natural disasters and response to natural disasters, the 2032 Olympic and Paralympic Games). This could include, for example, reinstating “special/boxed directives” in relation to industrial relations entitlements so certain matters could be dealt with administratively in accordance with the *Public Sector Act 2022* (Qld).

If it is considered necessary to, for example, change nominal expiry dates for agreements so that bargaining is delayed during the key delivery period for the Olympics, it is noted that this may require legislative change, noting appropriate safeguards for employees would also need to be considered.

Part 2: Workers' Compensation

2.1 Introduction

2.1.1 Overview and objectives of the Queensland workers' compensation scheme

Queensland's workers' compensation scheme is a short-tail, no-fault, centrally funded scheme that provides compulsory insurance coverage for more than 185,000 employers and approximately 3.01 million workers (as at June 2026). The scheme is established under the WCR Act.

The primary objective of the scheme is to provide compensation and support to workers who sustain an injury arising out of, or in the course of their employment. The scheme also provides benefits to dependants of deceased workers and for other specified non-workers. In doing so, the scheme seeks to balance providing fair and appropriate benefits for injured workers with maintaining affordable premium rates for employers and long-term financial sustainability.

A key feature of the WCR Act is its emphasis on rehabilitation and return to work. The WCR Act establishes an injury management framework that promotes early intervention, rehabilitation and safe, timely and sustainable return to work outcomes. Employers, insurers and workers each have responsibilities in supporting these objectives.

The scheme is administered by the Regulator, WorkCover and 27 licensed self-insured employers.

The Regulator is responsible for regulating and overseeing the scheme, including monitoring insurer performance and compliance, reviewing certain workers' compensation decisions, supporting the operation of Medical Assessment Tribunals (MAT) and conducting or defending proceedings under the WCR Act.²³⁷ These functions are primarily performed by Workers' Compensation Regulatory Services within the OIR under delegation from the Regulator.

WorkCover is a statutory body established under the WCR Act and is the default provider of workers' compensation insurance in Queensland. WorkCover provides insurance coverage for approximately 95% of Queensland workers and operates on a fully funded basis through employer premiums. All WorkCover policies are guaranteed by the State of Queensland.²³⁸

Employers that satisfy prescribed eligibility requirements may apply to become self-insurers. Rather than holding insurance with WorkCover, self-insurers assume full responsibility for managing and funding workers' compensation claims for their workforce. To obtain and maintain a self-insurance licence, employers must meet requirements relating to workforce size²³⁹, work health and safety performance, security

²³⁷ s 327 of the *Workers' Compensation and Rehabilitation Act 2003* (WCR Act)

²³⁸ Ch 8, Pts 1 and 2 of the WCR Act.

²³⁹ 2,000 full-time workers in Queensland; ss 71 and 72 of the WCR Act.

arrangements and reinsurance coverage. The licensing and ongoing oversight of self-insurers is undertaken by the Regulator.

As at 24 August 2026, there were 27 self-insurance licences operating within the scheme, covering approximately 292 employers and 156,000 workers in Queensland²⁴⁰. A number of Queensland self-insured employers also hold self-insurance approvals in other Australian jurisdictions, reflecting the national operations of many large employers.

Queensland's workers' compensation scheme has historically been recognised as one of Australia's highest-performing and sustainable schemes, characterised by relatively low premium rates, strong return to work outcomes and a financially sound, fully funded public insurer. Maintaining these outcomes while responding to emerging trends remains a key focus for the Queensland scheme and scheme stakeholders.

2.1.2 Characteristics of the scheme

Queensland's workers' compensation scheme is characterised by three key features: it is short-tail, no-fault and centrally funded. The scheme also provides the option for self-insurance.

Short-tail

Queensland operates a short-tail workers' compensation scheme. Unlike long-tail schemes, where weekly compensation benefits may continue for extended periods, entitlement to weekly compensation in Queensland ceases when the earliest of the following occurs:

- the incapacity because of the work-related injury stops;
- the worker has received weekly payments for the incapacity for five years;
- the worker reaches the maximum amount of compensation; or
- the worker's injury is assessed as stable and stationary and a lump sum compensation offer based on an assessment of permanent impairment is made, with entitlement ceasing when the worker accepts the offer or 20 business days after receiving the offer.²⁴¹

The only exception to this is the payment of necessary and reasonable treatment, care and support for serious personal injuries as part of Queensland's National Injury Insurance Scheme (NIISQ).²⁴²

The short-tail nature of the scheme is offset by the ability of injured workers to seek common law damages for injuries caused by negligence. This approach limits long-term statutory liabilities and supports the financial sustainability of the scheme.

²⁴⁰ [List of self-insured employers](#), WorkSafe Queensland.

²⁴¹ ss 144A and 190 of the WCR Act.

²⁴² [Ch 4A](#) of the WCR Act and [Pt 6, Div 1, Subdiv 2](#) of the *Workers' Compensation and Rehabilitation Regulation 2025* (WCR Regulation).

No-fault

Like all Australian workers' compensation schemes, Queensland's statutory scheme operates on a no-fault basis. A worker who satisfies the eligibility requirements of the WCR Act is entitled to statutory compensation regardless of whether the injury was caused by the worker, the employer or another party.

This enables injured workers to access compensation, medical treatment and rehabilitation without having to establish fault. Entitlement may be excluded in limited circumstances, such as where an injury is intentionally self-inflicted or results from the worker's serious and wilful misconduct.²⁴³

Issues of fault and negligence (including contributory negligence by a worker) may be considered if a worker elects to pursue a common law action for damages.²⁴⁴

Centrally funded

Queensland operates a centrally funded workers' compensation scheme. WorkCover acts as the public insurer and underwrites the majority of scheme liabilities, providing coverage for most employers and workers across the State. This differs from Tasmania, the Australian Capital Territory and the Northern Territory, or managed-fund models such as NSW.

The centralised structure of the Queensland scheme provides economies of scale and administrative efficiencies. Compared with other centrally funded and managed schemes, the Queensland scheme has the highest proportion of total expenditure directed to claimants and the lowest proportion expended on insurance operations, reflecting the scheme's focus on efficiency and value.

Self-insurance

Like other Australian schemes, the scheme also incorporates a self-insurance model, which allows eligible large employers to assume responsibility for funding and managing workers' compensation claims for their own workforce. While self-insurers operate outside the central funding pool, they remain subject to licensing and regulatory oversight by the Regulator.

2.1.3 Statutory Reviews of the Scheme

Under section 584A of the WCR Act, the Minister must ensure a review of the operation of Queensland's workers' compensation scheme is completed at least once every five years. The WCR Act also requires the outcomes of each review to be reported and tabled in the Legislative Assembly.²⁴⁵

This review is the fourth statutory review conducted under the WCR Act, following reviews completed in 2013, 2018 and 2023. Previous reviews have examined a broad range of issues affecting scheme performance, including financial sustainability, compensation and common law arrangements, rehabilitation and return to work

²⁴³ [Ch 3, Pt 4](#) of the WCR Act.

²⁴⁴ [Ch 5, Pt 8](#) of the WCR Act.

²⁴⁵ [s 584A](#) of the WCR Act.

outcomes, insurer performance, and emerging workplace injury trends. The recommendations arising from these reviews have informed a range of legislative, regulatory and administrative reforms to the scheme over time.

The current review was commissioned in response to enduring and emerging trends affecting the operation and long-term sustainability of the scheme. These include sustained and ongoing growth in primary and secondary psychological injury claims, increasing claim durations, declining return to work rates, and rising fraud reporting. It was also timely to review the suitability of self-insurance arrangements. The review also considered whether any changes are required to ensure Queensland's workers' compensation scheme remains fair, sustainable and fit for purpose. It is noted that changes to common law access and processes are outside the scope of this review.

2.1.4 State of the scheme

The scheme is financially strong and continues to deliver important benefits for Queensland workers and employers. In November 2025, the Business Council of Australia ranked Queensland as the best performing jurisdiction in Australia for the cost of workers' compensation schemes.²⁴⁶ Queensland's scheme is also administratively efficient. Between 2020-21 and 2024-25 insurance operations remained relatively stable as a proportion of scheme expenditure (6.5% to 7.2%), as did the proportion paid directly to claimants (66.3% to 63.7%), the highest proportion of centrally funded Australian jurisdictions in 2024-25.²⁴⁷ However, several emerging trends indicate that the operating environment is changing and may place increasing pressure on scheme performance, sustainability and service delivery if not addressed.

Over the five years to 2025-26, statutory claim volumes increased by approximately 14.7% with claims frequency remaining relatively stable. At the same time, the scheme has experienced a significant shift in injury type, with both primary and secondary psychological injury claims continuing to increase as a proportion of all claims (10.3% for primary psychological claims as at 30 June 2026). These claims are generally more complex to determine and manage and are associated with longer recovery and return to work pathways.

Scheme performance indicators have also shown signs of pressure. Average claim durations have increased by 6.8 days over the five years to 2025-26, while the return to work rate has declined from 94.4% to 90.0%. In addition, reported fraud has increased by 63.7% between 2021-22 and 2025-26, creating heightened risk to scheme integrity and sustainability (peaking in 2023-24 at 251 cases).

²⁴⁶ [Regulation Rumble 2025](#), Business Council of Australia, 2025.

²⁴⁷ [Comparison of Workers' Compensation Arrangements in Australia and New Zealand 2025](#), Safe Work Australia, published 30 June 2026.

Despite these trends WorkCover has maintained a healthy financial position. As at 30 June 2026 WorkCover had a funding ratio of 137.1%. Since 2016-17, WorkCover has used its strong equity position to set premiums below their breakeven rate and maintain the lowest average premium rate of any state or territory for employers. Between 2022-23 and 2024-25, the WorkCover Board incrementally increased the average premium rate to bring it closer to parity with the breakeven rate to ensure the scheme's long-term sustainability.

The average premium rate has remained unchanged since 2024-25 at \$1.343 per \$100 of wages. As underlying scheme costs continue to increase, pressure on WorkCover's ability to sustain this approach is growing, providing a further indicator of emerging sustainability challenges.

These trends have been accompanied by a growing demand for the Regulator's services, including reviews, appeals, MATs and investigations, which have increased by 56.9% over the past three years. A significant proportion of this demand relates to psychological injury claims, and further growth is forecast in 2026-27.

Collectively, these trends demonstrate that while the scheme remains financially sound, it is operating in an increasingly complex environment. There are opportunities to ensure the legislative and operational framework for the scheme remains effective, responsive and sustainable, and continues to support positive outcomes for workers and employers into the future.

2.2 Psychological injuries

2.2.1 Overview and emerging trends

Psychological injuries are a significant and increasingly complex issue for workers' compensation schemes across Australia and internationally. They encompass a broad range of mental health conditions arising from workplace factors, including exposure to traumatic events, occupational violence, bullying and harassment, excessive workload, organisational change, and other psychosocial hazards. This may be influenced by greater community and workplace awareness including the adoption of a more open and proactive approach to these types of injuries, with an increased focus on mental wellbeing and early intervention.²⁴⁸

These injuries can have substantial human and financial impacts on workers, employers and workers' compensation schemes. Workers may experience cognitive, emotional and behavioural symptoms that affect their wellbeing, relationships, capacity to work and overall quality of life. For employers and compensation schemes, psychological injuries are associated with higher costs and more complex claims management.

Psychological injuries present unique challenges within workers' compensation schemes. Unlike many physical injuries, they often arise from multiple contributing factors and may develop progressively over time rather than from a single identifiable event. This can make it more difficult to establish causation and determine the extent to which employment contributed to the condition, creating ongoing challenges in relation to claim determination, compensation and scheme sustainability.

Although they represent a relatively small proportion of total claims, psychological injuries have a disproportionate impact on the scheme. Compared with physical injury claims, they have higher average costs, involve longer periods of incapacity, are more likely to be disputed, and are associated with poorer return to work outcomes.

Sustained growth in psychological injury claims over the last decade has been seen in all Australian workers' compensation schemes including Queensland. This growth has occurred alongside increasing awareness of mental health issues, greater recognition of psychosocial hazards, evolving community expectations, and strengthened workplace health and safety obligations relating to psychological health. As a result, psychological injuries are now a key driver of scheme costs and liabilities, and the coverage and management of these claims has become a major focus of workers' compensation policy and reform efforts across Australian jurisdictions.

Types of psychological injuries

Psychological injury claims are generally classified as either *primary* or *secondary* psychological injuries.

²⁴⁸ [Psychological health and safety in the workplace](#), Safe Work Australia 2024.

A *primary psychological injury* occurs where a worker develops a psychological condition as a direct result of workplace events, independently of any physical injury. Examples may include exposure to traumatic incidents, occupational violence, bullying and harassment, excessive workload, workplace conflict, or other psychosocial hazards.

A *secondary psychological injury* occurs where a psychological injury develops as a consequence of another compensable injury, most commonly a physical injury. Secondary psychological injuries may arise from factors such as chronic pain, reduced functional capacity, prolonged recovery, loss of employment, or the broader impacts of managing a significant physical injury.

The distinction between primary and secondary psychological injuries is important from a scheme perspective, as the causes, treatment and management of the claim may differ. Understanding these differences assists in analysing scheme trends, claim costs, return to work outcomes and potential policy responses.

Primary psychological injury trends

Primary psychological injury claims have grown substantially over the past decade and now represent a material and increasing pressure on the scheme.

Since 2016-17, the number of primary psychological injury claims lodged has risen by 143.6%.²⁴⁹ Growth has continued in the most recent year, with lodgement increasing by 22.2% in 2025-26 compared to 2024-25.²⁵⁰

Primary psychological injuries take longer to determine (27.7 business days versus 7.6 business days for physical injuries) and have a much higher rejection rate than physical injuries. Only 48.7% of primary psychological injury claims were accepted in 2025-26 compared to 95.5% for physical injuries.

Despite this the number of primary psychological injury claims accepted in the scheme has increased over the last 10-years by 267.9%.²⁵¹ and now make up 5.3% of all accepted claims in the scheme. In the last five years alone, accepted primary psychological injury claims increased by 76.1%.²⁵²

Anxiety/stress disorders are the predominant types of accepted primary psychological injuries, increasing 76.4% in the five years to 2025-26. Other conditions that have seen an increase include post-traumatic stress disorder (PTSD) (15.8% increase in the last five years) and depression (9.1% in the last five years).

²⁴⁹ From 4,367 in 2016-17 to 10,638 in 2025-26.

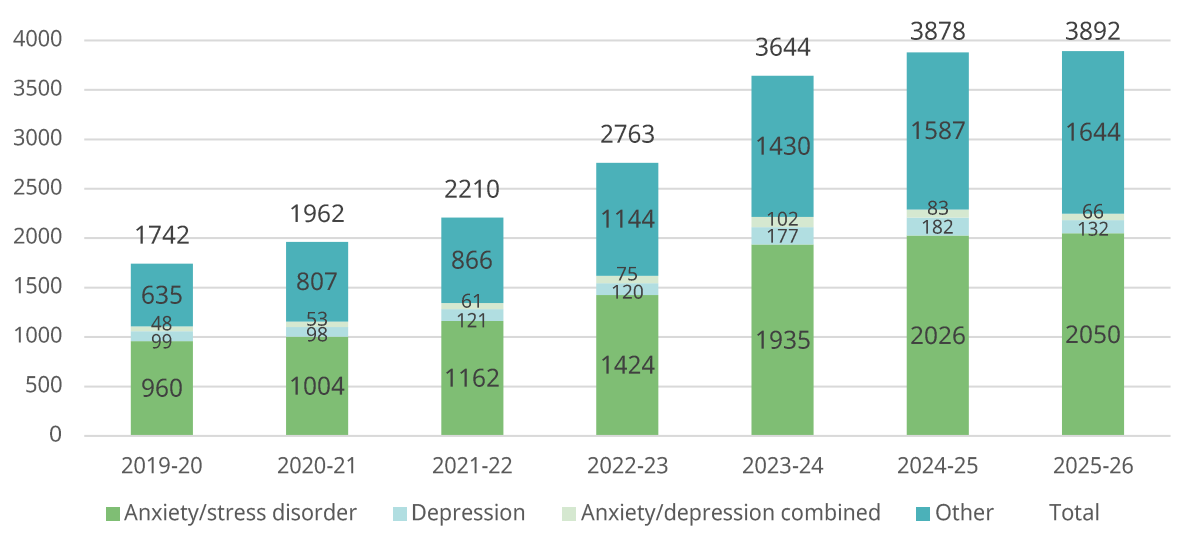
²⁵⁰ From 8,704 in 2024-25 to 10,638 in 2025-26.

²⁵¹ From 1,058 (1.5% of 72,529 accepted claims in the scheme) in 2016-17 to 3,892 (5.3% of 73,343 accepted claims in scheme) in 2025-26

²⁵² From 2,210 in 2021-22 to 3,892 in 2025-26.

The graph below shows the types of accepted primary psychological injuries since 2019-20.

Graph 1 – Types of accepted primary psychological injuries

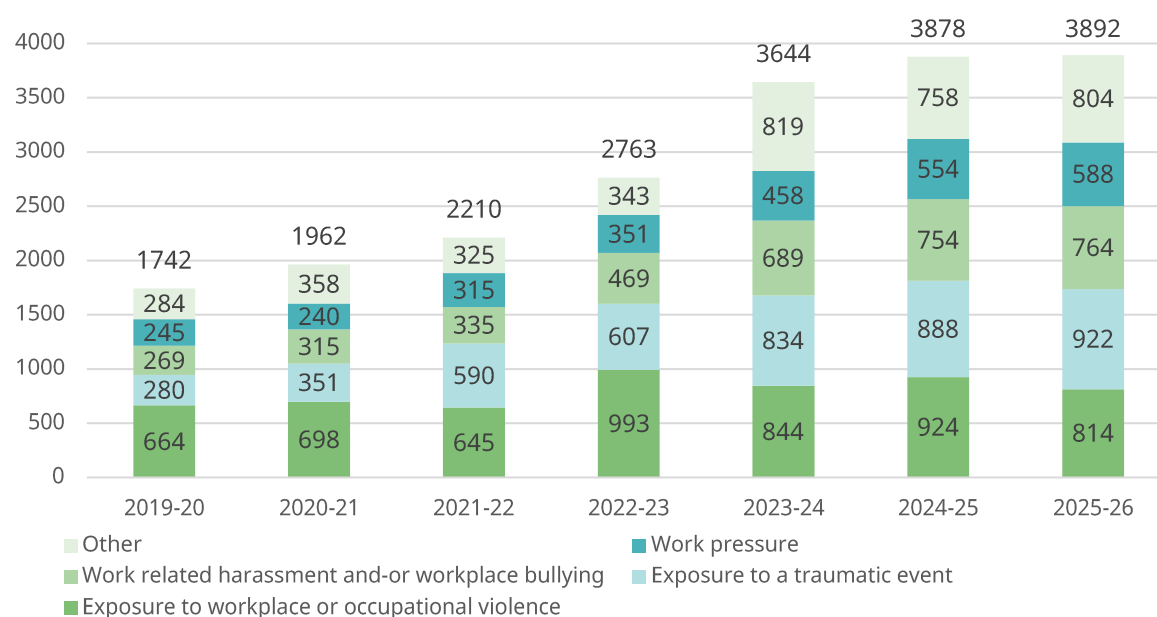


The predominant causes of psychological injuries in 2025-2026 were:

- exposure to workplace or occupational violence (20.9%);
- exposure to a traumatic event (23.7%), which includes witnessing a fatal or non-fatal accident; and
- work related harassment and/or bullying (19.6%), which includes repetitive threats, abuse, harassment or assault.

The predominate causes have been consistent over the last five years to 2025-26. The biggest increases occurred in claims related to *work-related harassment and/or bullying* followed by *work pressure* and *exposure to traumatic events*. The graph below shows the predominant cause of psychological injury claims since 2019-20.

Graph 2 – Predominant causes of psychological injury claims

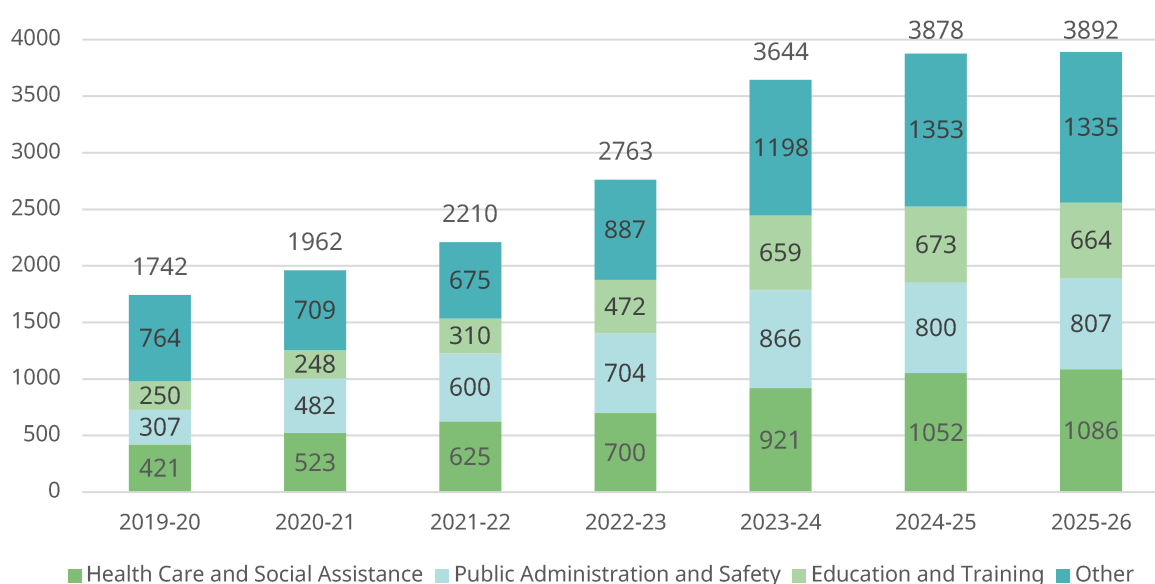


Industries with the highest number of accepted psychological injury claims are health care and social assistance, education and training and public administration and safety.²⁵³ There has been an increase in these sectors over the past five years to 2025-26 as follows:

- health care and social assistance (up 73.8%);
- education and training (up 114.2%);
- public administration and safety (up 34.2%).

The graph below shows the industries with the highest number of accepted psychological injury claims since 2019-20.

Graph 3 – Industries with highest number of psychological injury claims



Despite still representing a relatively small portion of claim volume, primary psychological injury claims differ markedly from physical injury claims and place a disproportionate burden on the scheme. Compared to physical only claims in 2025-26, primary psychological injury claims on average:

- cost substantially more (\$72,338 versus \$23,493);
- have lower return to work rates (72.6% versus 93.0%);
- have longer claim durations (186 workdays versus 53.5 workdays);
- are more frequently disputed (20% of insurer decisions are referred to the Regulator for review versus 2.7%).

²⁵³ [Report: Psychological health and safety in the workplace](#), Ch 3, Safe Work Australia.

Interestingly in 2025-26 self-insurers experienced improvements in their return to work rate for psychological injuries (up 4.2% to 82.4%) compared to the scheme which reduced by 1.8% (to 72.6%). Within this trend they also had a 7.9% increase in return to work over 13 weeks. Of note they had a significant reduction of 25.1 days in the durations of psychological injury claims (compared to the scheme which increased by 6.7 days). This shows that more can be done across the scheme to improve outcomes of psychological injury claims.

The characteristics of psychological injury claims translate directly into higher scheme costs and poorer outcomes for injured workers. In 2025-26, primary psychological injury claims accounted for approximately 15.7% of total gross statutory payments (\$362.93 million for 2025-26), and are expected to account for around 17% of total gross statutory payments in 2026-27. This is well above their proportion of accepted claims.

The combination of longer durations, lower return to work rates and higher dispute rates also increases the likelihood that these claims will proceed to common law, adding further cost and complexity. In 2025-26 19.1% of common law claims are for primary psychological injuries and had average damages of 55.4% higher than physical only injuries.

The growth in primary psychological injury claims is likely influenced by a combination of factors, including increased awareness of mental health, reduced stigma associated with psychological conditions, greater recognition of psychosocial hazards in the workplace, changing workplace demands, and broader mental health trends across the community.

Taken together, the rapid growth in volume, the elevated cost per claim, the poorer return to work outcomes and the higher rate of disputation mean that primary psychological injury claims pose a clear and growing challenge to the long-term sustainability and efficiency of the scheme.

Secondary psychological injury trends

Like primary psychological injuries, secondary psychological injury claims have increased steadily and now represent a growing source of human and financial cost and complexity for the scheme.

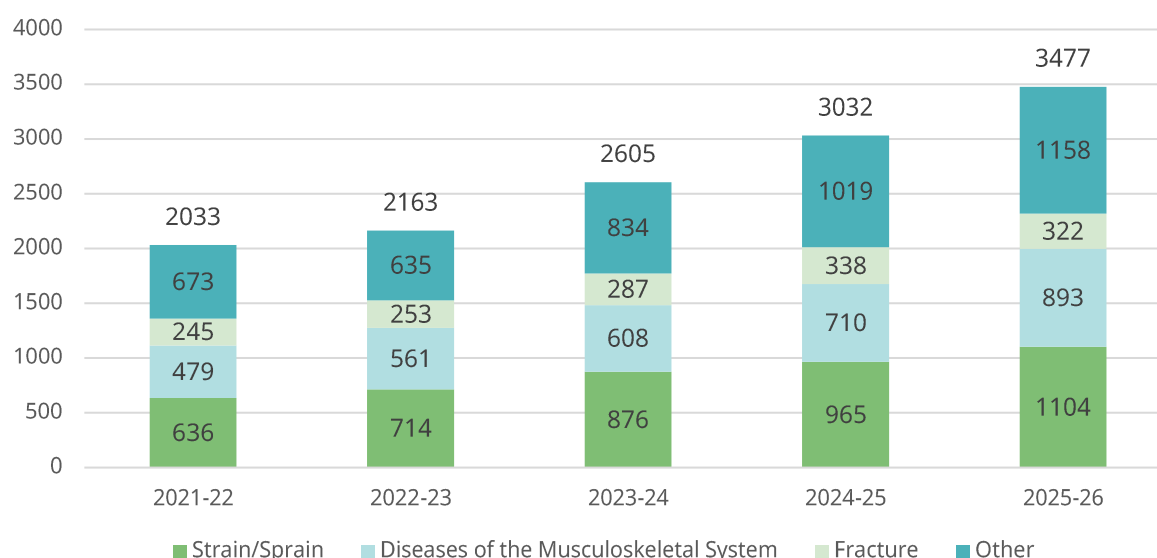
The number of secondary psychological injury claims has increased by 71.0% over the last five years²⁵⁴ and in 2025-26 made up 3% of accepted claims in the scheme. In 2025-26, the average duration between the lodgement of a physical injury application and the lodgement of a secondary psychological injury was 6.9 months.

The top three physical injury types associated with a secondary psychological injury claim are muscular-skeletal, strains and sprains and fractures.

²⁵⁴ From around 2,033 in 2021-22 to around 3,477 in 2025-26

The graph below shows the physical injury type associated with a secondary psychological injury claim.

Graph 4 – Physical injury type associated with secondary psychological injury claims



Secondary psychological injury claims are more prevalent where physical injuries are caused by vehicle accidents and assault-related incidents.

In 2025-2026, the leading occupational groups experiencing secondary psychological injuries were labourers, intermediate service workers (including disability support workers, hospitality, childcare workers, correctional officers, and education aides), and registered nurses. Notably the public sector comprised of 27% of secondary psychological injury claim lodgements, despite representing only 19% of all scheme lodgements.

Like primary psychological injuries, although they only account for a small proportion of all accepted claims, the impact of secondary psychological injuries is disproportionate. When compared with physical only injury claims in 2025-2026, accepted secondary psychological injury claims:

- cost more than five times as much as physical only claims (\$130,768 compared with \$23,493); and
- remain open for substantially longer (around 282.7 workdays compared with 53.5 workdays); and
- achieve a significantly lower return to work rate (61.9% compared with 93.0%).

This means workers who develop a secondary psychological injury are around 10% less likely to return to employment and have typically remain off work for approximately 50% longer than workers with a primary psychological injury alone.

In 2025-26, primary psychological injury claims accounted for approximately 15.7% of total gross statutory payments (\$362.93 million for 2025-26), and are expected to further increase for 2026-27.

These claims also contribute materially to the scheme's common law experience and outcomes, with around 20.0% of common law claims relating to secondary psychological injuries and the average amount of damages for secondary psychological injuries is 65.3% higher than physical only injuries.

The combination of rising volume, markedly higher costs, extended durations and poorer return to work outcomes means secondary psychological injuries are placing increasing pressure on scheme sustainability and outcomes for injured workers.

2.2.2 Definition of psychological injury

Background

Psychological injury definition evolution in Queensland

The scheme's coverage of psychological injuries has been the subject of significant legislative reform in Queensland.

In 1994, the *Workers' Compensation Act 1990* was amended following the decision in *Timbs v Workers' Compensation Board*²⁵⁵, which held that work need only be "a contributing factor" to establish entitlement to compensation. In response, the definition of injury (including psychological injuries) was amended to require that employment be *a significant contributing factor*, with the intent of limiting compensation to injuries with a meaningful connection to employment.

The 1996 *Report of the Commission of Inquiry into Workers' Compensation and Related Matters in Queensland* (1996 Report) found that the amendment had not achieved its intended effect, as courts continued to apply broad interpretations and uncertainty remained regarding the meaning of a significant contributing factor. To strengthen the employment nexus, the 1996 Report recommended that employment be *the major significant factor* causing the injury.²⁵⁶ This recommendation was implemented on the introduction of the *WorkCover Queensland Act 1996* to exclude injuries with only a minimal work-related component.²⁵⁷

In 1999, the definition of injury (including psychological injuries) was revised to require employment to be *a significant contributing factor* to the injury.²⁵⁸

In 2013 following the *Inquiry into the Operation of the Queensland Workers' Compensation Scheme* by the Finance and Administration Committee²⁵⁹. Employment was required to be *the major significant contributing factor* to a psychological injury, establishing a higher causation threshold than for physical injuries.²⁶⁰ The reform was stated as intending to strengthen eligibility requirements for psychological injury claims and support scheme sustainability.

²⁵⁵ *Timbs v Workers' Compensation Board of Queensland* [1993] ICQ 22 (1993) 144 QGIG 149 (25 August 1993) and s 6 *Workers' Compensation Amendment Act 1994* No. 66.

²⁵⁶ *Report of the Commission of Inquiry into Workers' Compensation and Related Matters in Queensland [The Kennedy Report]*, Rec 45.

²⁵⁷ *WorkCover Queensland Act 1996* (as made).

²⁵⁸ *WorkCover Queensland Amendment Act 1999*, s 8.

²⁵⁹ *Report No.28, Inquiry into the operation of the Queensland Workers' Compensation Scheme*, Finance and Administration Committee.

²⁶⁰ s 59 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013* No. 52.

In 2019, following the *2018 Review of the Operation of the Queensland Workers' Compensation Scheme* (2018 WC Review)²⁶¹, the higher threshold for psychological injuries was removed. The definition was amended to require that employment be a *significant contributing factor*, aligning psychological injuries with the causation test that applies to physical injuries.

The *2023 Review of the Operation of the Queensland Workers' Compensation Scheme*, while acknowledging the growth and complexity of psychological injuries, did not make any legislative recommendations regarding the definition of injury or the coverage of psychological injuries under the WCR Act.²⁶²

Current definition of injury

Under section 32 of the WCR Act, a psychological injury is compensable where employment is a significant contributing factor to the injury.²⁶³

However, there is exclusion if the psychological injury arose out of, or in the course of:

- reasonable management action²⁶⁴ (RMA) taken in a reasonable way by the employer;
- the worker's expectation or perception of reasonable management action taken against the worker; or
- action by the Regulator or an insurer in connection with the worker's application for compensation.²⁶⁵

The RMA exclusion can apply to various employer actions including action taken to transfer, demote, discipline, redeploy, retrench or dismiss a worker, or a decision not to award a promotion, leave of absence, or benefit in connection with the worker's employment.

This exclusion ensures that employers can undertake legitimate managerial functions without creating compensable injuries, provided those actions are reasonable and implemented in a reasonable way.

National developments

Victoria

Victoria introduced significant reforms to psychological injury compensation through the *Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Act 2024*, which commenced on 31 March 2024.²⁶⁶ The reforms were aimed at improving scheme sustainability by strengthening eligibility requirements for psychological injury claims and limiting access to ongoing weekly benefits beyond 130 weeks.

²⁶¹ [Operation of the workers' compensation scheme final report](#) and s 34 of the *Workers' Compensation and Rehabilitation Amendment Act 2019*.

²⁶² [2023 review of the operation of the Queensland workers' compensation scheme](#)

²⁶³ Section 32 of the WCR Act.

²⁶⁴ Reasonable management action can include action taken to transfer, demote, discipline, redeploy, retrench or dismiss the worker; or a decision not to award or provide promotion, reclassification or transfer of, or leave of absence or benefit in connection with, the worker's employment – see s 32(5) of the WCR Act.

²⁶⁵ s 32(5) of the WCR Act.

²⁶⁶ [Workplace Injury Rehabilitation and Compensation Amendment \(WorkCover Scheme Modernisation\) Act 2024 \(Vic\)](#).

The reforms introduced a requirement that a psychological injury predominantly arise out of, or in the course of, employment, result in significant behavioural, cognitive or psychological dysfunction, and be diagnosed by a medical practitioner in accordance with the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). The reforms also exclude claims predominantly caused by work-related stress or burnout arising from events that are usual or typical and are reasonably expected to occur in the course of the worker's duties, unless those duties are inherently traumatic.

New South Wales

NSW has also recently made significant reforms to psychological injury compensation in response to increasing claim volumes, rising scheme costs and concerns regarding scheme sustainability. The reforms were introduced through the *Workers Compensation Legislation Amendment Act 2025* and the *Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026*.²⁶⁷

The reforms narrow eligibility for primary psychological injury claims by limiting compensability to injuries arising from specified workplace events, including violence, criminal conduct, traumatic incidents, vicarious trauma, bullying, sexual or racial harassment, and excessive work demands. Objective tests have been introduced for bullying, harassment and excessive work demands, and the reasonable management action exclusion has been clarified and strengthened.

New claims management arrangements also require insurers to determine certain psychological injury claims within 42 days while provisional benefits are payable. Where liability is disputed, alleged workplace conduct must generally be determined by the Industrial Relations Commission before the claim can proceed.

Collectively, these reforms represent a substantial tightening of eligibility and entitlement settings for psychological injuries, reflecting a policy focus on improving scheme sustainability while maintaining support for workers with significant psychological impairments.

Stakeholder Views

Industry and insurer stakeholders largely framed the growth in psychological injury claims as a sustainability issue requiring tighter gateway controls. Medical and worker representatives, by contrast, viewed restrictions on eligibility as likely to create barriers to legitimate claims and preferred non-legislative responses centred on prevention, early intervention and improved claims management.

In particular, stakeholder submissions revealed a clear divergence of views on whether the eligibility test for psychological injury claims under section 32 of the WCR Act should be amended.

In response to growing psychological injury claims, a number of industry and insurer stakeholders supported amendments to the definition of 'injury' in section 32 of the WCR Act to limit eligibility for compensation for psychological injuries. The nature and extent

²⁶⁷ [Workers Compensation Legislation Amendment Act 2025 No 72 \(NSW\)](#) and the [Workers Compensation Legislation Amendment \(Reform and Modernisation\) Act 2026 No 1 \(NSW\)](#).

of the changes sought varied. Submissions included proposals for:

- tighter causal tests for establishing a compensable psychological injury, including requirements that employment be the 'predominant contributing factor', the 'strongest or largest contributing cause', the 'dominant cause', or the 'primary contributing cause' of the injury;
- a requirement that the injury must cause significant behavioural, cognitive or psychological dysfunction;
- stronger diagnostic criteria for assessing whether a psychological injury exists, with some stakeholders suggesting that assessment should be undertaken in accordance with the DSM, focus on establishing a 'psychiatric disorder', and/or be completed by a specialist; and
- increased rigor in assessing evidence and determining liability.

Various submissions also advocated for more restrictive eligibility tests for the aggravation of pre-existing psychological injuries and for the exclusion of bullying and harassment claims unless genuine attempts had been made to address the conduct through the employer's grievance process.

Several industry stakeholders supported amendments to, or clarification of, the RMA exclusion in section 32(5) of the WCR Act. However, views on the form of any change varied. Some stakeholders supported broadening the provision to exclude a wider range of employer activities, certain breakdowns in the employer-employee relationship, certain bullying and harassment claims, and informing a worker of risks to their safety or wellbeing. Others advocated for the concept of 'reasonableness' to be defined and for amendments to ensure RMA is assessed on an objective rather than a subjective basis.

In contrast, medical and worker representatives strongly opposed changes that would restrict access to compensation for psychological injuries. These stakeholders submitted that the scheme should not respond to rising psychological injury claims by reducing eligibility, benefits or access to compensation. They opposed any amendment to the definition of injury that would remove or limit rights to compensation, including changes that would make it more difficult to access the scheme or that would restrict secondary psychological injury claims. They cautioned against adopting the NSW or Victorian definitions of psychological injury and against tightening eligibility tests generally, on the basis that such changes could produce unintended consequences. These stakeholders argued that reforms should instead focus on improving early intervention, return to work processes and workplace prevention measures.

A range of stakeholders supported reforms to strengthen the diagnostic threshold for psychological injury claims and promote greater consistency in assessment and decision-making.

Submissions advocated for a more structured approach to the assessment of psychological injuries, including requirements that compensable psychological injuries be diagnosed by a medical practitioner in accordance with the DSM and involve significant behavioural, cognitive or psychological dysfunction.

Some stakeholders supported legislative amendments aligned with recent Victorian reforms, including maintaining access to compensation for workers who are routinely exposed to traumatic events. Other submissions argued for a more rigorous application of internationally recognised diagnostic criteria, contending this would reduce the number of claims involving normal psychological distress rather than a diagnosable psychiatric condition. Related proposals included changing scheme terminology from "psychological/psychiatric injury" to "psychiatric disorder", requiring mandatory psychiatric assessment before claim acceptance, and excluding entitlement to compensation where a mental injury is predominantly caused by work-related stress or burnout arising from events that are usual, typical or reasonably expected in the course of employment.

There was limited express support for the wholesale adoption of recent reforms in Victoria and NSW. Instead, stakeholder feedback more commonly favoured targeted reforms to eligibility thresholds, diagnostic requirements, evidentiary standards and assessment processes within the existing Queensland workers' compensation scheme.

Findings

Definition of psychological injury

The definition of injury for psychological disorders under the WCR Act has been the subject of legislative adjustment over the past decade. Since 2019, when the definition of injury was last amended, psychological injury claims have increased both proportionately and in their impact on the scheme. These trends place continuing pressure on the long-term sustainability of the scheme.

The current statutory test requiring only that employment be a significant contributing factor does not adequately reflect the multifactorial character of psychological injuries. These injuries often arise from the complex interaction of workplace stressors with pre-existing vulnerability, non-work-related life events and other psychosocial contributors. Under the present definition, it is sufficient for work to make a significant contribution. Claims may succeed even where employment is merely one of several factors of comparable weight and is not the predominant cause of psychological injury.

It is appropriate to consider the core objectives of the scheme outlined in section 5(1) of the WCR Act. Relevantly, these are to provide benefits for workers who sustain injury in their employment and to encourage improved health and safety performance by employers. Given the multifactorial nature of psychological injury, we consider the current definition of 'injury' does not adequately give effect to these objectives, as it enables compensation for psychological injuries that have significant non-employment causes.

Relatedly, we note employers often have limited capacity to control or influence the non-work-related factors that may contribute to a worker's psychological injury. In these circumstances, the increased premium borne by the employer due to an accepted psychological injury claim may not achieve the intended purpose of encouraging better health and safety performance.

An analysis of other Australian jurisdictions shows that Queensland's current statutory test also sits at the more permissive end of definitions of psychological injury.

The increasing incidence and cost of psychological claims have prompted other Australian jurisdictions to strengthen eligibility requirements in recent years and reinforce the need for change. Victoria introduced reforms in 2024 requiring psychological injuries to predominantly arise out of employment, excluding certain stress and burnout claims arising from ordinary workplace pressures.²⁶⁸ NSW has similarly restricted compensability for primary psychological injuries to specified workplace events and applies a main contributing factor test to disease injuries (the category into which most psychological injury claims fall) and a substantial contributing factor test to personal injuries.²⁶⁹ These definitions reflect a deliberate policy choice to impose a stronger employment nexus for psychological claims because of their multifactorial nature. It is however recognised that the scope of these changes also take into account broader considerations of the sustainability of the NSW and Victorian schemes at the time which varied significantly from the current strength of the Queensland scheme.

We note that the higher causation threshold that applied in Queensland between 2013 and 2019 was introduced specifically to address the multifactorial nature of psychological injuries. By requiring employment to be the major significant contributing factor, the 2013 definition of psychological injury sought to ensure that only those injuries for which employment was the major cause received compensation. The intention of this change was to strengthen the causal connection between an injury and employment.

Restoration of the previous major significant contributing factor requirement would place Queensland in closer alignment with the more stringent approaches adopted in Victoria and NSW while recognising the different nature of the Queensland's scheme.

Requiring employment to be the major significant contributing factor would also require decision-makers and medical assessors to have more rigour in considering the relative weight of causal factors and ensure that the scheme compensates only those injuries in which work is demonstrably the major cause. A clear requirement that employment must be the major significant contributing factor to the injury would promote more rigorous medical evidence and clearer reasons for decision by insurers which may reduce the number of disputes.

Furthermore, the approach would not exclude compensation for aggravations of pre-existing injuries or secondary psychological injuries where employment is demonstrably the major cause, provided it is not excluded by reasonable management action.

Analysis of the impacts of the 2013 definition of psychological injury indicates that lodged primary psychological injury claims declined approximately 1,165 to 1,050 per quarter following the legislative change in 2013, a drop of around 9% from the lead up to the change. Following the amendment, rejection rates were largely around 60% or

²⁶⁸ [*Workplace Injury Rehabilitation and Compensation Amendment \(WorkCover Scheme Modernisation\) Act 2024 \(Vic\)*](#).

²⁶⁹ [*Workers Compensation Legislation Amendment Act 2025 No 72 \(NSW\)*](#) and the [*Workers Compensation Legislation Amendment \(Reform and Modernisation\) Act 2026 No 1 \(NSW\)*](#).

more. A combined impact of the reduction in claim lodgements and claims acceptance rates reduced the volume of accepted primary psychological injury claims by around 19%. It is expected that a similar effect would be seen if this change was again implemented resulting in potential reductions in claim volume of 180 accepted primary psychological injury claims per quarter, which over time may result in potential savings to the scheme of \$50.5 million per injury year.²⁷⁰

We note that while Victoria's 2024 reforms have reportedly increased rejection rates for psychological injuries from approximately 30% to 61%, the current gap between Queensland and Victoria's rejection rates is comparatively modest. Based on previous experience the 2013 definition of psychological injury may lead to an increase in the psychological injury rejection rate of around 3.0%, from 51.3% to around and 54.3%.

Considering the increasing growth and trends for psychological injuries on the scheme, the multifactorial aetiology of psychological injury, the tests in other jurisdictions, the need for clear and rigorous decision making and alignment with the objectives of the scheme, we recommend that section 32 of the WCR Act be amended to require that for psychological injuries, employment must be 'the major significant contributing factor.' We consider this to be a targeted and proportionate legislative response that maintains coverage for genuinely work-related injuries while ensuring scheme sustainability.

WCS Recommendation 1: Employment contribution for psychological injuries

1.1 That the WCR Act be amended to add 'the major' as a qualifier for work's 'significant contribution' to a psychiatric or psychological injury, to increase the connection to employment for compensable psychiatric or psychological injuries.

Reasonable Management Action

Overall, we found the scope and operation of the RMA exclusion is appropriate and effective. Over the last five years approximately 92.5% of psychological injury claims rejected each year were rejected because the injury was 'not an injury' under section 32 of the WCR Act. This includes circumstances where employment was not a significant contributing factor to the worker's injury or the injury was excluded because it arose from RMA undertaken in a reasonable way. The proportion of claims rejected on this basis has been relatively consistent in recent years.

Table 5: Reason for claim rejection for psychological injuries from 2021-22 to 2025-26

Rejection reason	2021-22	2022-23	2023-24	2024-25	2025-26	Last 5 years
Not an injury – s 32	93.0%	91.5%	91.2%	93.7%	93.1%	92.5%
Out of time – excluded under s 131	5.1%	5.1%	5.1%	3.4%	3.5%	4.3%
Not a worker – s 11	1.2%	2.7%	3.0%	2.1%	2.6%	2.4%
Other	0.7%	0.7%	0.7%	0.9%	0.8%	0.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

²⁷⁰ This figure represents estimated savings in total finalised claims costs (compensation and damages) on an injury year basis noting common law claims can take up to five years to finalise. No behavioural changes or growth in psychological injury claims has been included in this estimate.

Several industry stakeholders identified a need for greater clarity about the operation of the reasonable management action exclusion in section 32(5) of the WCR Act. While the exclusion itself is well established and serves an important balancing function by supporting workers for compensable injury while preserving an employer's capacity to manage its workforce, its practical application continues to generate uncertainty, inconsistent decision-making and avoidable disputes.

Case law already establishes that management action need not be perfect or ideal.²⁷¹ This is also reflected in guidance material for workers on reasonable management action, which confirms that management action may be reasonable even if it is not perfect.²⁷² It is sufficient that the action is reasonable overall when viewed objectively in all the circumstances. Minor blemishes or imperfections in process do not, of themselves, render otherwise fair and proportionate action unreasonable. However, this is not outlined within the WCR Act. Its absence from the WCR Act leaves room for ambiguity. Explicit statutory confirmation that management action need not be perfect, provided it is reasonable overall would reduce uncertainty and align the WCR Act with the approach already taken by the courts.

Further, employer investigations of alleged misconduct are a routine and necessary incident of workforce management. In practice, these are routinely considered RMA, provided the actions of the investigation are reasonable. Confirming this expressly in the legislation would provide clarity to workers and employers of the scope of the exclusion.

Legislatively clarifying these interpretations would not expand or narrow the substantive reach of the exclusion. They would clarify principles that are already applied by decision makers and may result in a reduction in the volume of claims and disputes that result from ambiguity and support more consistent outcomes across the scheme.

Complementary action by the Regulator to review and update guidance material on RMA would reinforce the statutory clarification, ensure that published materials remain aligned with the amended provision, and assist employers, workers and insurers in understanding and applying the exclusion.

We consider limited and targeted legislative change could improve understanding of the definition of RMA while preserving the existing policy balance and minimising the risk of unintended consequences.

WCS Recommendation 2: Reasonable Management Action

2.1 That the WCR Act be amended to provide greater clarity on the meaning of 'reasonable management action' by:

- confirming that 'management action' need not be perfect, provided it is reasonable overall; and
- confirming employer investigations of alleged misconduct are an example of a type of 'management action' which precludes entitlement.

2.2 The Workers' Compensation Regulator review guidance material on reasonable management action for workers, employers and insurers.

²⁷¹ *Bowers v WorkCover Queensland* [2002] QIC 18; 170 QGIG 1 (23 April 2002).

²⁷² [A guide for workers on psychological injury claims and reasonable management action](#), WorkSafe Queensland.

2.2.3 Claims management of psychological injuries

Background

Psychological injury claims are generally more complex to manage than physical injury claims due to the nature of the injuries, the challenges associated with establishing causation, and the potential involvement of both workplace and non-workplace contributing factors.

The determination of liability for a psychological injury often requires detailed consideration of medical evidence, workplace circumstances and the legislative exclusion for RMA. As a result, psychological injury claims typically require more extensive investigation and can take longer to determine than physical injury claims.

Effective proactive claims management is important in psychological injury claims, as delayed decisions, prolonged disputes, lack of communication and extended periods away from work can adversely affect recovery outcomes. Early intervention, timely access to treatment and appropriate workplace support are recognised as key factors in facilitating recovery and return to work.

Psychological injury claims often involve a broad range of stakeholders, including treating general practitioners, psychologists, psychiatrists, employers, rehabilitation providers and insurers. Coordinated communication and case management are critical to ensuring workers receive appropriate support while maintaining engagement with the workplace where suitable.

National developments

Victoria

In addition to the reforms noted above, in Victoria the reforms required workers with psychological injuries to have a whole person impairment rating of at least 21% to remain entitled to weekly benefits beyond 130 weeks.²⁷³ Of note, in Queensland only 2.6% of psychological injury claims received weekly benefits at the 130 week mark in 2025-26, with psychological injury claims having an average duration of the equivalent of 37 weeks for primary psychological injuries and 56 weeks for secondary psychological injuries.

New South Wales

In addition to the reforms noted above, in NSW the reforms also restrict access to ongoing weekly benefits and damages through phased increases in whole person impairment thresholds for psychological injuries. Workers generally require higher levels of permanent impairment to access benefits beyond 130 weeks or to pursue damages. In parallel, NSW has introduced enhanced return to work support for workers with psychological injuries and commissioned a review of the framework used to assess permanent psychological impairment.²⁷⁴

²⁷³ s 13 of the [Workplace Injury Rehabilitation and Compensation Amendment \(WorkCover Scheme Modernisation\) Act 2024 \(Vic\)](#).

²⁷⁴ Sch 1 item 5 of the [Workers Compensation Legislation Amendment Act 2025 No 72 \(NSW\)](#) and Sch 1 item 2 and Sch 2 of the [Workers Compensation Legislation Amendment \(Reform and Modernisation\) Act 2026 No 1 \(NSW\)](#).

Stakeholder views

Industry, worker, legal, and medical stakeholders' submissions on the management of claims, in particular psychological claims, focused primarily on determination timeframes, clinical expertise within insurers, early intervention, communication, evidentiary requirements and the need for improved guidance and capability. Many submissions raised concerns around the claims management approach adopted by WorkCover.

One insurer stakeholder supported an increase to the legislated claim determination timeframe from 20 business days to 40 business days, given the complexities inherent in determining psychological injury claims. One large employer submitted that employers should be afforded at least five days to respond to an insurer to support claim determination, particularly in the case of psychological injuries.

Stakeholders emphasised the importance of timely employer evidence to support claim determinations, including workplace records, chronologies of events and information about management actions taken. Some submissions advocated for earlier specialist clinical input and strengthened requirements for claim determinations to be supported by sufficient medical and factual evidence, together with greater insurer accountability for the quality of evidence obtained and meaningful engagement with relevant parties before a decision is made.

A number of medical and legal stakeholders advocated for increased in-house medical and allied health expertise within insurers. It was variously submitted that WorkCover should employ a Chief Psychiatrist and/or Chief Medical Officer (or have similar access to expertise) to assist with assessment and treatment decisions and to strengthen clinical governance.

Stakeholders also supported the use of recognised diagnostic frameworks and structured assessment approaches in the management of psychological injury claims. Miscellaneous views were also expressed in support of increasing psychological injury management training, capability and expertise within insurers, including the establishment of a psychological injury advisory panel to advise WorkCover and OIR on psychological injury trends.

Several stakeholders sought additional guidance regarding the assessment and determination of psychological injury claims. This included proposals to clarify that decision-makers should have regard to the objective facts and circumstances of a worker's employment, that medical opinions regarding causation are not determinative and should be considered in the context of all factual findings, and that the identification of the events or stressors giving rise to an injury is a question of fact to be determined on the totality of the evidence.

Some stakeholders commented on early intervention supports for workers with psychological injuries and generally supported earlier access to support.

One insurer supported the provision of continued insurer-funded psychological support services under section 232AB of the WCR Act for 20 business days following a decision to reject a worker's claim for psychological injury.

One large employer submitted there were opportunities to improve the management of psychological injury claims by reducing delays in obtaining specialist psychiatric treatment and advice. One worker stakeholder advocated for legislated minimum standards requiring standardised early intervention pathways for both primary and secondary psychological injuries.

Some employers expressed support for additional scheme-wide guidance for insurers and other scheme participants on the management of psychological injury claims.

There was limited express support for the wholesale adoption of recent reforms in Victoria and NSW.

Findings

Claims management

The way a psychological injury claim is managed materially affects its outcome, duration, cost and the worker's prospects of return to work.²⁷⁵ Delay, poor communication, inconsistent evidence gathering or failure to engage early with the worker, employer and treating practitioners can prolong incapacity, increase costs and contribute to secondary psychological injury. Timely, transparent and evidence-based management supports better recovery.

The *It Pays to Care* report²⁷⁶ noted that claims management practices are an important determinant of worker outcomes, with evidence that insurer behaviours, communication practices and processes can significantly affect recovery, return to work and claim duration. In particular, the report emphasised the importance of timely and collaborative approaches, personalised and respectful communication, proactive management of biopsychosocial risks, and scheme processes that do not create unnecessary barriers to recovery and return to work.

Safe Work Australia's (SWA) *Taking Action: A Best Practice Framework for the Management of Psychological Claims in the Australian Workers' Compensation Sector* identifies that effective psychological injury claims management is characterised by early and supportive engagement, clear and respectful communication, person centred decision making, and collaboration between workers, employers and treating providers. The framework emphasises that insurers and claims managers play an important role in a person-centred claims management process and that claims management practices can influence worker recovery and return to work outcomes. It promotes a supportive, recovery focused approach that minimises unnecessary administrative burden, supports worker participation, and facilitates safe and sustainable return to work. Submissions from employer, worker, legal, and medical stakeholders highlighted frustration with current claims management processes of WorkCover. Key areas of concern related to the timeliness²⁷⁷ and quality of decision making, procedural fairness, communication and early and responsive intervention. Stakeholders emphasised the need for improved

²⁷⁵ *Taking Action: A Best Practice Framework for the Management of Psychological Claims in the Australian Workers' Compensation Sector*, Safe Work Australia. (2021).

²⁷⁶ *It Pays to Care*, the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) (2022).

²⁷⁷ In 2025-26 the average decision time for a psychological injury was 27.7 business days compared to the required timeframe under s 134 of the WCR Act of 20 business days.

practices, particularly for psychological injuries, to improve decision-making, reduce the risk of secondary psychological injuries and improve outcomes for workers, employers and insurers.

Insurers are required to determine liability, arrange treatment, manage rehabilitation and control information flow between all parties. Insurers are already subject to duties under the WCR Act, including timely decision making²⁷⁸, providing reasonable support services during claim determination²⁷⁹, minimising the risk of secondary psychological injury²⁸⁰, and broader rehabilitation and return to work requirements.

The Regulator monitors insurer performance and undertakes regular full compliance audits of all insurers claims management processes (see 2.6 Insurer Performance and Compliance) including the management of psychological injury claims. In addition to scheduled compliance audits, in 2025-26 six special audits targeted an insurer's early identification, determination and management of psychological injury claims. The outcomes of these audits aligned with the feedback of stakeholders including a lack of proactive claims management and decision making, deficiencies in rehabilitation and return to work planning, early and responsive intervention following identification of psychological risk and challenges with ensuring employers meet their obligations to provide suitable duties.

At 30 June 2026 13 insurers had 14 active improvement action plans with recommendations relating to the management of psychological injuries, one compliance notice, and two written warnings had been issued relating to the determination of a secondary psychological injury.

From 1 July 2026 the Regulator is undertaking a targeted audit of all insurers' compliance with their obligation to minimise the risk of secondary psychological injuries. We understand that findings to date align with the feedback of stakeholders including delays in claim determinations, inconsistent identification and management of psychological risk indicators, inadequate psychological support, lack of documentation of decision making and delays or incorrect payment of wage entitlements and treatment services.

While we consider current requirements in the WCR Act are adequate to support evidence-based claims management, it is clear implementation across the scheme is inconsistent.

²⁷⁸ s 134 of the WCR Act requires that insurers decide applications for compensation within 20 business days of the application being made, or notify the claimant of its reasons for not making the decision within five business days after the 20 business days has ended.

²⁷⁹ s 232AB of the WCR Act requires that insurers must take all reasonable steps to provide reasonable services to support a worker that makes an application for compensation for a psychiatric or psychological injury from the day the application for compensation is made until the day the insurer decides to allow or reject the application for compensation.

²⁸⁰ s 232AC of the WCR Act requires that if an insurer allows an application for compensation for a physical injury, the insurer must take all reasonable steps to minimise the risk of the worker sustaining a psychiatric injury arising from the physical injury, including by providing reasonable services to the worker.

Scheme-wide improvement in claims management and claims durations would result in significant savings in scheme costs. For example, based on an average cost per work day lost for psychological injuries, a reduction in compensation payments of one day would save the scheme \$1.5 million. If extended to all injuries, the same reduction would increase to \$25.6 million in reduced costs.

Section 486A enables the Minister to make a Code of Practice stating the action to be taken by an insurer in performing functions, exercising powers or complying with obligations under the WCR Act.²⁸¹ Under section 486B, non-compliance with a code of practice is an offence (to the extent that it does not constitute an offence against another provision of the WCR Act).²⁸² To date, no Codes of Practice have been made by the Minister under the WCR Act.

We consider a Code of Practice would give practical effect to existing insurer duties, reduce variability and support better outcomes for workers, employers and the scheme. A Code should set out the process for determining liability (including the acceptance or rejection of claims), mandate timely consultation and communication with the worker, employer and treating medical practitioners, ensure workers and employers are afforded procedural fairness during the determination of a claim, set expectations for early intervention and psychosocial risk management, require evidence-based decision making and treatment, and provide operational guidance on sections 232AB and 232AC.²⁸³

WCS Recommendation 3: Code of Practice for Claims Management for insurers

That the Minister make a Code of Practice for Claims Management to drive improved, consistent and timely claims decision making and management across the scheme with a focus on primary and secondary psychological injury claims.

Clinical Governance

Submissions received from medical and legal stakeholders highlighted significant frustration with WorkCover's lack of centralised, consistent high-level medical governance. Stakeholders identified the absence of strong clinical governance as a barrier to the safe and timely assessment and treatment of injured workers.

WorkCover currently maintains a number of provider panels that provide access to independent clinical expertise to support claims management, rehabilitation and return to work outcomes. This includes the Medical and Allied Health Advisory Services (MAHS) panel, comprising medical and allied health practitioners who provide advice on diagnosis, prognosis, treatment and return to work matters, including independent medical examinations where required. WorkCover also uses a Rehabilitation Services Provider Panel (RSPP), comprising allied health and vocational rehabilitation providers that support claims management and rehabilitation. These arrangements are stated as providing WorkCover with access to a broad range of external clinical expertise and specialist advice to support claims management and decision-making.

²⁸¹ s 486A of the WCR Act.

²⁸² s 486B of the WCR Act.

²⁸³ ss 232AB and 232AC of the WCR Act.

However, the increasing prevalence and complexity of claims, in particular psychological injury claims, highlight the need for stronger scheme-level medical leadership and governance. Several medical and legal stakeholders submitted WorkCover should have an in-house Chief Psychiatrist and/or Chief Medical Officer to assist with assessment and treatment decisions. We consider dedicated internal high-level, centralised and specialist medical expertise (including psychiatric expertise), would complement existing provider panel arrangements by providing strategic oversight of clinical decision-making, supporting the consistent application of evidence-based practices, strengthening clinical governance and quality assurance, monitoring emerging injury and treatment trends, and building insurer capability in the assessment and management of psychological injury claims. This would strengthen the quality and consistency of claims management, support more effective treatment and recovery pathways, improve return to work outcomes, and enhance clinical capability and decision-making across the scheme.

We consider that any additional cost associated with establishing this internal expertise would be offset by associated claims cost savings, particularly through the earlier identification of appropriate and necessary treatment and improved return to work outcomes.

WCS Recommendation 6: Medical Expertise

That WorkCover Queensland engage and actively utilise dedicated internal high level, centralised and specialist medical expertise (including psychiatric expertise) to strengthen claims management, clinical governance and staff capability.

Uplift in insurer capability

Consultation identified concerns from a range of stakeholders regarding the capability of claims managers, particularly in the management of psychological injury claims. Stakeholders considered that the increasing complexity of these claims places greater demands on claims managers and highlighted the importance of ensuring they have the knowledge and skills necessary to effectively perform their role.

Claims managers play a critical role in the administration of workers' compensation claims. Their decisions and interactions with workers, employers and treating practitioners can influence the timeliness of claim determination, access to treatment and rehabilitation, and return to work outcomes. Ensuring claims managers are appropriately supported and equipped to manage complex claims is an important component of an effective workers' compensation scheme.

While insurers currently have various arrangements in place to develop claims manager capability, approaches may differ across the scheme. Accordingly, the Regulator should consider whether guidance or a Code of Practice is required to uplift and enhance insurer capability. In doing so, consideration should be given to current insurer practices, the provision of regular reporting on claims manager training, professional development activities, and resulting capability outcomes.

WCS Recommendation 7: Uplift in insurer capability

That the Workers' Compensation Regulator consider the current practices of insurers in ensuring claims manager capability and whether guidance or a Code of Practice is required.

2.2.4 Degree of permanent impairment assessment

Background

Under section 179(1) of the WCR Act, an insurer may decide, or a worker who has made an application under section 132 may request, that an injury be assessed to determine whether it has resulted in a degree of permanent impairment (DPI).²⁸⁴

A DPI assessment can only occur once the worker's condition has stabilised and is considered unlikely to materially improve with further medical or surgical treatment. Following the assessment, the worker receives a notice of assessment specifying their DPI and any entitlement to lump sum compensation.²⁸⁵ Within 20 business days of a notice of assessment being provided a workers' entitlement to compensation stops.²⁸⁶ There is also a requirement that injuries be assessed for a DPI before a worker can access common law.²⁸⁷

The process for assessing DPI differs depending on the nature of the injury. Under section 179(2), industrial deafness is assessed by an audiologist, psychological injuries are assessed by a MAT, and all other injuries are assessed by an appropriately qualified medical practitioner.

MATs are established under the WCR Act to provide independent, expert medical decisions about injury and impairment sustained by Queensland workers. The MATs consist of a panel of between three and five specialist doctors. There are 10 types of MATs in the scheme including a Psychiatric Assessment Tribunal.

For psychological injuries, an insurer can only arrange a permanent impairment assessment through a Tribunal. This differs from the assessment process for physical injuries, where a single medical practitioner (a qualified Assessor) undertakes the initial DPI assessment. Under section 186 of the WCR Act, workers with a physical injury can disagree with the initial DPI decision and ask for another independent assessment or be referred straight to a Tribunal.²⁸⁸ The second chance assessment allows the injured worker to obtain another assessment by a doctor. If this second assessment is disputed, the insurer must refer the matter to a Tribunal. The Tribunal's decision is final.²⁸⁹

The use of the Tribunal for psychological injuries reflects the historical development of the legislative framework and the approach to the assessment of psychological injuries. At the time the provisions were introduced, there were concerns regarding the potential

²⁸⁴ ss 179 and 132 of the WCR Act.

²⁸⁵ s 185 of the WCR Act.

²⁸⁶ s 190 of the WCR Act.

²⁸⁷ s 237 of the WCR Act.

²⁸⁸ s 186 of the WCR Act.

²⁸⁹ A tribunal decision can only be reviewed within 12 months if there is fresh medical evidence (s 512 of the WCR Act) or through judicial review under the *Judicial Review Act 1991* (s 515 of the WCR Act).

fairness and subjectivity of impairment assessments. To promote consistency and robustness in decision-making, permanent impairment assessments for psychological injuries were required to be undertaken by a tribunal comprising three medical specialists rather than a single Assessor.

Over the last five years there has been a 47% increase in the number of Tribunal referrals. In 2025-26 a total of 4,507 referrals were received, which represents a 5.5% increase from 2024-25. Psychiatric Assessment Tribunal referrals represent 88.1% of all referrals. The number of referrals is expected to grow in 2026-27 by 8.1%. While there is no legislative timeframe for a tribunal hearing, the average duration from the date a tribunal referral is registered to tribunal hearing was stable at 58.3 business days in 2025-26.

Stakeholder views

Several employer, industry, worker and legal stakeholders support changes to the existing legislative framework for assessing permanent impairment for psychological injuries, with the primary objective of minimising delays and durations of claims.

Stakeholders noted that the significant time to progress referrals to the Tribunal (particularly for psychological injury claims) creates uncertainty regarding work capacity, treatment and resolution pathways, with delays sometimes extending up to nine months.

There was broad support among these stakeholders for legislative amendment to enable permanent impairment for psychological injuries to be initially assessed by a single independent psychiatrist, consistent with the approach used for physical injuries, rather than requiring assessment by the Tribunal.

In support of this change, stakeholders proposed a range of related reforms. These included streamlining medical assessment pathways to align with the single independent medical examination process used for physical injuries by removing or modifying the requirement for first instance assessment by a Tribunal; reforming the universal referral requirement under section 179 of the WCR Act; and enabling notices of assessment to be issued on the basis of single psychiatrist's assessment.

Findings

There is currently unnecessary disparity in the process for assessing a worker's degree of permanent impairment under the WCR Act depending on whether the injury is physical or psychological.

For physical injuries, a worker's DPI is assessed by a qualified Assessor. This process can take around four months from referral and the issue of a notice of assessment subject to Assessor availability. While a worker has access to up to two review avenues including a second assessment by another Assessor and/or a referral to the Tribunal, accessing these review avenues does not reinstate workers' entitlement to compensation.

In addition, second chance assessments have been found to be effective at reducing DPI disputes going to the Tribunal. Since the introduction of the second chance assessment for physical injuries, around 84.8% of second chance assessments do not proceed

further to the Tribunal for final assessment.

In contrast, for a worker with a psychological injury, insurers are required to provide an up-to-date specialist medical report (not older than six months) prior to making a referral to the Tribunal. The timeframe for this report to be obtained, a valid referral to be made to the tribunal and the tribunal process itself can take nine months or more between a request for a DPI and the ability to issue a notice of assessment.

This not only creates an inconsistent process across injury types and limits review options for workers with psychological injuries, but also contributes to longer claim durations.

Preliminary analysis indicates that aligning the processes would generate savings for the scheme of around \$38.715 million through reduced Tribunal referrals and lower compensation payments associated with shorter claim durations.

We consider aligning the DPI assessment process for psychological injuries with the process for physical injuries would establish greater consistency across the scheme. It would also provide equivalent review pathways and reduce delays in claim resolution.

In transitioning to an aligned model, careful consideration is required regarding the transition to ensure an adequate supply of appropriately trained or authorised Assessors are available to undertake the assessments.

WCS Recommendation 5: Assessing degree of permanent impairment process for psychological injuries

That the WCR Act be amended to require the degree of permanent impairment process for psychiatric or psychological injuries be aligned with the degree of permanent impairment process for physical injuries.

2.2.5 Independent review

The recommended reforms above represent a measured and conservative approach to improving the scheme's sustainability. While other jurisdictions, including Victoria and NSW, have implemented more extensive reforms to limit access to compensation for psychological injuries, these recommendations deliberately stop short of adopting those measures at this time. More significant restrictions on coverage and entitlements may have greater scheme savings, however they would constitute a substantial shift and warrant further consideration to ensure the objectives of the scheme are being met.

An independent review is recommended to assess the impact of recommendations 1, 2 and 3, following their implementation, on the growth, determination and management of psychological injuries within the Queensland workers' compensation scheme.

The review should consider whether the implemented changes have achieved the intended objectives, including improving scheme sustainability while maintaining appropriate access to compensation for genuine work-related psychological injuries.

As part of its scope, the review may consider the experience and outcomes of the reforms introduced in Victoria and NSW. It should also assess whether further legislative reforms are warranted in Queensland to strengthen the definition and management of psychological injuries.

To ensure timely identification and prioritisation of any additional measures needed, the independent review should commence 12 months after the implementation of the recommendations.

WCS Recommendation 4: Independent review of impact of recommendations for psychological injuries

That the Queensland Government, in consultation with the Workers' Compensation Regulator, undertake an independent review to determine whether the implemented changes have addressed the growth and impacts of psychological injuries within the scheme.

2.3 Fraud

2.3.1 Background

Fraud within the scheme erodes trust between workers, service providers, employers, insurers and the scheme more generally. It undermines confidence in fair and effective administration, diverts resources away from those with genuine needs, and can lead to increased costs and reduced scheme sustainability.

Fraud and fraud-related offending can be committed by a range of participants within the scheme, including workers, employers and service providers.

Under the WCR Act, it is an offence for a person to defraud or attempt to defraud an insurer²⁹⁰, or state anything, or give a document containing information, to the Regulator, WorkCover, a self-insurer or a registered person that the person knows is false or misleading in a material particular.²⁹¹ Maximum penalties range from 150 penalty units or one year's imprisonment to 500 penalty units or five years imprisonment depending on the offence.

A person may also be taken to have committed fraud where they engage in a calling while receiving compensation and fail to inform the insurer without reasonable excuse.²⁹²

A person's entitlement to compensation or damages ends if they are convicted of fraud under section 533 or the Queensland Criminal Code. The Regulator may apply to the court for recovery of all amounts of compensation and damages paid as a result of the offence.²⁹³

Within the scheme both insurers and the Regulator play key roles in fraud prevention, detection and response, including setting standards, promoting, monitoring and enforcing compliance, and deterring non-compliance.

Preventing fraud

Insurers prevent fraud through education and communication with all scheme stakeholders of their roles and responsibilities, as well as the potential consequences for fraudulent activity.

WorkCover conducts annual fraud compliance training for all WorkCover staff to complete. In addition, ad hoc feedback and training is provided to claims teams as matters arise, furthering the knowledge of fraud indicators and actions that can be taken to identify and manage fraud risks.

The Regulator undertakes regulatory activities to prevent and deter fraud-related offending, including through publication of court outcomes online and through insurer education on detecting and notifying fraud.

²⁹⁰ s 533 of the WCR Act.

²⁹¹ s 534 of the WCR Act.

²⁹² s 535 of the WCR Act.

²⁹³ s 537 of the WCR Act.

Detecting fraud

Insurers are the primary mechanism by which fraudulent activity is detected given their claims management responsibilities, relationship with parties, and reporting responsibilities.

Insurers have differing levels of sophistication in fraud management and employ different strategies and fraud controls based on their business and operating environment.

Insurers primarily become aware of fraud via reports (or "tip-offs") from employers, workers or members of the public. The number of tip-offs received by WorkCover has increased by 5% in the last two years at around 800 reports annually. Depending on the sophistication of the insurer, potential fraud may also be detected by proactive claims management and communication with relevant parties, or analytics and data matching.

The Regulator may detect suspected fraud and related offending through complaints management processes, regulatory services (e.g. review and appeals of insurer decisions) and direct reports from the public.

Responding to fraud

Claims and premium loss minimisation

Where an insurer suspects that a worker is engaging in fraud, and evidence indicates that the worker does not have an incapacity for work, the insurer may assess that the person's incapacity has ended, and may stop weekly compensation under the WCR Act. Insurers can also recover overpaid compensation from workers.²⁹⁴

For suspected employer fraud, including the deceptive underreporting of wages or operating without a WorkCover Policy, WorkCover may retrospectively reassess premiums for up to three previous periods of insurance, recoup the unpaid premium amount and impose an administrative penalty on the employer of up to 100% of the unpaid premium.²⁹⁵

Investigations

Some insurers have individuals or teams of qualified persons including investigators that undertake initial enquiries to establish whether they have a reasonable belief that an offence has been committed.

Insurers must inform the Regulator if they form a reasonable belief that offences are being or have been committed involving fraud under section 533 of the WCR Act, or false or misleading information under section 534 of the WCR Act by workers, employers and providers.²⁹⁶ Individuals who make a report are protected from reprisals.²⁹⁷ This is the primary way that the Regulator is notified of suspected offending.

²⁹⁴ s 170 of the WCR Act.

²⁹⁵ s 57 of the WCR Act.

²⁹⁶ s 537A of the WCR Act.

²⁹⁷ s 537B of the WCR Act.

Reports received by the Regulator are investigated by investigators who are authorised persons appointed by the Regulator under the WCR Act. To exercise most powers, authorised persons must hold a reasonable belief that there has been an offence under the WCR Act. In the absence of that reasonable belief, the authorised person cannot lawfully exercise powers to advance the investigation.

Upon receiving a report, the Regulator triages the report by applying a consistent approach to considering relevant factors such as the seriousness of the suspected offending, strength of the evidence, scheme impact and public interest considerations. Following triage, a matter may be closed with no further action, or after a warning letter is issued.

Matters that are deemed to be very high or high priority are allocated to an investigator. Fraud investigations are complex and resource intensive given conduct must be proved beyond reasonable doubt. On average, investigations take between four to six months and involve between 8-20 witnesses. Investigators must compile a Brief of Evidence containing statements, documents and other material.

During an investigation, an investigator can recommend that a case be closed. This generally occurs where an investigation has run its course, and either there is evidence to show there was no offending, or there is insufficient evidence to establish any offence to the requisite criminal standard.

If an investigation does not find sufficient evidence to substantiate offending, the person who made the report of the offence (usually an insurer) is advised of the outcome. The level of detail able to be provided to the person is dictated by privacy principles. It is usually the insurer that communicates with an employer in relation to the outcome.

Where the Regulator has found evidence which substantiates the offending, but decides against proceeding to a prosecution, the Regulator may issue a warning letter to the person suspected of offending to notify them of the detection by the Regulator.

Prosecutions

Prosecutions serve as a strong deterrent against offending and help to preserve the integrity of the scheme. The Regulator makes decisions on whether to commence a prosecution in accordance with the Workers' Compensation Regulator Prosecutions Policy. This incorporates the same two-tier test used by the Queensland Director of Public Prosecutions:

1. *Is there sufficient evidence to prove the elements of the specific offence?* There must be a reasonable prospect of a conviction before a Magistrate. Consideration will be given to factors such as any lines of defence, admissibility of evidence and credibility of witnesses.
2. *Is it in the public interest to prosecute?* The Regulator must, for example, consider if the offence is serious, the prevalence of the alleged offence, the attitude of the accused and the degree of culpability of the alleged offender in connection with the offence. There are also other considerations such as the alleged offender's age, health, ability to understand the English language, culture, background and criminal history.

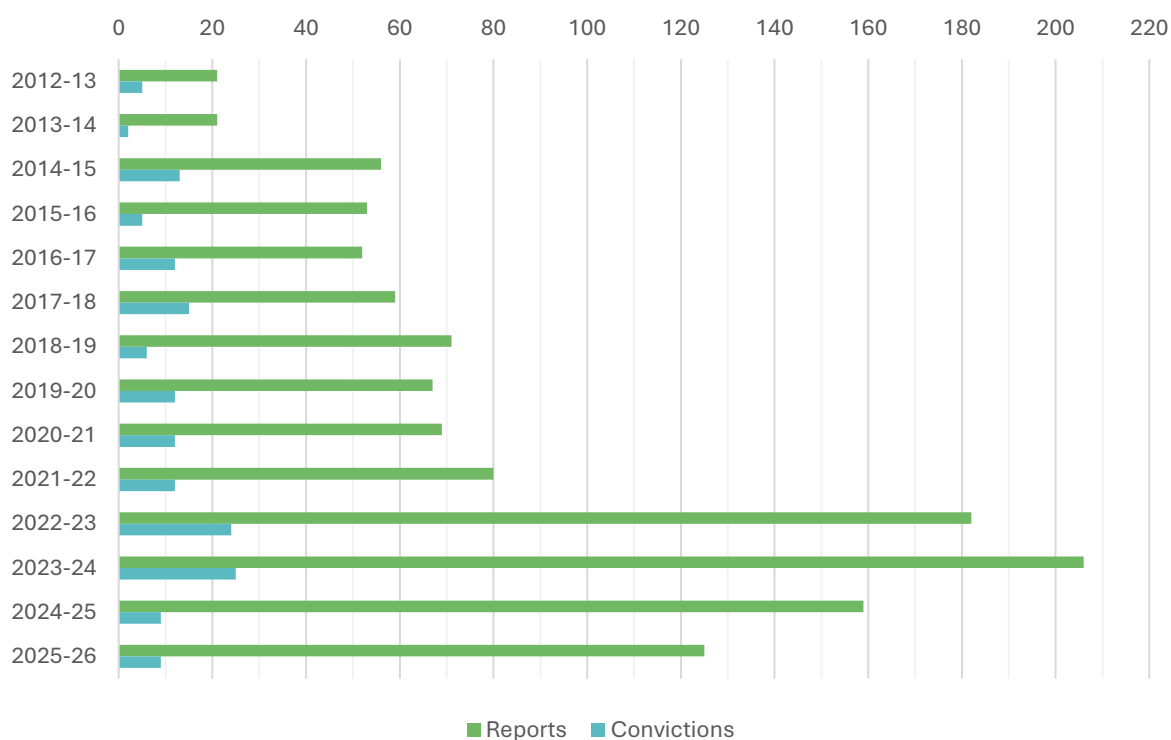
Where a person is convicted of fraud, their entitlement to compensation or damages ends (except in cases only involving attempted fraud or amounts of not more than one week of normal weekly earnings). The court must, on application, order the person to repay the insurer all amounts of compensation or damages paid to the person because of the offending. Fraud prosecutions are therefore an important means of recovering fraudulently obtained entitlements on behalf of insurers.

De-identified prosecution outcomes are published on the Queensland WorkSafe website.²⁹⁸

Fraud trends

While reports of suspected scheme fraud have reduced in the past two years, the volume of fraud reports has continued to trend upwards since 2013. The increase of fraud reporting within the scheme suggests a growing compliance risk that justifies consideration. The graph below shows the annual number of reports and convictions for fraud and related offences from 2012-13.

Graph 5 – Reports and convictions of fraud and related offences



Note: Changes to the number of reports between in 2022-23 and 2025-26 reflects, in part, a change in reporting practices at WorkCover with the establishment of a dedicated fraud team and improvements to the quality of fraud reporting.

The slowdown in the number of prosecutions commenced and convictions since 2023-24 is a result of Magistrate required changes to the Regulator's investigation framework, which increased the evidence collection threshold prior to commencing a prosecution.

²⁹⁸ [Workers' compensation prosecution outcomes](#), WorkSafe Queensland

In 2025-26 the flow of matters between notifications, investigations and prosecutions for fraud and fraud-related offending was:

- 125 reports of suspected fraud or fraud related offending were received. Of these 114 related to workers, 7 employers (no reports related to premium matters), 2 medical providers and 2 others.
- Investigations had the following outcomes:
 - 72 closed with no further action (due to insufficient evidence or not in the public interest)
 - 19 closed with warning letter issued
 - 17 referred for legal advice/consideration of prosecution.
- Prosecutions had the following outcomes:
 - 13 prosecutions commenced
 - 8 prosecutions successfully finalised (6 against workers for fraud and 2 against employers for providing false information)
 - 3 prosecutions unsuccessfully finalised (1 worker acquitted of fraud and false information charges following trial and 2 matters discontinued due to age)
 - 6 defendants sentenced to a period of imprisonment (including actual custody and wholly suspended sentences) and two receiving a fine
 - \$181,218.85 in restitution (to be repaid to insurers)
 - \$98,500 in fines (to be paid to the Regulator)
 - \$40,221.31 in legal costs (to be paid to the Regulator).

Fraud initiatives including the Fraud Taskforce

Both the Regulator and WorkCover have individually been progressing a range of practical initiatives to uplift the scheme's capacity and capability to prevent, detect and respond to fraud. This includes ensuring not only workers, but employers and providers are honest in their engagements in the scheme.

In addition to these initiatives, in 2026 the OIR and WorkCover established a joint Workers' Compensation Fraud Taskforce (Taskforce) to strengthen the prevention, detection and response to fraud across the scheme. The Taskforce provides a coordinated approach to fraud management by bringing together regulatory and insurer capabilities to identify fraud risks, support investigations and pursue appropriate enforcement action.

The Taskforce has been established to protect the integrity, fairness and sustainability of the scheme by reducing fraudulent conduct and ensuring benefits are directed to workers with genuine entitlements. Through enhanced collaboration, intelligence sharing and targeted compliance activities, the Taskforce supports a more effective response to workers' compensation fraud.

The Taskforce's activities are focused on three key areas:

- Detection – the Taskforce is implementing improvements to fraud data collection analytics and intelligence sharing between regulators, insurers and other agencies.

Opportunities for strategic partnerships are also being explored to enhance fraud detection capability. These initiatives are designed to strengthen risk identification processes and facilitate the early detection of fraud, minimising its impact on the scheme.

- Prevention – the Taskforce is implementing initiatives to strengthen the scheme's anti-fraud culture and deter fraudulent behaviour by reducing opportunities for fraud across all scheme participants, regardless of fraud type or duty holder. The Taskforce is also enhancing the capability of insurer and regulatory staff to identify fraud, respond appropriately, and work collaboratively to prevent and address fraudulent conduct.
- Response – the Taskforce is strengthening claims management responses to ensure suspected or confirmed fraud is addressed promptly and appropriately to minimise losses to the scheme. Reporting and investigation processes are being streamlined to support efficient referrals, effective investigations and successful enforcement outcomes. The Taskforce also supports robust prosecution and enforcement actions to ensure appropriate consequences for fraudulent conduct, providing both specific deterrence to offenders and broader deterrence across the scheme.

The Taskforce has developed and endorsed a Fraud Action Plan in consultation with self-insured employers, which includes:

- a Joint Targeted Compliance Program involving the Regulator, WorkCover and self-insured employers to prevent, detect and respond to fraud involving non-disclosure of paid or unpaid work while receiving workers' compensation payments; and
- a Crackdown on Fraud Program to strengthen the scheme's response to fraud across each part of the workers' compensation claim process.

2.3.2 Stakeholder views

The Review received limited submissions relating to the management of fraud in the scheme.

Some insurer stakeholders supported stronger claims management and regulatory powers to detect, prevent and respond to fraud, including amendments to the WCR Act to:

- align the outcomes available for all fraud related offences and ensure all offences result in the loss of compensation and common law entitlements and restitution;
- introduce powers to apply penalties, fines, or cease compensation entitlements without reliance on criminal prosecution, and while a prosecution is on foot;
- expand insurer powers to obtain information;
- allow penalties or fines to be offset against weekly compensation payments; and
- ensure successful fraud prosecutions are recorded on individual criminal records accessed by employers.

One employer sought the establishment of an independent unit, separate from insurer claims management, to investigate allegations of fraud and related offending. It also sought stronger powers relating to fraud reporting and enforcement, the recovery of

improperly paid entitlements, and the recovery of reasonable legal and investigative costs expended by an employer in establishing fraudulent conduct.

Worker stakeholders submitted that mandatory obligations to report fraud should require insurers to report suspected employer fraud to the Regulator. It is noted that insurers already hold this obligation under the WCR Act.

One legal stakeholder supported measures to disincentivise 'bad faith' or speculative fraud allegations, the imposition of mandatory fraud investigation timeframes, the provision of regular status updates to workers under investigation, and an expanded focus on investigating employer non-compliance.

2.3.3 Findings

The scheme provides support to over 100,000 injured workers²⁹⁹, and to around 185,000 employers annually.³⁰⁰ The vast majority of the claims, and payments made to providers within the scheme support honest workers to recover from their injuries and return to work. And the vast majority of employers are honest in their engagement on claims and in meeting their premium obligations.

Despite this, fraud within the scheme poses a significant risk to the scheme's integrity. Since 2021-22 to 2025-26, 79 persons have been convicted for fraud or related offences, an average of \$423,731 restitution per year has been recovered for insurers, and reports of suspected fraud have grown substantially.

This poses a considerable burden on the scheme, through funds inappropriately acquired, expenses incurred by insurers to oversee and investigate suspected fraud activities, and for the Regulator to investigate and prosecute fraud within the scheme.

Increases in fraudulent conduct suggests that the mechanisms available to prevent and respond to fraudulent activity may not be sufficient, and penalties are inadequate at dissuading this activity.

It is clear that the Regulator, WorkCover and self-insured employers are progressing operational initiatives to uplift the scheme's ability to prevent, detect and uplift fraud.

We consider there are several opportunities to strengthen the legislative framework that supports the Regulator and insurers in undertaking their roles. These focus on providing adequate judicial scrutiny and penalties for fraud and related offending, increasing the Regulator's ability to pursue offenders, and providing tools and legislative controls to minimise scheme loss attached to suspected fraud.

Claims management responses to fraud

While a person is being prosecuted for an offence of fraud, or is being investigated for suspected fraud, there are limited avenues available for the Regulator or an insurer to minimise loss through staying or stopping compensation or staying common law proceedings. Where an insurer believes fraud is occurring, the insurer may only stop the payment of compensation through the ordinary claims processes, for example where

²⁹⁹ There was 103,724 compensation claim lodgements in 2025-26.

³⁰⁰ [Workers' Compensation scheme statistics report 2024-25](#).

the evidence shows that there is no ongoing incapacity as a result of the work-related injury.

Currently, the WCR Act provides that the entitlement to compensation stops if a person is convicted of an offence of fraud under the WCR Act or a related offence under the Criminal Code.³⁰¹ The WCR Act is silent on insurers' ability to act on stopping compensation where there is a significant chance that a person has engaged in fraud.

Concerns have been raised by insurers around their lack of ability to appropriately respond to potential losses, in particular:

- when a prosecution is commenced;
- where a mandated compensation payment (e.g. lump sum payment) is to be paid while a matter is being investigated by a Regulator-appointed authorised person (investigators);
- where following an investigation by a Regulator-appointed authorised person the public interest requires a prosecution not be commenced despite the existence of a prima facie case.

We consider that this places limitations on the scheme's ability to appropriately and proportionately minimise loss and respond to fraudulent conduct.

We also recognise that there must be an appropriate balance between the sustainability of the scheme, the status of an investigation or prosecution and fairness to workers. It is also important that decisions made in relation to suspected fraud are dealt with independently of competing interests and made only if there is evidence of offending.

We consider that the Regulator should be given additional tools to manage the impact of suspected fraud and its risk to the scheme, through introducing:

- an automatic stay of compensation or damages on the commencement of a proceeding for fraud or attempted fraud under the WCR Act;
- new powers for authorised persons of the Regulator to stay payments of lump sum compensation or proceedings for damages where the authorised person has a reasonable belief of fraud; and
- a new power for authorised persons to direct an insurer to stop compensation where there is a reasonable belief of fraud.

In conjunction with these tools it is important that consideration be given to the appropriate avenues for review against a direction of a Regulator-appointed authorised person to stay or stop compensation or stay access to common law, and to the development of policies and procedures to support transparent and fair decision-making.

³⁰¹ s 537 of the WCR Act.

WCS Recommendation 8: Claims management responses where reasonable belief of fraud

That the WCR Act be amended to:

- Automatically stay a claim for compensation or damages on the commencement of a proceeding for fraud or attempted fraud offending under the WCR Act.
- Allow the authorised person to issue a direction that payment of lump sum compensation or claim for common law be stayed where there is a reasonable belief of fraud.
- Allow an authorised person to issue a direction to stop compensation where there is a reasonable belief of fraud (similar to the model used by WorkSafe Victoria).

Proceedings for fraud and related offences**Indictable offences**

Under the WCR Act, all prosecutions, except for proceedings for offences committed under Chapter 8 (WorkCover Queensland), must commence in a summary way under the *Justices Act 1886* (Qld). The prosecution of offences committed under Chapter 8 have the option of also being commenced under indictment.

In Queensland's judicial system, summary proceedings are generally used for less serious offences and are heard and determined by a magistrate without a jury, providing a simpler and more streamlined process. In contrast, indictable proceedings are reserved for more serious offences and are ordinarily dealt with in higher courts, including the District or Supreme Court, where greater sentencing powers are available and matters may be determined by a judge or jury. The general principle being that proceedings for offences should be brought before the court with the jurisdiction appropriate to the nature and seriousness of the alleged offending.

Despite the significant nature of fraud offences under the WCR Act, these offences may only be prosecuted summarily before an Industrial Magistrate, regardless of the severity of the alleged conduct. In other jurisdictions and schemes, offences relating to fraud regularly proceed on indictment.³⁰²

The Regulator performs investigative and prosecutorial functions for all offences under the WCR Act in line with relevant legislation and prosecution guidelines including the guidelines of the Office of the Director of Public Prosecutions, Queensland. The guidelines for such prosecutions reflect those for fraud under the Criminal Code and provide the same standard safeguards around prosecution decisions.

It is recommended that the WCR Act be amended to allow for the offence of fraud to be commenced, on the election of the prosecution, on indictment. Allowing for a proceeding to be commenced on indictment will enable the justice system to treat serious offending with the appropriate high level of scrutiny, fairness, transparency, accountability and sentencing capacity. This will strengthen public confidence in the scheme, protect the scheme and the community, and reinforce the rule of law. This also

³⁰² Offences for fraud within the New South Wales and Commonwealth Workers' Compensation Scheme, and Centrelink may be prosecuted as indictable offences.

aligns with the approach taken to offences relating to WorkCover under Chapter 8 of the WCR Act.

Proceedings brought before a Magistrate

Proceedings for fraud and related offending under the WCR Act are currently commenced under the *Justices Act 1886* (Qld) before an Industrial Magistrate.

It is important that the nature of proceedings and the court jurisdiction align with the alleged offending. Consistency between fraud and related offending and proceedings for prescribed offences under Chapter 8 of the WCR Act would ensure the proceeding and court jurisdiction aligns with the seriousness of the offence and provide access to greater sentencing options.

It is recommended that proceedings for offences against the WCR Act be commenced under the *Justices Act 1886* (Qld) before a Magistrate rather than an Industrial Magistrate to align the court jurisdiction with similar types of offending under other regimes while maintaining the appropriate judicial oversight.

WCS Recommendation 9: Commencement of proceedings for fraud and related offending

That the WCR Act be amended to:

- allow proceedings for fraud to be taken, at the election of the prosecution, on indictment; and
- have proceedings commenced in a summary way under the *Justices Act 1886* (Qld), before a Magistrate.

Penalties for fraud and related offending

Where a person is found guilty of a fraud or a fraud related offence under the WCR Act, the maximum penalties are inconsistent with similar offences under other Acts and similar schemes.

Table 6: Fraud and related offences – Maximum penalties

Offence provision	Financial Penalty	Imprisonment
Section 533 – Fraud	500 penalty units (\$86,350 as at 1 July 2026)	5 years (on summary proceedings)
Section 534(2) – False or misleading statement	150 penalty units (\$25,905 as at 1 July 2026)	1 year
Section 534(3) – False or misleading document	150 penalty units (\$25,905 as at 1 July 2026)	1 year
Section 136 – Notification of engagement in a calling	50 penalty units (\$8,635 as at 1 July 2026)	N/A

In comparison to the fraud offence in the WCR Act, the offence of fraud under the *Criminal Code Act 1899* (Qld) carries a maximum penalty of 20 years.³⁰³ We note that there are some differences in the nature of fraud offences under the Criminal Code. Offences under the criminal code also encompass acts against individual victims,

³⁰³ s 408C, *Criminal Code Act 1899* (Qld).

including vulnerable cohorts, which require penalties be treated with greater consideration of the impact and harm arising from the offending conduct.

In other jurisdictions, some Regulators employ general criminal law provisions to prosecute offences of fraud against their workers' compensation schemes. This includes NSW, which prosecutes workers' compensation fraud under the *Crimes Act 1900* (NSW) attracting a maximum penalty of 10 years imprisonment.³⁰⁴ For the equivalent offence for false and misleading information, the NSW scheme provides a maximum penalty of two years.³⁰⁵

Equivalent offences against Commonwealth schemes (including Centrelink and ComCare) are engaged through the *Criminal Code Act 1995* (Cth). For deliberate and more serious Centrelink and ComCare fraud offences, fraud attracts a maximum penalty of 10 years imprisonment.³⁰⁶

Given the significant penalties provided in other jurisdictions, the maximum penalty for offences of fraud and fraud related offending under the WCR Act does not appropriately recognise the significance of the offending or provide an appropriate deterrent to fraud in the scheme.

We consider that the offences for fraud and fraud related offences be increased to align to the more significant penalties provided for fraud offences under the Queensland and Commonwealth Criminal Codes, and in other jurisdictions.

In determining the most appropriate level, consideration should be given to recognising the differing nature of the offences under the Queensland Criminal Code compared to offending under the WCR Act to ensure the penalties remain proportionate to the context of the offending within the scheme.

To ensure that the current maximum penalty for an offence dealt with in a summary way is preserved, it is also recommended that a separate maximum penalty of five years imprisonment is provided for the offence when dealt with in a summary way.

WCS Recommendation 10: Maximum penalties for fraud and related offending

That the WCR Act be amended to increase the penalty for fraud offences with consideration given to greater consistency with fraud and related offending under the Queensland and Commonwealth Criminal Codes.

³⁰⁴ s 192E of the *Crimes Act 1900* (NSW).

³⁰⁵ s 235C of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW).

³⁰⁶ s 134.2 of the *Criminal Code Act 1995* (Cth).

Notification of return to work or engaging in a calling

Regular reporting requirement

Section 136 of the WCR Act requires a worker receiving compensation to notify the insurer within 10 business days if they return to work or engage in a calling. Failure to do so is an offence and is deemed to be fraud under section 535 of the WCR Act where the worker does not have a reasonable excuse for the failure to notify. This is known as 'engaging in a calling fraud' and represents approximately 60% of reported fraud matters since 1 July 2024.

While the WCR Act requires a worker to notify the insurer of a return to work or engagement in a calling, there is no legislative requirement for a worker to provide regular updates confirming they have not returned to work or engaged in a calling.

The absence of periodic reporting requirements limits the effectiveness of the notification provisions, given the number of alternative explanations for the worker's failure to notify. The worker's failure to contact the insurer may arise from—

- a mistaken belief that no notification obligation had arisen because they did not regard their activities as constituting a return to work or engagement in a calling.
- The worker was legitimately unaware that they had a duty to notify the insurer.
- The worker was aware of the duty, but was not aware of the timeframe to notify the insurer.

These can be contributed to by an insurer's approach to education and awareness, and fraud prevention. There is evidence that some insurers have in the past been hesitant to actively engage and remind workers of this requirement. This can make it more difficult to establish whether a failure to notify reflects a deliberate attempt to defraud the scheme, or a mistaken belief that no notification obligation had arisen.

In assessing whether prosecution is warranted for fraud, the Regulator considers the public interest, including whether the available evidence demonstrates deliberate concealment as opposed to misunderstanding, and whether there is a reasonable prospect of establishing guilt considering the circumstances.

We consider the WCR Act should be amended to require a worker declaration in an approved form be regularly provided to an insurer, and clarify that workers are required to notify insurers of any return to work (or engagement in a calling).

The introduction of a regular reporting framework will support scheme integrity by clearly reinforcing workers' obligations to disclose paid and unpaid work, while reducing the risk that workers inadvertently breach these obligations due to a lack of awareness.

It would strengthen the compliance framework by establishing a recurring disclosure obligation rather than relying solely on the worker notifying a specific triggering event. Periodic notification would also provide the insurer with ongoing visibility of the worker's circumstances and create regular opportunities for discussions around a worker's return to work.

Regular reporting would also enhance the insurer's ability to detect and the Regulator's ability to prove non-compliance or fraud. Where a worker is required to periodically certify their circumstances, a failure to disclose work activities may evidence deception or misrepresentation rather than mere silence. This provides a clearer evidentiary basis for establishing knowledge and intent as the worker has been given an express opportunity to provide accurate information and has explicitly provided an inaccurate or misleading response.

Infringement notices

At present, the Regulator's compliance and enforcement toolkit is limited to prosecutions, compliance notices and warning letters.

It is recommended that authorised persons of the Regulator be given the ability to issue infringement notices (on-the-spot fines) for failure to notify of a return to work or engagement in a calling. Introducing infringement notices for not notifying of return to work provides proportionate and responsive deterrence for minor technical offending. This will support behavioural change and provide an alternate avenue where prosecution may not be recommended.

WCS Recommendation 11: Notification of return to work (engaging in a calling)

11.1 That the WCR Act be amended to:

- require a worker declaration in an approved form be provided to an insurer on a regular basis; and
- clarify that workers are required to notify insurers of any return to work.

11.2 That the State Penalties Enforcement Regulation 2014 be amended to allow authorised persons of the Workers' Compensation Regulator to issue an infringement notice for failure to notify of an engagement in a calling.

Limitation periods for bringing prosecution for fraud and related offending

Under the WCR Act³⁰⁷ the timeframe for commencing a proceeding for fraud and related offending is within a year after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the Regulator.

As fraud and related offences are inherently complex and often remain hidden for years, the current six-month timeframe is insufficient in many instances to allow for thorough investigations. Complex offences should not escape accountability, and proper investigations should be allowed to run their course, particularly where evidence of the offending has been concealed.

It is recommended that the timeframe for commencing a proceeding for fraud be removed, and for other offences, be increased to one year after the offence comes to the knowledge of the Regulator.

³⁰⁷ s 579 of the WCR Act.

WCS Recommendation 12: Limitation period for fraud and related offending

That the WCR Act be amended to extend the current timeframe to commence a proceeding:

- for fraud only to regardless of when the matter of complaint arose
- for other offences to one year after the commission of the offence comes to the knowledge of the Workers' Compensation Regulator.

Criminal history and recording of convictions for fraud and related offending

Unlike proceedings for offences under the Criminal Code, which are typically brought by the Queensland Police Service or the Office of the Director of Public Prosecutions, proceedings for offences under the WCR Act are ordinarily brought by the Regulator.

Where the prosecution of an offence is not brought through the state's typical prosecutorial channels it is not recorded for the purposes of police checks of the convicted person. Consequently, police checks conducted by employers when the person has been convicted of an offence under the WCR Act may not accurately reflect the person's workers' compensation conviction history.

We note generally, where an offence is convicted upon indictment, the offence remains on the person's criminal history for a period of 10 years, compared to five years otherwise. However, where a person is sentenced to imprisonment for a period greater than 30 months, the offence is not removed from the person's criminal record, and remains there indefinitely.³⁰⁸

We consider that the nature of workers' compensation fraud and fraud-related offending should be readily available via police and other conviction checks. This is particularly so noting our recommendation that fraud be able to be commenced on indictment and our recommendation for increases in penalties.

The recording of convictions on police checks for proceedings carried by the Regulator is critical to ensuring that a person's conviction of these offences is more readily accessible and to act as an additional deterrent against offending. We consider that the Minister should engage with the Attorney-General and Minister for Justice on the pathways most suitable approaches for recording convictions for offences under the WCR Act including Disclosable Court Outcomes on individual National Police Certificates and other conviction checks.

WCS Recommendation 13: Formal record of convictions for fraud and related offending

That the Minister engage with the Attorney-General and Minister for Justice on including convictions for workers' compensation fraud and related offending as Disclosable Court Outcomes on individual National Police Certificates.

³⁰⁸ ss 3 and 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*

2.4 Self-insurance

2.4.1 Background

Queensland's self-insurance model was introduced under the *WorkCover Queensland Act 1996* as part of broader workers' compensation reforms implemented by the Borbidge Government, commencing on 1 July 1997.³⁰⁹

Under the WCR Act, all Queensland employers are required to maintain accident insurance for their workers.³¹⁰ Employers ordinarily satisfy this obligation through a workers' compensation insurance policy with WorkCover; however, eligible employers may apply to the Regulator for a licence to self-insure.³¹¹ Self-insurance enables employers of sufficient size, financial capacity and organisational capability to manage their own workers' compensation coverage in place of WorkCover, assuming full responsibility for their workers' compensation liabilities and claims management obligations.

Self-insurers are liable for the cost of compensation and damages associated with work-related injuries sustained by their workers and undertake all claims management functions ordinarily performed by WorkCover. These include determining and managing claims for compensation, paying statutory compensation benefits and treatment expenses, arranging permanent impairment assessments and referrals to the MATs where required, and managing common law damages claims, including settlement negotiations and litigation.

Self-insurers operate in dual capacities as both employer and insurer under the WCR Act and must comply with the legislative obligations required of each role.³¹² To address the inherent conflict between these functions, self-insurers are required to maintain operational separation between their employer and insurer functions, including compliance with statutory restrictions on the use of workers' compensation information for employment purposes.

As at July 2026, Queensland had 27 licensed self-insurers, comprising single-employer and group-employer licence holders operating across approximately 9 different industry sectors. These sectors include local government; health care and social assistance; manufacturing and food processing; retail, hospitality and entertainment; transport and logistics; mining and resources; financial services; education and training; and agriculture. Appendix A provides a list of the current self-insurers.

³⁰⁹ Provisions of the [WorkCover Queensland Act 1996](#) relating to self-insurers commenced by proclamation ([1996-442](#)) on 1 July 1997.

³¹⁰ s 48(1) of the WCR Act.

³¹¹ s 48(3) and [Chapter 2, Part 4](#) of the WCR Act.

³¹² For group self-insurers, members of the self-insured group will be employers.

Licensing framework

Self-insurance licences may be granted to either a single employer or a group employer.

Single employer

A body corporate may only apply as a single employer if no other related bodies corporate to which it is related employ workers in Queensland. An example of a single employer self-insurance licence is Inghams Enterprises Pty Ltd.

Group employer

There are two categories of group employer:

1. A **related bodies corporate group employer**, which can apply for a licence only if all related bodies corporate that employ workers in Queensland are included in the application. In the case of a holding company with subsidiaries in Queensland, all of the subsidiaries as well as the holding company would need to be included in the licence application. An example of a related bodies corporate group employer self-insurance licence is Coles Group Limited.
2. A **classification group employer**, which means two or more employers that are in a pre-existing stable business relationship³¹³ of at least two years (or since the entity's inception) in the same industry or business classification specified by WorkCover by gazette notice. Industry classifications are based on the Australian and New Zealand Standard Industrial Classification (ANZSIC).³¹⁴ An example of a classification group employer self-insurance licence is Aged Care Employers Self-Insurance Group and Local Government WorkCare.

Importantly, the members of a self-insurer that is a group employer are jointly and severally liable for any liability or duty imposed by the WCR Act on the group or a member of the group.³¹⁵

Threshold criteria

For either a single or group employer, the eligibility criteria to self-insure are:

- that the number of full-time workers employed in Queensland by the employer is at least 2,000;
- that the employer's occupational health and safety performance is satisfactory;³¹⁶
- that the licence will cover all workers employed by the employer in Queensland;
- that the employer has given the Regulator a bank guarantee, financial security or cash deposit equalling 150% of the employer's estimated claims liability, in favour of WorkCover, in the event of insolvency;

³¹³ A *pre-existing stable business relationship* for a classification group employer, includes membership of a common representative organisation, common ownership or management, and involvement in joint ventures or joint ownership of assets (see Sch 6 of the WCR Act).

³¹⁴ ABS, Latest release [Australian and New Zealand Standard Industrial Classification \(ANZSIC\)](#)

³¹⁵ Section 88 of the WCR Act.

³¹⁶ The Regulator must ask the chief executive of the department within which the WHS Act is administered to prepare a report about the employer's occupational health and safety performance (see ss 71(6) and 72(4) of the WCR Act).

- that the employer has reinsurance with an excess of not less than \$300,000³¹⁷ or more than a set limit approved by the Regulator;
- all workplaces of the employer are adequately serviced by a rehabilitation and return to work coordinator who is located in Queensland and employed by the employer under a contract (regardless of whether the contract is a contract of service);
- have workplace rehabilitation policies and procedures; and
- the employer is fit and proper to be a self-insurer.³¹⁸

In deciding whether an employer is fit and proper to be issued a self-insurance licence, the Regulator may consider any relevant matter but must consider the following matters:

- whether the employer is, and is likely to continue to be, able to meet its liabilities;
- the long-term financial viability of the employer evidenced by any relevant consideration including, for example, its level of capitalisation, profitability and liquidity;
- the resources and systems the employer has in Queensland for administering claims for compensation and managing rehabilitation of workers; and
- whether the employer will be able to give the information the Regulator may require in the way required.³¹⁹

If the Regulator is not satisfied of one or more of the above matters, it may still issue or renew a licence to an employer if satisfied that:

- special circumstances³²⁰ justify the issue or renewal of the licence; and
- the employer can appropriately perform the functions and exercise the powers of a self-insurer and meet its obligations as a self-insurer.

Where an employer or self-insurer seeks to rely on a special circumstance, this matter is able to be considered by the Regulator prior to the submission of a formal application for a licence or renewal.

Self-insurers have to pay an initial licence application fee (as at 1 July 2026 this is \$16,995 for a single employer and \$22,660 for a group employer).³²¹ There is no fee on renewal however they are required to contribute to the workers' compensation scheme's regulatory costs and Workplace Health and Safety Queensland's injury prevention activities via an annual levy based on their estimated claims liability³²². As the levy paid by an individual self-insurer is based on their own estimated claims liability, better injury prevention and claims management strategies can reduce estimated claims liability and the levy amount payable by a self-insurer.³²³

³¹⁷ This amount is not indexed and has remained unchanged since 1996 (see s 86(2) of the WCR Act).

³¹⁸ ss 71 and 72 of the WCR Act.

³¹⁹ s 75 of the WCR Act.

³²⁰ 'Special circumstances' are defined in section 71(3) and 72(3) of the WCR Act and include among other matters where an employer self-insurers in more than two jurisdictions and where they have a history of compliance with the WCR Act and reasonable performance and exercise of powers as an insurer.

³²¹ Section 17 of the WCR Regulation.

³²² Section 81 of the WCR Act. In 2026-27, the self-insurer levy rate is 3.293% as published in the Queensland Government Gazette [Volume 402, Page 249].

³²³ Note, a contribution is also paid by WorkCover under section 481A of the Act for these same services.

Management of claims

Licensed self-insurers must manage claims in-house or via a third-party claims manager, which is a common arrangement in other Australian jurisdictions. Third party claims management was introduced in 2005 following a National Competition Policy review.³²⁴

Nine self-insurers currently have an arrangement to engage a third-party claim manager to manage claims. Four third-party claims managers are engaged by Queensland self-insurers:

- Allianz (2 self-insurers)
- DXC (1 self-insurer)
- Employers Mutual (5 self-insurers)
- Jardine Lloyd Thompson (1 self-insurer).

The Regulator does not undertake or provide accreditation of third-party claims managers.

Importantly, the acts of a third-party (for example, a third-party claims manager, legal firm, medical provider, rehabilitation provider, etc.) engaged by the insurer for the purposes of undertaking the powers, functions and obligations of an insurer are the acts of the insurer. Any contravention of the WCR Act or a licence condition by a third-party engaged by the insurer, is a contravention by the insurer.

Regulatory approach

The Regulator applies a risk-based approach to monitoring insurer performance and compliance.³²⁵ The Regulator monitors self-insurer performance to assess whether they are fit and proper to be a self-insurer and are complying with their licence conditions and legislative obligations.

Monitoring activities against performance and compliance standards are proportionate to insurer risk and informed by a range of sources, insurer self-auditing and reporting (with validation audits being undertaken by the Regulator), compliance, special and targeted audits (particularly associated with recent scheme and legislative changes or priority areas), analysis of scheme and insurer data, data from other Queensland and national regulatory agencies, and consultation with scheme participants and stakeholders.³²⁶

While WorkCover does not require a self-insurance licence, both WorkCover and self-insurers are assessed against consistent performance and compliance standards.

2.4.2 Stakeholder views

Stakeholder feedback on self-insurance was generally limited and largely supportive of the current framework.

³²⁴ [Report on the National Competition Policy Review of Certain Aspects of the Workers' Compensation and Rehabilitation Act 2003](#) and the [Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2005](#).

³²⁵ Section 68(4) of the WCR Act, and [Insurer Performance and Licencing Framework](#).

³²⁶ [Compliance and Enforcement Framework](#), Workers' Compensation Regulator.

Several worker stakeholders considered that existing arrangements are operating effectively and that there is limited benefit in materially expanding or fundamentally altering the self-insurance scheme. A common view was that the stability and sustainability of Queensland's workers' compensation scheme relies on the majority of employers remaining insured through WorkCover. Stakeholders emphasised that any review of self-insurance arrangements should ensure workers of a self-insurer continue to receive equivalent benefits, protections, review rights and access to fair and timely claims management to workers covered by the main scheme. Some insurer stakeholders supported consideration of whether self-insurance arrangements remain fit for purpose in light of emerging scheme trends, while other insurer stakeholders highlighted the benefits of self-insurance and supported its continuation.

A small number of stakeholders proposed targeted reforms to strengthen the operation and oversight of self-insurance arrangements. These included improving clarity regarding liabilities and underwriting arrangements when employers enter or exit self-insurance, strengthening arrangements for the transfer of self-insurer liabilities to WorkCover, updating audit and performance monitoring requirements (in particular whether the work health and safety audit is necessary), reducing unnecessary administrative burden and allowing self-insurers to be a party to reviews and appeals.

Other suggestions included exploring alternative insurance models and limiting eligibility for self-insurance in particular sectors.

Note stakeholders also made submissions in relation to extending licence durations and enhancing the regulatory response where self-insurers fail to meet expected standards. These matters are considered in 2.6 Insurer Performance and Compliance as they have implications for all insurers.

2.4.3 Findings

Health and safety management system audit framework

The objective of the WCR Act is to establish a scheme that provides compensation, rehabilitation and other statutory benefits for workers and other eligible persons affected by work-related injuries, while encouraging improved health and safety performance by employers. As a result, an employer is required to demonstrate satisfactory occupational health and safety performance to self-insure through an audit against the National Self-Insurance OHS Audit Tool (NAT) and an assessment of a legislative compliance.³²⁷

The requirement for a work health and safety audit as part of the process for obtaining and maintaining a self-insurance licence was raised by an insurer stakeholder. The stakeholder questioned the ongoing efficiency and value of the current audit requirement.

The requirement for self-insurers to undergo independent work health and safety audits reflects the principle that employers granted the privilege of self-insurance should demonstrate both strong work health and safety performance and effective risk

³²⁷ [Queensland self-insurer audit process](#), Workers' Compensation Regulator.

management systems. The audit provides assurance that self-insurers have the capability and systems to prevent work-related injury, and intelligence is used by Work Health and Safety Queensland to inform compliance activities.

We recognise that self-insurers are large employers that already operate under regulatory obligations, including duties under the WHS Act. Further, the conduct of an audit imposes an administrative burden on self-insured employers. As a result, it is important that the current framework remains the most efficient and effective way of achieving work health and safety assurance.

A review of the existing work health and safety audit requirement is necessary. The review should carefully evaluate the requirement's efficiency and effectiveness as well as alignment with the objectives of the scheme and supporting strong work health and safety performance to manage scheme and insurer risks. It should consider:

- the extent to which the current audit process provides meaningful assurance of work health and safety performance, and intelligence to Work Health and Safety Queensland;
- the suitability of alternate work health and safety measures or audit tools;
- the administrative burden placed on self-insurers and the Regulator;
- opportunities to streamline or better target the requirement without diminishing standards of work health and safety;
- how other jurisdictions monitor work health and safety and safe return to work performance; and
- any impact on injury prevention and overall scheme sustainability.

WCS Recommendation 15: Self-insurer health and safety management system auditing framework

That the Workers' Compensation Regulator, review the current work health and safety audit requirement and framework to evaluate its ongoing efficiency, effectiveness and alignment with scheme objectives.

Liabilities at time of transfer

An insurer stakeholder raised the need for clearer requirements governing the transfer of outstanding claims liabilities between self-insurers and WorkCover. The current provisions under the WCR Act and the *Workers' Compensation and Rehabilitation Regulation 2025* (WCR Regulation) set out the framework for these transfers.³²⁸ However, stakeholders have identified that the practical operation of these provisions can give rise to administrative delays and, in some cases, uncertainty about the adequacy of the liability transferred.

Clear and equitable arrangements for the transfer of outstanding claims liabilities when an employer moves between self-insurance and WorkCover are essential to the long-term financial stability of the scheme.

³²⁸ [Ch 2, Pt 4, Div 5](#) of the WCR Act and [s 24](#) and [Pt 3, Div 3](#) of the WCR Regulation.

When an employer transitions between insurance models, the timely and accurate transfer of claims liabilities is critical. Delays or shortfalls in the transfer process can create financial and operational risks for the receiving insurer and, ultimately, for the broader scheme. Ensuring that the legislative and regulatory requirements are clear, practical and supported by appropriate dispute resolution pathways will reduce the risk of protracted disagreements and support smoother transitions.

A review of the current transfer requirements is warranted. The review should examine whether the existing provisions under the WCR Act and WCR Regulation:

- provide sufficient clarity and certainty for both outgoing and incoming insurers;
- ensure that the liabilities transferred are adequate and appropriately valued; and
- include effective and timely avenues for resolving any disputes that arise during the transfer process.

Strengthening these arrangements will support the financial integrity of both the self-insurance sector and WorkCover, reduce administrative friction, and reinforce confidence in the overall stability of the Queensland workers' compensation scheme.

WCS Recommendation 16: Liabilities at time of transfer between self-insurer and WorkCover Queensland

That the Workers' Compensation Regulator review the current requirements under the WCR Act and WCR Regulation for the transfer of liabilities between insurers to ensure adequacy and appropriate avenues of dispute resolution for any disagreement.

Specialised or mutual industry insurance

The introduction of a specialised or mutual industry insurance model into the Queensland workers' compensation scheme was raised by an industry stakeholder during consultation. The model operating in NSW was used as an example of an approach that allows industry-specific expertise and tailored injury prevention and return to work strategies.

Specialised industry insurance operates in NSW as a distinct licensing model, separate from self-insurance, designed to allow insurers to underwrite workers' compensation for a defined industry under the *Workers Compensation Act 1987* (NSW) (NSW Act).³²⁹ In broad terms this model is a form of regulated privatisation of workers' compensation insurance for defined industries that operates in competition with the nominal insurer.

³²⁹ s 177A and Pt 7, Div 3 of the *Workers Compensation Act 1987* (NSW) and [Licensing framework for specialised insurers](#), SIRA.

Under the NSW framework, to be eligible for specialised insurance, an insurer must be a body corporate that is owned and controlled by a relevant professional, business or other industry body with a substantive, long established peak (and publicly recognised) involvement with the particular industry or class of business that is the subject of the proposed specialised insurance arrangement. For example, specialised insurer Hospitality Industry Insurance Limited is operated by claims administrators Employers Mutual Limited and the Australian Hotels Association NSW, the peak hospitality industry body in NSW.

Licences limit each insurer to a defined industry or class. Employers operating in an industry with a specialised industry insurer may apply for a workers' compensation insurance policy with either the specialised industry insurer or the nominal insurer, iCare.

This model has the potential to bring certain benefits. It may enable insurers with deep industry knowledge to develop more targeted prevention programs, improve claims management for sector-specific risks, and drive higher service standards through competition. For some industries, specialised insurance may also support stronger alignment between premium pricing, risk management and rehabilitation outcomes.

The introduction of specialised insurance would require legislative change and represent a significant structural shift for the Queensland scheme. Queensland currently operates a centrally funded model in which WorkCover underwrites the large majority of liabilities. Moving to a specialised insurance model would introduce a degree of privatisation and could affect the composition and financial strength of the nominal fund managed by WorkCover. Any such change would also have operational, regulatory and scheme-sustainability implications that require careful assessment.

Given these potential benefits and risks, a feasibility study is recommended. The study should examine the financial, operational and regulatory impacts of introducing specialised insurance into the Queensland scheme. It should carefully weigh the possible advantages of industry-specific expertise and competition against the risks to the existing centralised funding model and overall scheme sustainability.

The feasibility study should also consider whether a limited pilot would be an appropriate way to test the model. A trial involving one or two specialised insurers could capture clear evidence on the impact of specialised insurance on worker rehabilitation outcomes and scheme costs within a controlled and low-risk timeframe. Any pilot would need to be supported by a legislative amendment.

A thorough and evidence-based assessment will ensure that any future decision about specialised insurance is grounded in a clear understanding of both its potential benefits and its implications for the long-term sustainability and performance of the Queensland workers' compensation scheme.

WCS Recommendation 17: Specialised Insurance

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct a feasibility study including consideration of a pilot, to evaluate the financial, operational and regulatory impact for introducing specialised insurance into the Queensland workers' compensation scheme.

Self-insurers as a party to reviews and appeals

Insurer stakeholders raised concerns about the current arrangements governing self-insurer participation in reviews and appeals under the WCR Act conducted by the Regulator.

Under the existing structure, all insurers are restricted in their ability to participate directly in the review and appeal processes.³³⁰ Participation in reviews and appeals is limited to workers and employers, with no provision for insurers to seek a review of an insurer's decision or appeal a decision of the Regulator. Insurers are also not afforded procedural fairness or the opportunity to provide information.

Self-insurers occupy a unique position under the WCR Act. They simultaneously discharge both employer and insurer responsibilities. Stakeholders submit that these provisions limit procedural fairness and reduce a self-insured employer's capacity to submit relevant evidence or appeal a review decision.

In practice the Regulator has advised that a self-insured employer's rights as an employer both to seek a review or an appeal or to be afforded procedural fairness are not impacted by these provisions. This requirement is operationalised by requiring self-insured employers to be represented throughout the review and appeals process by an employer not insurer representative. This representative should not be directly involved in their self-insurance functions.

Self-insurers state they have a direct financial interest in the outcome of claims and argue that denying their self-insurance unit standing as a party constrains their ability to defend decisions or present critical factual evidence.

The principle of procedural fairness supports the proposition that a party with a direct interest in the outcome of a decision should have a meaningful opportunity to be heard. At the same time, any expansion of insurer participation rights must be carefully balanced against the need to maintain scheme integrity and to protect the position of injured workers. Expanding the role of self-insurers only in reviews and appeals should not create an uneven playing field relative to WorkCover, nor should it compromise worker protections or the independent character of the review and appeal process.

A focused review is recommended. The review should examine whether self-insurers or insurers should be recognised as a party to reviews and subsequent appeals conducted by the Regulator. It should consider the implications of any change for procedural fairness, scheme integrity, worker protections, and consistency of treatment between

³³⁰ ss 541 and 549 of the WCR Act generally provide that only a claimant, worker or employer may apply for a review or appeal. Insurers may only appeal a Regulator's decision relating to [540\(1\)\(a\)\(i\) to \(vi\)](#) which include requirements to insure and assessments of premiums and penalties.

self-insurers and WorkCover. The objective should be to determine whether the current arrangements remain appropriate or whether carefully designed adjustments are needed to ensure fairness without undermining the broader objectives of the scheme.

WCS Recommendation 18: Self-insurers as a party to reviews and appeals

That the Queensland Government, in consultation with the Workers' Compensation Regulator, undertake a review to consider whether self-insurers should be a party for a review or subsequent appeal conducted by the Workers' Compensation Regulator.

2.5 Rehabilitation and return to work

2.5.1 Background

Rehabilitation and return to work are fundamental objectives of the scheme. Legislative and policy settings have long recognised that maintaining a worker's connection to employment and supporting an early and sustainable return to work are critical to minimising the personal, social and economic impacts of workplace injury. Positive return to work outcomes are a key objective of the scheme with significant human, social and financial benefits for workers, employers, insurers and the broader community.

Under the WCR Act, rehabilitation is defined as a process designed to ensure a worker's earliest possible return to work or to maximise the worker's independent functioning.³³¹ Rehabilitation may include necessary and reasonable suitable duties programs, services provided by treating medical or allied health practitioners, rehabilitation services approved by an insurer, and the provision of necessary and reasonable aids or equipment to the worker.³³² Returning an injured worker to the same role with the same employer is generally recognised as the optimal return to work outcome and the best achievable result of a workers' compensation claim.

Return to work involves assisting injured workers to return to and remain in meaningful and safe employment. Returning to work is an important component of recovery from a work-related injury and supports a return to normal life, often reducing the financial, social and emotional impacts of injury on workers and their families. The Australasian Faculty of Occupational & Environmental Medicine's (AFOEM) '*Realising the Health Benefits of Work*' Position Statement³³³ identifies that 'good work' is beneficial to people's health and wellbeing and that long term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.

Return to work outcomes are impacted by various factors including policy settings, the way insurers manage claims, engagement of employers and the approach of treating medical and allied health providers. The important individual and combined role of each of these players is articulated in *It Pays to Care* report³³⁴, an evidence-based policy framework developed by AFOEM and widely supported across the Australian workers' compensation sector, which promotes better practice approaches to injury management and return to work.

Evidence also indicates that multidisciplinary, vocational rehabilitation approaches are more effective in achieving sustainable work participation outcomes than approaches focused primarily on medical treatment. Vocational rehabilitation primarily aims to improve an individual's capacity to obtain, retain, or return to work, with improvements in health, function, and wellbeing often occurring alongside successful work participation.³³⁵

³³¹ s 40(1) of the WCR Act.

³³² s 40(2) of the WCR Act.

³³³ *Position Statement on the Health Benefits of Good Work*, AFOEM (2017).

³³⁴ *It Pays to Care*, AFOEM (2022).

³³⁵ Waddell, G., Burton, A., and Kendall N. (2008). *Vocational Rehabilitation: What Works, for Whom and When?*.

Obligations for rehabilitation and return to work

The WCR Act imposes specific rehabilitation and return to work obligations on employers, workers and insurers. These obligations are intended to work together to promote early intervention, maintain a worker's connection to employment, support recovery and maximise opportunities for a safe and sustainable return to work.

Rehabilitation is directed towards achieving a worker's earliest possible return to work. The WCR Act establishes a hierarchy of rehabilitation outcomes that prioritises a return to the worker's pre-injury duties. Where this is not feasible, rehabilitation should seek to return the worker, either temporarily or permanently, to other suitable duties with the worker's pre-injury employer. If this is not possible, the focus shifts to suitable duties with another employer. Where a return to employment cannot be achieved, the objective is to maximise the worker's independent functioning.

Obligations on insurers

Insurers play a central role in coordinating rehabilitation and return to work activities. Under the WCR Act, an insurer must take all practicable steps to secure the rehabilitation and early return to suitable duties of workers who are entitled to compensation and workers who are participating in an accredited rehabilitation and return to work program of an insurer.³³⁶

An insurer is responsible for coordinating the development and ongoing management of a rehabilitation and return to work plan in consultation with the injured worker, the worker's employer, and treating registered persons.³³⁷ The WCR Act requires the plan to be established within 10 business days after a worker's application for compensation is accepted.³³⁸ The plan outlines the worker's rehabilitation objectives and the steps required to achieve those objectives.

Insurers must also have a rehabilitation and return to work program that is accredited by the Regulator. An insurer's accredited rehabilitation and return to work program is a summary of the system that the insurer will use to manage the rehabilitation and return to work of workers with work-related injuries or illnesses, or to maximise their independent functioning. It explains how an insurer will facilitate early and safe rehabilitation and return to work, including the use of rehabilitation and return to work plans. Accredited rehabilitation and return to work programs are reviewed regularly by the Regulator, with accreditation provided for periods between 12 months and four years.

In 2023, the Regulator published two evidence-based guidance documents to support insurers to meet their obligations and work towards achieving better practice: the Rehabilitation and return to work plan guideline – for insurers³³⁹ and the Accredited rehabilitation and return to work program guideline – for insurers.³⁴⁰

³³⁶ s 220 of the WCR Act.

³³⁷ s 220 of the WCR Act.

³³⁸ s 221 of the WCR Act.

³³⁹ [Rehabilitation and return to work plan guideline – for insurers](#), Workers' Compensation Regulator.

³⁴⁰ [Accredited rehabilitation and return to work program guideline – for insurers](#), Workers' Compensation Regulator.

Obligations on employers

Under the WCR Act an employer of a worker who has sustained an injury must take all reasonable steps to assist or provide the worker with rehabilitation for the period for which the worker is entitled to compensation.³⁴¹ Employers must also cooperate with the insurer by taking all reasonable steps to support the insurer in meeting its rehabilitation and return to work obligations.³⁴²

As part of these rehabilitation obligations, employers must identify and provide suitable duties, where reasonably practicable, having regard to a worker's functional capacity and medical restrictions. Suitable duties are a key component of workplace rehabilitation and support a graduated and sustainable return to work. If an employer considers it is not practicable to provide a worker with suitable duties, they must provide written evidence of this to their insurer.

An employer documents a worker's suitable duties in their suitable duties program, which is monitored and revised to ensure work duties and hours remain appropriate as a worker's capacity increases throughout their recovery. A suitable duties program, while developed by an employer, sits within a rehabilitation and return to work plan (developed by an insurer).

Challenges may arise where an injured worker is engaged through a labour hire arrangement. Under the WCR Act, the host employer (to whom the worker was supplied by the labour hire employer) must cooperate with the worker's employer by taking all reasonable steps to support the employer meet their return to work obligations under the WCR Act.³⁴³

The scheme direction known as the *Guideline for Standard for Rehabilitation (2nd edition)* supports employers in meeting these obligations by outlining the principles and standards that underpin effective rehabilitation and return to work practices.³⁴⁴

In addition to these obligations, certain employers are required to implement formal workplace rehabilitation arrangements. Employers in Queensland with wages of \$10.37 million for the preceding financial year, or which operate in a prescribed high-risk industry³⁴⁵ with wages of \$5.19 million for the preceding financial year, must appoint a Rehabilitation and Return to Work Coordinator³⁴⁶ and also have a workplace rehabilitation policy and procedures³⁴⁷, defined as someone who is 'appropriately qualified' to perform the functions of this role.³⁴⁸

Obligations on workers

Under the WCR Act an injured worker must satisfactorily participate in rehabilitation as soon as practicable after the injury is sustained and for the period for which they are

³⁴¹ s 228(1) of the WCR Act

³⁴² s 228(1) of the WCR Act

³⁴³ s 229A of the WCR Act.

³⁴⁴ s 228 of the WCR Act and the *Guidelines for Standard of Rehabilitation (2nd edition)*, Workers' Compensation Regulator.

³⁴⁵ High risk industries are specified by gazette notice for the purposes of s 149 of the WCR Regulation.

³⁴⁶ s 226 of the WCR Act and s 149 of the WCR Regulation.

³⁴⁷ s 227 of the WCR Act.

³⁴⁸ s 41 of the WCR Act.

entitled to compensation.³⁴⁹ Rehabilitation may include participating in suitable duties or other return to work arrangements to facilitate recovery and return to work. If a worker fails or refuses to participate in rehabilitation without reasonable excuse, the insurer may, by written notice given to the worker, suspend the worker's entitlement to compensation until the worker satisfactorily participates.³⁵⁰

Role of the Regulator

The Regulator plays a key role in supporting positive rehabilitation and return to work outcomes across the scheme. The Regulator monitors rehabilitation and return to work performance, develops standards and guidance materials, and undertakes regulatory, compliance and educational activities to support continuous improvement across the scheme.

Key rehabilitation and return to work functions of the Regulator include:

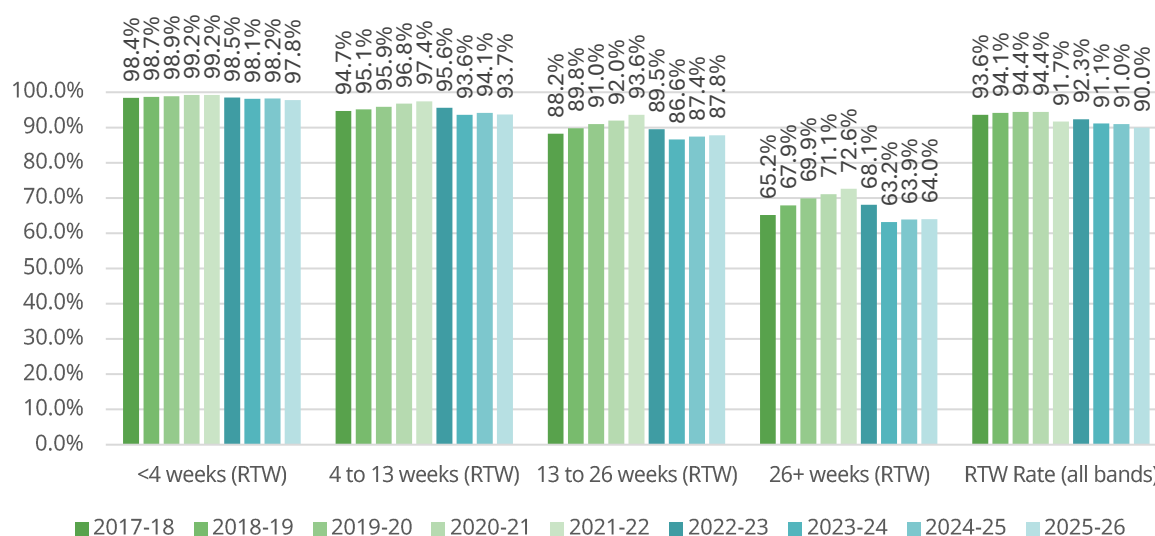
- undertaking compliance and enforcement activities;
- providing evidence-based education and guidance for insurers, employers and medical practitioners;
- administering the scheme-funded grants that support the Workers' Compensation Information and Advisory Services for Workers and Employers, and the Workers' Psychological Support Service;
- accrediting insurer rehabilitation and return to work programs under the WCR Act; and
- approving Rehabilitation and Return to Work Coordinator training courses under the WCR Act.

Return to work trends

The scheme's return to work rate has gradually declined in recent years, driven by a range of factors. The return to work rate for 2025-26 is 90.0%.

³⁴⁹ s 232(1) of the WCR Act.

³⁵⁰ s 232(2) of the WCR Act.

Graph 6 – Return to work rate since 2017-18

The increasing prevalence of serious injuries is creating additional challenges for scheme return to work outcomes. This trend is accompanied by growth in time lost claims with an impairment and an increase in claims where workers have been absent from work for more than three months. Prolonged work absence reduces the likelihood of a successful return to employment, and workers with more severe injuries generally experience lower return to work rates.

Research consistently demonstrates that workers with psychological injuries experience lower return to work rates (and longer claim durations) than workers with physical injuries. As a result, it is not a surprise that the increase in the number and proportion of accepted psychological injuries³⁵¹ is impacting the scheme's overall return to work rate. Over the past five years the return to work rate for psychological injuries has decreased by 7.6 percentage points, from 80.2% in 2020-21 to 72.6% in 2025-26. Secondary psychological injury claims also have a significantly poorer return to work rate (61.9%). We note that this differs from the experience of self-insured employers (see psychological injury trends).

Psychological injuries are not the only driver of the reduction in the return to work rate. Physical injuries account for 94% of workers' compensation claims. Over the past five years, the return to work rate for workers with physical injuries decreased by 3.6 percentage points, from 94.9% in 2020-21 to 91.3% in 2025-26.

Returning an injured worker to the same job with the same employer is the best outcome which can be achieved on a claim.³⁵² This is the outcome achieved in most cases, with 79.2% of injured workers who had time off work returning to the same job and the same employer. In 2025-26, 90.0% of injured workers returned to some type of employment. In a small number of cases, the worker is deemed fit to return to work but there is no job for the worker to return to (2.1% of time lost claims) or the worker chooses not to return (4.4% of claims).

³⁵¹ Accepted primary psychological injury claims increased by 78.9% in the past five years.

³⁵² [Guidelines for Standard of Rehabilitation \(2nd edition\)](#), Workers' Compensation Regulator.

Table 7: Return to work outcome for time lost claims (TLCs)	2024–25		2025–26	
	Number	% of TLCs	Number	% of TLCs
Fit for work: same job/tasks with same employer	44,699	79.4	46,510	79.2
Fit for work: same job/tasks with different employer	925	1.6	1,021	1.7
Fit for work: different job/tasks with same employer	2,453	4.4	2,444	4.2
Fit for work: different job/tasks with different employer	2,958	5.3	2,930	5.0
Fit for work: no job	1,202	2.1	1,227	2.1
Fit for work: worker does not return	2,223	4.0	2,589	4.4
Not fit for work	1,756	3.1	1,942	3.3
Alternative outcome not claim-related	72	0.1	66	0.1
Total	56,288	100.0	58,729	100.0

Note: For the purpose of the above figure only, all deceased injured workers have been excluded.

2.5.2 Stakeholder views

Stakeholder views on rehabilitation and return to work obligations were mixed, with submissions primarily focused on the operation of amendments introduced by the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024* to require a rehabilitation and return to work plan be developed in 10 business days³⁵³, the performance of WorkCover, and worker participation obligations.

Employer and allied health stakeholders sought clarification of the new rehabilitation and return to work requirements, including the scope of insurers' obligations for rehabilitation and return to work under section 220 of the WCR Act.

One insurer supported extending the timeframe to establish a rehabilitation and return to work plan to 20 business days for claims that are reasonably expected to continue beyond that period. In contrast, a large employer advocated for more prescriptive rehabilitation requirements, including clear timeframes for rehabilitation interventions and referrals to vocational or occupational rehabilitation providers, supported by stronger accountability mechanisms where insurers fail to meet rehabilitation and return to work obligations.

Some employer stakeholders also supported clearer and stronger worker obligations to participate in rehabilitation, together with improved enforcement of those requirements.

In addition, several allied health stakeholders advocated for greater use of workplace rehabilitation providers to support worker recovery and return to work outcomes.

³⁵³ s 41 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024*, introduced s 221 to the WCR Act, requiring insurers to ensure a rehabilitation and return to work plan is in place within 10 business days of a worker's application for compensation is allowed.

2.5.3 Findings

We consider effective rehabilitation and return to work approaches will be essential to supporting the scheme's ongoing sustainability while maximising positive and durable return to work outcomes for both employers and workers.

Rehabilitation and return to work for insurers

Stakeholders emphasised the importance of quality, meaningful rehabilitation and return to work planning by insurers. Some submissions raised the scope and timing of rehabilitation and return to work plans, and the need for expectations to be appropriate to the stage of the claim. Considered and meaningful plans, strong communication between all parties and clearer pathways for resolving disputes were also identified as key priorities by stakeholders.

Under the WCR Act, insurers are required to have a rehabilitation and return to work plan in place within 10 business days of claim acceptance, and the plan must outline the rehabilitation objectives for the worker and the steps to achieve the objectives, and be developed in consultation with a worker, their employer and registered persons treating the worker.³⁵⁴

Evidence supports the value of structured return to work planning. The 2025 National Return to Work Survey (NRTW Survey)³⁵⁵ found that injured workers with a rehabilitation and return to work plan were more likely to have returned to work at any time (94%) and to be currently working (89.5%). However, workers with a psychological injury, and those whose injury had a significant or severe impact on daily life, were less likely to have a plan in place (40.9%).

In 2023 the Regulator published rehabilitation and return to work guidelines for insurers, including the Rehabilitation and return to work plan guideline – for insurers³⁵⁶ and the Accredited rehabilitation and return to work program guideline – for insurers³⁵⁷ (the return to work guidelines).

The Regulator performed a targeted audit of all insurers focused on rehabilitation and return to work plans in 2024. Overall, the audit revealed opportunities for improvement, identifying that across all files audited, five out of 29 claims audited met minimum requirements for rehabilitation and return to work plans. The Regulator has seen an uplift in the number of insurers having a return to work plan since that time and continues to monitor and report on performance with a focus on the quality of the rehabilitation and return to work plan. A review of the return to work guidelines, in consultation with stakeholders, is also scheduled for 2026-27.

Noting the evidence that supports the importance of rehabilitation and return to work planning in achieving strong return to work outcomes, the experience of stakeholders within the scheme, and the performance of insurers, we do not support any legislative extension of the time for an insurer to develop a rehabilitation and return to work plan.

³⁵⁴ s 221 of the WCR Act.

³⁵⁵ [2025 National Return to Work Survey results](#), Safe Work Australia.

³⁵⁶ [Rehabilitation and return to work plan guideline – for insurers](#), Workers' Compensation Regulator.

³⁵⁷ [Accredited rehabilitation and return to work program guideline – for insurers](#), Workers' Compensation Regulator.

We consider updating the return to work guidelines will help ensure that expectations for the detail in a rehabilitation and return to work plan remain appropriate to the stage of the claim, that communication between stakeholders is strengthened, and that planning is of high quality and practical value.

We also considered stakeholder feedback regarding the overall performance of insurers, including concerns about the quality and consistency of claims management, limited adoption of evidence-based approaches and the effectiveness of existing regulatory actions in supporting worker recovery and return to work outcomes.

Person-centred approaches are considered best practice for the management of all injuries, and in particular psychological and psychiatric injuries.³⁵⁸ These approaches recognise the unique and often complex nature of injuries and emphasise early intervention, trauma-informed communication, continuity of claims management, and coordinated support to facilitate recovery and sustainable return to work outcomes. Specialised claims management has also been associated with improved worker engagement, reduced claim duration, and enhanced recovery outcomes for psychological injuries.

The Regulator monitors insurer performance and undertakes regular full compliance audits of all insurers claims management processes (see 2.6 Insurer Performance and Compliance), including an insurer's obligation for return to work. In addition to compliance audits, in 2025-26 one special audit has targeted an insurer's rehabilitation and return to work approach relating to the identification and management of secondary psychological injuries. Key issues identified on audit aligned with the feedback of stakeholders including inadequate consultation or communication, the rehabilitation and return to work plan not being developed within 10 business days, failure to share a rehabilitation and return to work plan with relevant parties, delays in rehabilitation and return to work interventions, not following up suitable duties with employers, no or little ongoing review and modification of the rehabilitation and return to work plan, and providing host employment arrangements that were not meaningful.

At the end of 2025-2026, 12 insurers had active improvement action plans with recommendations relating to return to work obligations and since 2024 two compliance notices have been issued for failure to review and modify rehabilitation and return to work plans.

While we consider current requirements in the WCR Act are adequate to support evidence-based rehabilitation and return to work, it is clear implementation across the scheme is inconsistent. As noted in 2.2.3 Claims management of psychological injuries, consistent improvement in return to work outcomes and claims durations would result in significant savings in scheme costs.

We consider a formal Code of Practice for Rehabilitation and Return to Work should be developed to support scheme-wide improvements. A Code of Practice would promote consistent, proactive and effective rehabilitation and return to work practices across the

³⁵⁸ [Return to work: A comparison of psychological and physical injury claims, analysis of the Return to Work Survey results](#), Safe Work Australia (2017) and [Taking Action: best practice framework for the management of psychological claims in the Australian workers' compensation sector](#), Safe Work Australia (2018).

scheme, with a particular benefit to workers suffering from a work-related psychological injury. Noting that a Code of Practice provides obligation holders with practical information and guidance on how to satisfy their rehabilitation and return to work obligations, its introduction would support clearer expectations around early intervention, suitable duties planning, communication, and the appropriate use of expert advice from workplace rehabilitation providers. It would also strengthen the consistent application and regulation of insurers' obligations under section 220 of the WCR Act (an insurer's responsibility for rehabilitation and return to work).

The Code of Practice should be developed by the Regulator in consultation with insurers and representatives of employers, workers, and medical and allied health providers.

We consider collectively the updated return to work guidelines and new Code of Practice would provide a clearer, more consistent framework for rehabilitation and return to work practice and support improved outcomes for injured workers across the scheme.

WCS Recommendation 19: Guidance and Code of Practice about rehabilitation and return to work for insurers

19.1 That the Workers' Compensation Regulator review the current Rehabilitation and return to work plan guideline – for insurers and Accredited rehabilitation and return to work program guideline – for insurers to ensure that the expectations are appropriate for the stage of the claim and to ensure there is strong communication between stakeholders and quality, meaningful planning.

19.2 That the Minister make a Code of Practice for Rehabilitation and Return to Work for insurers to promote consistent, proactive and effective return to work outcomes across the scheme. This should have a focus on psychological injuries.

Rehabilitation and return to work for employers

Stakeholder views highlighted the need for improved rehabilitation and return to work outcomes. This can be supported by greater understanding of, and guidance on, the role employers can play in supporting early and safe return to meaningful work.

The *It Pays to Care* report and other research indicates that active employer involvement in rehabilitation and early return to work is associated with improved recovery outcomes, higher return to work rates and reduced workers' compensation and workplace injury costs.³⁵⁹ In particular, evidence demonstrates that employer support is one of the strongest predictors of successful rehabilitation and return to work:

- Workers who feel supported are up to five times more likely³⁶⁰ to return to work.
- Fair and constructive responses by employers improve return to work success by up to 52%.³⁶¹
- Reassurance and flexibility, including finding suitable duties, lead to faster, more

³⁵⁹ *It Pays to Care*, AFOEM (2022).

³⁶⁰ *National Return to Work Strategy 2020-2030*, p 14, Safe Work Australia (2020).

³⁶¹ *It Pays to Care - Bringing evidence-informed practice to work injury schemes helps workers and their workplaces: An imperative for change and call to action*, p18, AFOEM (2022).

successful return to work.³⁶²

- Early contact and a supportive response can help prevent stress and secondary psychological injuries.³⁶³
- Supervisors often have a greater influence on return to work outcomes than doctors or insurers.³⁶⁴

Audits by the Regulator of insurers has also shown that that delays in return to work are often contributed to by a lack of active engagement by the employer in particular on available or practicable suitable duties.

Under the WCR Act, employers are required to take the actions required by the scheme directions, including the *Guideline for the Standard for Rehabilitation*, to assist or provide a worker with rehabilitation. The *Guideline for Standard for Rehabilitation* was first issued in 2014, with a second edition published in 2016. Given the significant developments in contemporary rehabilitation and return to work practice over the past decade, we consider it would be prudent to review and update the guideline to ensure it reflects current evidence-based approaches to workplace rehabilitation.

Evidence-based approaches should include:

- early intervention and proactive employer engagement;
- early identification and management of factors that may delay recovery and return to work;
- person-centred rehabilitation and return to work planning;
- psychologically safe and supportive return to work practices;
- the health benefits of recovering at work through meaningful and appropriate suitable duties;
- practical strategies for meeting their legislative obligations including identifying and implementing suitable duties and uplifting the capability of supervisors and managers;
- strong collaboration between employers, workers, insurers, treating health providers and workplace rehabilitation providers; and
- understanding how workplace rehabilitation providers can support employers in delivering effective rehabilitation and return to work outcomes.

We also consider that in addition to reviewing the *Guideline for Standard for Rehabilitation* (scheme direction), a review should be undertaken on other current guidance and support available to employers to support them to meet their rehabilitation and return to work obligations. This should include consideration of whether there is a need for a Code of Practice for employers to support them in meeting their rehabilitation and return to work obligations under the WCR Act.

³⁶² [The Role of the Employer in Supporting Work Participation of Workers with Disabilities: A Systematic Literature Review Using an Interdisciplinary Approach](#) Jansen, J, van Ooijen, R, Koning, P, Boot, C, Brouwer, S. (2021).

³⁶³ *Barriers and Enablers to Return to Work: Literature Review*, p. 18 Collie, A, Lane, T, Di Donato, M, Iles, R. (2018).

³⁶⁴ [The contribution of supervisor behaviour to employee psychological well-being](#) Gilbreath, B and Benson, P. (2004).

WCS Recommendation 20: Guidance about rehabilitation and return to work for employers

20.1 Review the Guideline for Standard for Rehabilitation (scheme direction).

20.2 Review other current guidance and support available to employers to support them to meet their obligations for rehabilitation and return to work including consideration of the need for a Code of Practice. This should have a focus on psychological injuries.

Workplace rehabilitation providers

Consideration was given to the role workplace rehabilitation providers play in supporting workers, employers, insurers and treating practitioners to achieve safe, timely and durable return to work.

Workplace rehabilitation providers provide advice to workers, employers, insurers and treating practitioners about rehabilitation and return to work, assist in identifying suitable duties and workplace adjustments, coordinate rehabilitation activities, address barriers to return to work, and facilitate collaboration between stakeholders. By supporting recovery at work and promoting timely and durable return to work outcomes, workplace rehabilitation providers can improve worker outcomes and reduce claim durations.

As noted in the *Rehabilitation and return to work plan guideline – for insurers*, their use in the claims process should be considered in complex cases, including cases involving psychological injury where there have been several weeks away from work, to support the development and implementation of a rehabilitation and return to work plan.³⁶⁵ We considered that the use of workplace rehabilitation providers to support the claims process should be a consideration in rehabilitation and return to work for insurers as part of the development of a Code of Practice for insurers.

The WCR Act currently provides that the Regulator can make a scheme direction for the standard for rehabilitation service providers.

We consider that the Regulator should explore whether a scheme direction should be made for workplace rehabilitation providers to promote consistent, high-quality rehabilitation services across the scheme. Such guidance could establish expectations regarding service delivery, conduct, competency requirements and evidence-based practice. This aligns with our approach we have taken to medical providers in 2.9 Governance of independent medical examiners, assessments, rehabilitation and claims management.

³⁶⁵ p 13. [Rehabilitation and return to work plan guideline – for insurers](#), Workers' Compensation Regulator.

This may assist in strengthening support for employers and injured workers in relation to planning, coordination and delivery of rehabilitation and return to work and contribute to earlier, safer and more durable return to work outcomes

WCS Recommendation 21: Workplace rehabilitation providers

That the Workers' Compensation Regulator consider whether a scheme direction should be made to ensure that each provider of workplace rehabilitation services meets certain requirements for their services including competency and professional standards and service delivery.

2.6 Insurer Performance and Compliance

2.6.1 Background

The Regulator is responsible for monitoring the performance and compliance of WorkCover and licensed self-insurers under the WCR Act. The Regulator undertakes these functions in accordance with the Workers' Compensation and Rehabilitation Act 2003 Compliance and Enforcement Policy³⁶⁶ and the Insurer Licensing and Performance Framework³⁶⁷, which establish a risk-based approach to monitoring insurer performance and compliance.

The Regulator uses a range of performance monitoring and compliance activities, including complaints and issues management, desktop reviews, compliance, special and targeted audits, improvement action planning, analysis of claims and financial performance data, performance reporting, and ongoing engagement with insurers.

Where performance issues or non-compliance are identified, OIR may apply a range of regulatory responses to improve insurer performance and ensuring compliance with legislative requirements. These responses are proportionate to the level of risk and may include education, changes to performance risk profile ratings, improvement action plans, warning letters, compliance notices, quality assurance programs and other regulatory interventions. Responses such as education and targeted audits may also be used to uplift performance and compliance across all insurers (for example compliance with obligations for rehabilitation and return to work or obligations to minimise the risk of secondary psychological injuries).

The Regulator also formally assesses each insurer's overall performance regularly as low, moderate or high performing. For self-insurers, this assessment is undertaken as part of the licence renewal process, and their performance is used to determine their licence duration (between one and four years).

WorkCover is established under the WCR Act and while it is not subject to a licence, the Regulator assesses WorkCover's performance at intervals (between one and four years) based on its performance. This assessment also determines the frequency of compliance audits and the duration of accreditation of the rehabilitation and return to work program for each insurer. This approach means that where insurers demonstrate a consistently strong record they are rewarded through reductions in regulatory oversight and associated costs.

As at 1 July 2026 the overall performance of all insurers is:

Table 8: Performance category of all insurers	
Performance Category	Proportion of all insurers
High performer	57%
Moderate performer (high band)	14%
Moderate performer (low band) or new insurer	25%
Low performer	4%

³⁶⁶ [Workers' Compensation and Rehabilitation Act 2003 Compliance and Enforcement Policy](#), Workers' Compensation Regulator.

³⁶⁷ [Insurer Licensing and Performance Framework](#), Workers' Compensation Regulator.

This regulatory performance data shows just under 60% of insurers are currently considered to be high performing insurers. This figure has been relatively stable over the last five years.

Insurer performance data identifies that there are opportunities for improvement in claims management practices across the scheme for moderate and low performing insurers that will positively impact on scheme outcomes and sustainability. A lack of proactive person-centred claims management and variable legislative compliance are seen across moderate performing insurers. Common performance issues include:

- legislative non-compliance including delays in decision making, lack of communication, and challenges meeting statutory obligations and timeframes that are contributed to by high caseloads and inadequate resources and systems;
- lack of procedural fairness impacting insurer decision-making and increases in complaints, reviews and appeals – creating delays for workers and employers and increasing costs to the scheme; and
- non-compliance with rehabilitation and return to work obligations – impacting performance in return to work and rehabilitation planning, delays in workers' recovery and claim durations.

2.6.2 Stakeholder views

Multiple submissions from diverse stakeholders raised concerns regarding the claims management practices of WorkCover including around decision timeframes, transparency, communication, psychological support, and a lack of clinical engagement. Insurer stakeholders also highlighted perceived inconsistencies in the regulatory expectations, oversight arrangements and compliance requirements that apply to WorkCover and self-insurers.

Some stakeholders also raised that there should be enhanced regulatory responses where self-insurers fail to meet expected standards. Whereas insurer stakeholders also made submissions in relation to extending licence durations to reduce the regulatory burden of the licence renewal process.

These submissions raise broader questions regarding transparency, accountability and consistency of regulatory oversight and whether there are opportunities to strengthen the compliance and enforcement framework to support more effective monitoring of insurer performance and compliance across the scheme.

2.6.3 Findings

As the scheme continues to evolve, we have given consideration to whether the scheme has a modern and robust compliance, enforcement and regulatory oversight framework.

While some stakeholders expressed concerns about differences in expectations, oversight and compliance requirements between self-insurers and WorkCover, we found that both are subject to comparable performance and compliance approaches. However, we did identify that this highlighted opportunities for updating the WCR Act to improve consistency in insurer legislative obligations, and to improve the transparency

of the current regulatory approach. We also identified a number of opportunities to strengthen scheme governance, and regulatory oversight within the scheme.

Our recommendations focus on ensuring the regulatory framework remains fit for purpose, supports insurer performance, ensures consistent oversight, provides a range of effective compliance and enforcement tools, and promotes insurer accountability for scheme outcomes.

Licence renewal period

The legislated maximum four-year self-insurance licence renewal period³⁶⁸ was considered to determine whether it remains appropriate for all self-insurers, particularly those that have consistently demonstrated a very high level of compliance and performance.

The Regulator's risk-based approach to regulation is designed to direct regulatory effort towards areas of greatest risk to legislative compliance, scheme integrity and outcomes for workers and employers. Where an insurer has demonstrated sustained compliance, effective governance and strong claims management practices over time, there is an opportunity for the regulatory framework to better reflect and reward that performance.

We recommend that the maximum licence renewal period be extended from four to five years for demonstrably very high-performing self-insurers. These would include the scheme's top 5 performing insurers (currently self-insurers) that demonstrate high levels of compliance, effective claims and injury management, and proactive and transparent monitoring of and response to risks while achieving scheme best claims outcomes.

This is consistent with contemporary risk-based regulatory principles. It recognises sustained high performance while maintaining the Regulator's existing oversight and enforcement powers throughout the licence period. Should a self-insurer's performance deteriorate, or compliance concerns arise, the Regulator would continue to have the ability to respond through its existing regulatory powers.

Extending the maximum renewal period for very high performing insurers would also allow regulatory effort to be more effectively targeted towards higher-risk insurers, supporting a more proportionate and efficient regulatory approach without compromising scheme integrity.

It is noted that while WorkCover is not subject to legislated licence durations for consistency it is appropriate that the Regulator consider administratively increasing the available maximum interval between performance assessments for WorkCover from four to five years based on performance.

WCS Recommendation 14: Self-insurer licence renewal period

The WCR Act be amended to extend the maximum self-insurance licence renewal period from four to five years for demonstrated very high performing insurers.

³⁶⁸ s 78(2) of the WCR Act.

Issuing compliance notices

Compliance notices are a relatively new compliance and enforcement tool under the WCR Act.³⁶⁹ Chapter 12 of the WCR Act empowers authorised persons appointed by the Regulator to issue compliance notices where they are satisfied on reasonable grounds that a person has contravened the WCR Act and the contravention is continuing or is likely to be repeated. Compliance notices may be issued to employers, insurers or other persons with obligations under the WCR Act and require specified action to be taken, or refrained from, within a stated period. Failure to comply with a compliance notice is an offence.³⁷⁰

Since the introduction of compliance notices to the WCR Act in August 2024, OIR has issued nine compliance notices in relation to contraventions of the WCR Act to insurers. Two of these notices were set aside following a review of the Regulator.

A practical challenge with issuing compliance notices is that some types of identified non-compliances may not meet the test required to support the issue of a compliance notice. For example, there is uncertainty around application where there is evidence of multiple non-compliances of a specific type (e.g. multiple failures to have a rehabilitation and return to work plan) but the individual claims are closed. This can limit an authorised person's ability to use compliance notices as an enforcement tool and may result in reliance on education, guidance or other regulatory responses.

It is recommended that the WCR Act be clarified to ensure compliance notices can be used effectively and efficiently to address and enforce all types of non-compliance where there is evidence that the type of contravention is continuing or likely to be repeated, whether on a specific claim or on other claims.

WCS Recommendation 22: Issuing of compliance notices

That the WCR Act be amended to ensure compliance notices can be effectively used to address and enforce systemic non-compliance by insurers.

Enforceable undertakings

Enforceable undertakings are a high-level compliance and enforcement tool that provide a mechanism for a regulator to secure legally binding commitments from duty holders to address non-compliance, implement corrective actions and improve future practices without the need to commence prosecution proceedings.

Unlike traditional enforcement responses that focus on prosecuting and punishing specific breaches, enforceable undertakings may address and resolve the ongoing risks and contributing factors within an duty holder. This allows a regulator to secure commitments that are directly linked to preventing the recurrence of harm and improving capability within a duty holder and overall outcomes.

Such a tool can provide an effective regulatory response where compliance concerns have been identified, but prosecution may not be the most appropriate means of

³⁶⁹ Introduced to the WCR Act by s 53 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024*.

³⁷⁰ s 537C of the WCR Act.

achieving improved performance and future compliance. Enforceable undertakings provide a constructive mechanism for addressing the organisational factor needed to resolve non-compliance.

The use of enforceable undertakings under the WHS Act³⁷¹ and *Electrical Safety Act 2002*³⁷² demonstrates how regulators can secure meaningful corrective action and organisational improvements in circumstances where education may be insufficient and prosecution may not be warranted.

For large and complex organisations, such as insurers, non-compliance often originates from systems and processes rather than any singular isolated instances of non-compliance. Enforceable undertakings could support systemic change by requiring insurers to identify the causes of non-compliance and implement targeted improvements across areas such as governance, training, supervision, quality assurance frameworks, and risk management systems.

Enforceable undertakings may also enable the Regulator to achieve benefits beyond resolving the non-compliance. Enforceable undertakings can be used to drive industry uplift and create positive outcomes for a wider group of persons including other insurers, employers and workers.

We consider enforceable undertakings as an effective enforcement and compliance tool for insurers that would enhance the regulatory tools available to the Regulator, to ensure insurers are delivering required claims management and rehabilitation and return to work initiatives, where systemic non-compliance has been identified.

WCS Recommendation 23: Enforceable undertakings for insurers

That the WCR Act be amended to introduce enforceable undertakings as a regulatory tool for insurer non-compliance

Insurer compliance with document requests

Sections 93 and 94 of the WCR Act require self-insurers to retain specified claims, rehabilitation and financial records and allow the Regulator to require those records to be produced.³⁷³ The purpose of these provisions is to reduce administrative barriers to provide the Regulator effective oversight of the scheme and an ability to obtain timely and consistent information from self-insurers. As these provisions do not apply to WorkCover, there is disparity within the WCR Act on the requirements for self-insurers and WorkCover.

We consider that these provisions should be extended to all insurers, including WorkCover, to support a more consistent and robust regulatory framework. We note that while WorkCover is required to report their financial performance to the Minister under the WCR Act³⁷⁴, it is appropriate that the Regulator also be able to appropriately and independently assess WorkCover's compliance with its financial obligations under

³⁷¹ Pt 11 of the WHS Act.

³⁷² Pt 3 of the *Electrical Safety Act 2002*.

³⁷³ ss 93 and 94 of the WCR Act.

³⁷⁴ s 441 of the WCR Act.

the WCR Act. However, any licence-related requirements should not apply.

Providing the Regulator with an express and equivalent power to access relevant records from all insurers would strengthen oversight of financial, claims management and rehabilitation and return to work performance across the scheme, improve the Regulator's ability to investigate complaints and emerging systemic issues, and reduce reliance on disparate reporting and information-gathering mechanisms. It would also ensure WorkCover meets the same strict data-keeping rules as self-insurers.

WCS Recommendation 24: Insurer compliance with document requests

That the WCR Act be amended to broaden sections 93 and 94 to apply to all insurers operating within the Queensland workers' compensation scheme.

Centralising scheme prosecutions

While WorkCover's primary role is to provide accident insurance and manage workers' compensation claims, it also holds regulatory powers to commence proceedings for certain offences under the WCR Act.³⁷⁵ This includes an ability to commence prosecutions for offences of employers to insure, make payments in lieu of compensation, and fail to report an injury; and workers failing to notify absence from Australia or a return to work where the offence is not connected with an offence of fraud. It is understood that WorkCover has not used these powers since 2014, when the WCR Act was amended to move the fraud prosecution function to the Regulator.

At the same time, the Regulator is responsible for investigating non-compliance and undertaking prosecutions for all offences under the WCR Act, including offences for which WorkCover is able to commence proceedings.³⁷⁶

The existence of prosecution powers across both entities may give rise to questions regarding the appropriate delineation of responsibilities within the scheme. It raises questions around whether prosecution functions are best vested in one body for consistency, and around the need for independence of regulatory functions from the potential conflicts that can arise between an insurer's commercial, claim management and operational responsibilities.

To ensure a consistent, rigorous and independent approach to prosecutions that is driven by the public and scheme interest, all scheme prosecutions should be conducted by the Regulator. This ensures the approach to responding to all offences is the same.

WCS Recommendation 25: Prosecutions to be managed by the Workers' Compensation Regulator

That the WCR Act be amended to mandate that all prosecutions within the scheme be initiated, managed and directed exclusively by the Workers' Compensation Regulator.

³⁷⁵ Ch 14, Pt 3 of the WCR Act.

³⁷⁶ paras 579(2)(a) and (b) of the WCR Act allows for a proceeding for an offence other than a prescribed offence to be taken on the complaint of the Regulator or WorkCover, or a person authorised for the purpose by the Regulator or WorkCover.

Publication of insurer performance and regulatory action

While the Regulator has responsibility for monitoring insurer compliance and performance, there is limited summary public reporting of insurer compliance and performance actions and outcomes. Other Australian workers' compensation jurisdictions, such as NSW, publicly report on individual insurer performance and compliance data.

Publication of insurer performance and compliance data is a publicly visible enforcement tool that could act as a powerful reputation-based incentive to encouraging all insurers to maintain robust performance. It both rewards high performers and amplifies the effect of regulatory action beyond a single insurer by increasing transparency and clarifying expectations across the scheme. Noting the feedback of stakeholders around the regulatory approach taken with different insurers, it could also strengthen confidence across the scheme that all insurers are subject to the same standards and levels of accountability.

We consider that it is appropriate that the Regulator expand the public disclosure of insurer performance information by publishing the performance rating of an insurer (including their licence duration or reassessment interval), licence conditions and regulatory or enforcement actions taken.

WCS Recommendation 26: Publication of insurer performance and regulatory action

That the Workers' Compensation Regulator expand the public disclosure of insurer performance information by publishing the specific licence durations and performance assessments, conditions and regulatory or enforcement actions taken.

2.7 Compensation

2.7.1 Background

The scheme provides a range of statutory entitlements to workers who sustain work-related injuries. These entitlements are intended to provide income support during periods of incapacity, facilitate recovery and return to work, compensate permanent impairment, and provide ongoing treatment, care and support where required.

Statutory entitlements available under the scheme include:

- weekly compensation for lost wages;
- payment of reasonable medical, surgical and hospital expenses and other supplies;
- rehabilitation treatment and equipment or services;
- reimbursement of necessary and reasonable travel expenses associated with treatment and rehabilitation;
- lump sum compensation for permanent impairment;
- lump sum compensation for latent onset injuries that are terminal conditions and for workers with pneumoconiosis;
- lifetime treatment, care and support for workers who sustain a serious personal injury through the NIISQ; and
- compensation payable to dependants and certain family members following a worker's work-related death.

Weekly compensation for lost wages

Weekly compensation provides income replacement for workers who are wholly or partially incapacitated as a result of a compensable injury. Entitlements are calculated by reference to the worker's normal weekly earnings, whether the worker is covered by an industrial instrument, and Queensland Ordinary Time Earnings (QOTE).

Normal weekly earnings (NWE) represent a worker's earnings from continuous or intermittent employment during the 12 months preceding the injury. NWE only includes regular payments made to the worker, that would reasonably have continued if the injury had not occurred. Where a worker has been employed with an employer for less than 12 months, alternative methods may be used to determine NWE, including reference to the earnings of a comparable worker employed under the same industrial arrangements. Earnings from multiple employers during the relevant period are also taken into account.³⁷⁷

QOTE is an indexed benchmark based on Queensland full-time adult ordinary time earnings published by the Australian Statistician. The Regulator publishes the applicable QOTE amount before the commencement of each financial year. As at 1 July 2026, QOTE is \$1,994.50 per week.³⁷⁸

³⁷⁷ s 106 of the WCR Act and [Part 4 Division 1](#) of the WCR Regulation deal with the meaning and calculation of normal weekly earnings (NWE)

³⁷⁸ [Workers' Compensation and Rehabilitation \(QOTE\) Notice 2026](#).

The WCR Act prescribes different rates of weekly compensation depending on whether a worker is covered by an industrial instrument. Weekly compensation is also subject to statutory step-down arrangements, which progressively reduce compensation after 26 weeks of incapacity (Tables 9a and 9b). These arrangements are intended to encourage recovery and return to work while supporting the financial sustainability of the scheme.³⁷⁹

Table 9a: Workers covered by an industrial instrument^{379F380}

Period of incapacity	Weekly compensation payable
Up to 26 weeks	Greater of 85% of NWE or 100% of the worker's industrial instrument
More than 26 weeks to 104 weeks	Greater of 75% of NWE or 70% of QOTE
2 years to 5 years	Greater of 75% of NWE or 70% of QOTE (if the injury could result in a DPI of more than 15%) or an amount equal to single pension rate

Table 9b: Workers not covered by an industrial instrument^{380F381}

Period of incapacity	Weekly compensation payable
Up to 26 weeks	Greater of 85% of NWE or 80% of QOTE
More than 26 weeks to 104 weeks	Greater of 75% of NWE or 70% of QOTE
2 years to 5 years	Greater of 75% of NWE or 70% of QOTE (if the injury could result in a DPI of more than 15%) or an amount equal to single pension rate

As the scheme is short tail, weekly payments of compensation will stop when:³⁸²

- incapacity because of the work-related injury stops;
- a worker receives weekly payments for five years;
- compensation reaches the maximum amount (\$431,115.00 as at 1 July 2026); or
- a worker makes a decision about an offer of lump sum compensation from their insurer or 20 days have passed since the worker received the offer.

Medical treatment, hospitalisation and rehabilitation

Insurers are responsible for funding reasonable medical treatment and hospitalisation associated with an accepted injury.³⁸³ In practice, this is funded in accordance with WorkCover's published tables of costs.³⁸⁴ An insurer must also pay the costs of nursing, medicines and surgical supplies the insurer accepts as reasonable.³⁸⁵

Injured workers may also access necessary and reasonable rehabilitation, including necessary and reasonable suitable duties programs, services provided by rehabilitation

³⁷⁹ Ch 3, Pt 9, Div 4, Subdiv 2 of the WCR Act.

³⁸⁰ s 150 of the WCR Act.

³⁸¹ s 151 WCR Act.

³⁸² ss 144A, 190 of the WCR Act.

³⁸³ s 210(1) of the WCR Act.

³⁸⁴ Fees and tables of costs, WorkCover Queensland.

³⁸⁵ s 211(1)(b) of the WCR Act.

providers, and reasonable aids and equipment.³⁸⁶ Similar to medical treatment and hospitalisation costs, these are generally funded in accordance with the tables of costs.

Entitlement to payment of medical treatment, hospitalisation and expenses for an injury stops when:³⁸⁷

- entitlement to weekly payments of compensation stops; and
- medical treatment by a registered person is no longer required for the management of the injury because the injury is not likely to improve with further medical treatment or hospitalisation.

Necessary and reasonable travelling expenses

An injured worker is entitled to reimbursement for necessary and reasonable travelling expenses incurred in obtaining medical treatment, undertaking rehabilitation, attending a medical assessment tribunal or undertaking examinations by a registered person.³⁸⁸

Insurers must also pay certain costs associated with a worker's transport by the Queensland Ambulance Service and other ambulance services in particular circumstances.³⁸⁹ At present a yearly payment is made to the Queensland Ambulance Service by the Regulator on behalf of all insurers.

Lump sum compensation

If an injured worker's injury has been assessed as stable and stationary, and not likely to improve with further medical or surgical treatment, the worker is entitled to lump sum compensation according to the DPI they have sustained.³⁹⁰ Additional lump sum compensation is available in specific circumstances, including where the condition of a worker who has pneumoconiosis has progressed, or a worker has sustained a degree of permanent impairment of 30% or more or a degree of permanent impairment of 25% or more and a moderate to total level of dependency on day-to-day care for the fundamental activities of daily living.³⁹¹

In addition, a worker who sustains a latent onset injury that is a terminal condition, their dependants may receive additional lump sum compensation, which is reduced by other forms of compensation paid in relation to the injury.³⁹²

Lifetime treatment, care and support

Workers who sustain a serious personal injury, such as a serious permanent spinal injury, a traumatic brain injury, high level or multiple amputations, severe burns or permanent traumatic blindness, may be entitled to lifetime treatment, care and support payments.³⁹³ Treatment, care and support payments for eligible workers are designed to meet their necessary and reasonable treatment, care and support needs, including

³⁸⁶ s 40(2) of the WCR Act.

³⁸⁷ s 144B of the WCR Act.

³⁸⁸ s 219(1) of the WCR Act.

³⁸⁹ ss 219(2), (3), (4), (5) of the WCR Act.

³⁹⁰ ss 178(2), 180 WCR Act.

³⁹¹ ss 192, 193 and 193D of the WCR Act

³⁹² Ch 3, Pt 3, Div 4 of the WCR Act

³⁹³ Ch 4A of the WCR Act

for medical treatment, hospitalisation, dental treatment, rehabilitation, ambulance transportation, respite care, attendant care and support services, aids and appliances, prostheses, education or vocational training, and home, transport or workplace modification.

Death entitlements

Where a worker dies as a result of a work-related injury or illness, compensation may be payable to eligible dependants and certain other family members.³⁹⁴ Entitlements may include lump sum compensation, weekly payments for dependent children, reimbursement of reasonable funeral and related expenses, and additional payments in particular circumstances.

Common law

Queensland's workers' compensation scheme also provides access to common law damages where employer negligence can be established.³⁹⁵ A successful claim may result in compensation for future economic loss, pain and suffering, and other heads of damages. Statutory compensation paid to a worker is generally considered when calculating any common law damages award, preventing double recovery.³⁹⁶ This differs from many other Australian workers' compensation schemes, which provide longer periods of statutory compensation but more limited access to common law entitlements. It is noted that access to common law is not in scope of the review.

2.7.2 Stakeholder views

Stakeholder feedback predominantly focused on the calculation and administration of weekly compensation entitlements. Insurer and industry stakeholders generally supported a review of the current framework, citing concerns regarding complexity, administrative burden, payment accuracy and timeliness, and alignment with contemporary employment arrangements.

Insurer stakeholders noted that the calculation of weekly compensation requires consideration of NWE, industrial instruments, allowances and statutory compensation rates. Feedback indicated that this can be administratively complex for employers and insurers, particularly where workers have variable earnings, are engaged under non-standard employment arrangements, or are affected by changes to awards and enterprise agreements. It was submitted that these complexities can contribute to payment adjustments, delays and uncertainty for workers.

³⁹⁴ [Ch 3, Pt 11](#) of the WCR Act.

³⁹⁵ [Ch 5](#) of the WCR Act.

³⁹⁶ [ss 117](#) and [270](#) of the WCR Act.

Several stakeholders proposed changes to the weekly compensation framework, including simplifying the operation of step-down provisions, updating the treatment of wage increases arising from industrial instruments, reviewing the use of NWE as the basis for compensation calculations, and limiting the period a worker may remain overseas while receiving weekly payments. Some submissions also suggested amendments to better support return to work outcomes and improve payment predictability for workers undertaking suitable duties.

Stakeholders also raised a range of proposals relating to longer-term compensation and entitlement settings. These included increasing the permanent impairment threshold for access to psychological injury lump sum compensation, suspending the payment of compensation in disputed matters pending determination of an appeal before the QIRC, and exploring alternative entitlement models involving reduced lump sum payments coupled with ongoing pension-style support.

One stakeholder proposed that workers with a degree of permanent impairment of 20% or less should not remain eligible for weekly compensation beyond 52 weeks.

An insurer also raised concerns regarding the practical operation of Basic Weekly Payment (BWP) provisions.³⁹⁷

A small number of submissions also proposed broader reforms outside the current workers' compensation entitlement framework, including requiring employers to pay out accrued leave balances at the time of a workers' compensation claim, retirement, redundancy or termination.

Overall, stakeholders identified opportunities to improve simplicity, consistency and administrative efficiency while maintaining fairness for workers, supporting return to work objectives and ensuring the ongoing sustainability of the scheme.

2.7.3 Findings

We considered that the compensation entitlements available to injured workers and their dependents under the WCR Act are fair and balanced. There is however a need to explore ways to ensure that the calculation and payment of weekly compensation and basic weekly payments remain appropriate in the current employment and claims management environment.

Modernisation of calculation of weekly compensation

Stakeholders identified the current framework for calculating weekly compensation is complex and can be difficult to administer. Entitlements are determined through the interaction of NWE, industrial instruments, QOTE and step-down provisions, requiring detailed assessment of historical earnings and ongoing adjustments in some circumstances.

The complexity of these arrangements appears increasingly misaligned with contemporary employment practices, particularly where workers have variable earnings, multiple employers, casual or labour hire arrangements, or are subject to

³⁹⁷ s 146B of the WCR Act.

changes in awards and enterprise agreements. This can create administrative burden, increase the likelihood of payment adjustments, and affect the timeliness and consistency of compensation payments.

A more streamlined framework could reduce administrative complexity, improve payment accuracy and certainty for workers, and support more efficient claims management. No options were canvassed by stakeholders.

We consider an evidence-based review should be undertaken to consider whether there are alternate ways to reduce the administrative burden on workers, employers and insurers, improve the accuracy and timeliness of payments and maintain fairness in the scheme. Any revised framework for calculating weekly compensation must balance long-term scheme sustainability with fair financial support for workers that includes incentives to participate in suitable duties and return to work.

WCS Recommendation 27: Modernisation of calculation of weekly compensation

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct an evidence-based review to determine whether weekly compensation calculations can be simplified and modernised.

Basic weekly payments

The policy intent of the basic weekly payments (BWP) provisions remains appropriate, as they ensure injured workers receive timely income support shortly after a claim is accepted. Early access to compensation can assist workers to meet immediate financial obligations and reduce the risk of hardship during the period between claim acceptance and the calculation of their ongoing weekly compensation entitlement.

However, stakeholders identified practical issues with the operation of the current provisions. In some circumstances, insurers may be unable to make a payment within the prescribed timeframe because essential information, such as bank account details or taxation information, has not been provided by the worker. The legislation does not expressly account for these situations, creating a risk of technical non-compliance despite reasonable efforts by insurers to obtain the required information.

Further, in some circumstances the payment of the BWP can require subsequent reconciliation once a worker's actual entitlement has been determined. This may result in payment adjustments later in the claim and can create uncertainty for workers and additional administrative effort for insurers.

It is recommended that an evidence-based review of BWP occurs to ensure these provisions remain practical, reduce unnecessary administrative burden, and appropriately account for circumstances outside an insurer's control. Any review should balance the need to minimise financial hardship for workers while improving the efficiency and administration of the scheme.

WCS Recommendation 28: Basic weekly payments

That the Queensland Government, in consultation with the Workers' Compensation Regulator, conduct an evidence-based review of basic weekly payments to ensure the payments remain reasonable and fair for workers, employers and insurers.

2.8 Scheme coverage

2.8.1 Overview of scheme coverage

Coverage is an important consideration within workers' compensation schemes. It determines the individuals and businesses who are safeguarded by the scheme, the injuries and diseases for which compensation is available, and the circumstances in which compensation is payable.

Under the WCR Act, an employer is required to insure or self-insure³⁹⁸ for work-related injuries sustained by their workers. As a result, to understand the boundaries of the scheme, consideration must be had to the definitions of worker, employer and injury including tests for employment connection and specific statutory provisions that modify or extend entitlement in particular circumstances.

Who is covered?

Generally, an employer is a person who engages a worker to perform work.³⁹⁹ The WCR Act also contains provisions for determining an employer in particular circumstances, such as a labour hire agency or group training arrangements.

A worker is an individual who:

- works under a contract and, in relation to the work, is an employee for the purpose of assessment for Pay As You Go (PAYG) withholding under the *Taxation Administration Act 1953* (Cth), Schedule 1, Part 2-5; or
- is specified to be a worker in Schedule 2 of the WCR Act.⁴⁰⁰

Schedule 2 extends workers' compensation coverage to a range of work arrangements that may not otherwise satisfy the ordinary worker definition. Examples include certain sharefarmers, salespersons paid on commission and persons engaged by a labour hire agency or group training organisation.⁴⁰¹ The WCR Act also specifies examples of who is *not* a worker, including directors of companies, trustees, a person who is a member of a partnership, professional sportspersons and those participating in certain Commonwealth work.⁴⁰²

The WCR Act also provides for the payment of compensation and other entitlements to dependants and certain family members where a worker suffers a fatal work-related injury.⁴⁰³

What injuries are covered?

Worker status alone does not establish an entitlement to compensation. A worker must also satisfy the legislative requirements for whether they have an injury.

³⁹⁸ s 48 of the WCR Act.

³⁹⁹ s 30 of the WCR Act.

⁴⁰⁰ subss 11(1) and (2) of the WCR Act.

⁴⁰¹ Sch 2, Pt 1 of the WCR Act.

⁴⁰² Sch 2, Pt 2 of the WCR Act.

⁴⁰³ Ch 3, Pt 11 of the WCR Act.

Generally, compensation is payable where an injury arises out of, or in the course of, employment and employment is a significant contributing factor to the injury.⁴⁰⁴ These requirements reflect the principle that workers' compensation schemes are intended to compensate injuries with a sufficient connection to employment. (The specific legislative requirements applying to psychological injuries are discussed in 2.2.2 Definition of psychological injury.)

Modifying or extending coverage

While the definitions of worker and injury form the foundation of coverage, the WCR Act contains a range of provisions that modify or extend the ordinary operation of the scheme. For example, the WCR Act enables WorkCover to enter into an accident insurance policy for specified categories of non-workers, including volunteers, persons performing community service, students and others.⁴⁰⁵

In addition, the WCR Act provides lifetime treatment, care and support for workers who suffer a serious personal injury.⁴⁰⁶

The WCR Act also, in certain circumstances, extends coverage to injuries occurring immediately before or after work or during recess breaks.⁴⁰⁷

2.8.2 Journey claims

Background

In Queensland, workers may be entitled to compensation for injuries sustained while travelling to or from work, provided the journey satisfies the requirements of the WCR Act.⁴⁰⁸ The provisions are long standing and operate as an exception to the ordinary employment connection requirements that generally apply under the scheme.

Coverage generally applies to injuries occurring during a journey between a worker's home and place of employment, subject to specified exclusions. For the purposes of the WCR Act, a journey commences or concludes at the boundary of the land on which the worker's home is situated. Compensation is not ordinarily payable where there has been a substantial delay before, or substantial interruption or deviation from, the journey for reasons unrelated to employment.

In determining whether a delay, interruption or deviation is substantial, consideration may be given to factors such as the reason for the delay or departure from the journey, the time involved relative to the overall journey and, in the case of a deviation, the distance travelled. However, where the delay, interruption or deviation is directly connected with the worker's employment, compensation may still be payable.

In addition to journeys between home and work, the WCR Act extends compensation coverage to injuries sustained while a worker is temporarily absent from the workplace during an ordinary recess, provided the worker has not voluntarily subjected themselves

⁴⁰⁴ s 32 of the WCR Act.

⁴⁰⁵ Ch 1, Pt 4, Div 3 of the WCR Act.

⁴⁰⁶ Ch 4A of the WCR Act.

⁴⁰⁷ Ch 1, Pt 4, Div 6 of the WCR Act.

⁴⁰⁸ ss 35 and 36 of the WCR Act.

to an abnormal risk of injury.⁴⁰⁹ These claims typically involve injuries sustained during authorised meal breaks or rest breaks and reflect a legislative extension of coverage beyond the direct performance of work duties. Eligibility for compensation depends on the circumstances of the injury and the applicable legislative requirements.

Queensland and the Australian Capital Territory are the only Australian state and territory workers' compensation jurisdictions that provide coverage for journey claims where there is no real and substantial connection with employment.

From 2021-22 to 2025-26, 33,406 journey claims were lodged, representing approximately 6.9% of all statutory claims. During this time, the number of journey claim lodgements has gradually increased from 5,798 in 2021-22 to 7,118 in 2025-26, possibly due to people returning to working in offices post-COVID. Similarly, the proportion of journey claims has gradually increase from 6.4% in 2021-22 to 6.9% in 2025-26.

Most journey claims are accepted (95%). Of accepted journey claims, most are for a physical injury only (90.9% from 2021-22 to 2025-26), followed by a physical and secondary psychological injury (6.9%) and psychological injury (2.2%).

The financial impact of journey claims on the scheme is comparatively small, estimated at approximately \$0.07 of the average premium rate for all employers. Notably, unlike other claims, journey claims do not directly impact upon an individual employer's premium as they are not considered in the claims experience calculation.

Stakeholder views

Stakeholder views on journey claims were divided, reflecting differing perspectives on the appropriate scope of workers' compensation coverage, scheme sustainability, employer responsibility and worker safeguards.

Several insurer stakeholders questioned whether journey claims should continue to be covered under the scheme. These stakeholders argued that journey claims extend coverage beyond the scheme's purpose of compensating injuries arising out of, or in connection with, employment. They noted that Queensland remains one of the few Australian jurisdictions to provide broad coverage for injuries sustained while travelling to and from work. In their view, journey claims transfer community costs to the scheme.

These stakeholders also emphasised that employers have limited ability to influence or manage risks encountered during a worker's commute, and that the management of those risks are transport and public safety matters.

Concerns were raised that, as workers' compensation premiums are intended to reflect workplace risk and incentivise safer work practices, coverage for journey claims is inconsistent with these principles. Self-insured employers also highlighted that journey claims create a disproportionate financial burden, as they bear the full cost of these claims directly. Some stakeholders further noted the availability of alternative insurance arrangements, such as compulsory third-party motor vehicle insurance, as these are transport and public safety matters.

⁴⁰⁹ s 34 of the WCR Act.

Proposed reforms from these insurer and industry stakeholders ranged from removing journey coverage to limiting compensation to circumstances where a clear connection to employment can be demonstrated.

Conversely, other stakeholders supported retaining the existing arrangements, emphasising that journey claims provide an important safeguard for workers. These submissions noted that coverage enables injured workers to access coordinated claims management, rehabilitation and return to work support, and argued that these outcomes are consistent with the principles underpinning the Health Benefits of Good Work framework. Concerns were raised that removing coverage could reduce access to recovery-focused services and result in less effective rehabilitation and return to work outcomes.

Stakeholders supporting retention highlighted the significance of journey claim coverage for workers in regional and remote Queensland, including fly-in fly-out workers and those who travel substantial distances to access employment. These stakeholders submitted that journey risks are, in some cases, an inherent feature of employment and that the removal of coverage could disproportionately affect workers in regional industries and communities.

A number of stakeholders suggested that consideration be given to clarifying the legislative scope of journey and ordinary recess provisions to improve certainty and consistency across the scheme.

There was broad agreement among stakeholders that journey claims should not directly impact employer premiums, and the current treatment of journey claims not impacting employer premiums should be retained.

Findings

Having regard to the historical development of the Queensland workers' compensation scheme, stakeholder feedback and the broader objectives of the scheme, there is a reasonable basis for retaining journey claim coverage within the scheme.

Workers' compensation is intended to provide timely access to treatment, rehabilitation and income support where workers are exposed to risks arising from their participation in the workforce. Journey claims extend this protection to circumstances where a worker is injured while undertaking travel that is necessary to commence or conclude their work duties.

The nature, timing and location of work can significantly influence a worker's exposure to travel-related risk. Workers undertaking shift work, travelling long distances, working irregular hours or attending multiple workplaces may face risks that arise directly from employment requirements. Retaining journey claims ensures workers are not required to bear the full consequences of risks associated with complying with those requirements.

While some jurisdictions have narrowed access to journey claims through additional work-connection requirements, Queensland has maintained a broader approach. Journey claims have a relatively limited impact on the sustainability of the scheme as the

financial impact is relatively small (approximately \$0.07 of the average premium rate for all employers). Insurers are also able to seek recovery of claim costs in circumstances where liability for an injury rests, in whole or in part, with another party. For example, compensation costs may be recovered from damages paid in relation to a motor vehicle accident under a compulsory third party (CTP) insurance claim.

Consequently, removal may result in only limited scheme savings while having a significant impact on Queensland workers. Retention can be viewed as a proportionate feature of the scheme that balances worker protection with scheme sustainability and preserves a level of coverage that has historically been regarded as a balanced benefit within the Queensland scheme. We consider no recommendations are required on journey claims coverage.

2.8.3 Gig economy workers

Background

'Gig work' is generally characterised by the provision of short-term services by individuals (gig workers) to consumers for a fee via digital platforms hosted by a third-party intermediary. Many gig workers are not currently covered by the scheme because they operate as independent contractors.

Following the 2023 *Review of the operation of the Queensland workers' compensation scheme*,⁴¹⁰ the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024* introduced section 11(1)(b) of the WCR Act to provide flexibility for the scheme to cover gig workers into the future.⁴¹¹ This section provides that a worker also includes a 'regulated worker' under the *Fair Work Act 2009* (Cth) (FW Act) if a minimum standards order, minimum standards guideline or collective agreement under chapter 3A of that Act applies to or covers the worker and they are prescribed by regulation to be a worker.⁴¹² Regulated workers include digital platform workers who are 'employee-like' and certain independent contractors in the road transport industry. To date no regulation has been made.

The FWC is currently considering minimum standards applications affecting gig workers in the transport and delivery sectors.⁴¹³ One of these applications, MS2024/3, concerns minimum standards for employee-like workers performing on-demand delivery work of consumables, including food, beverages and liquor, or supermarket groceries through digital platforms such as Uber Eats and DoorDash. The draft minimum standards order published by the FWC on 8 July 2026 proposed, among other matters, that digital platform operators provide private accident insurance for employee-like workers unless those workers are already covered by a Commonwealth, State or Territory workers' compensation scheme.

⁴¹⁰ 2023 *Review of the operation of the Queensland workers' compensation scheme*.

⁴¹¹ s 24 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024* and s 11(1)(b) of the WCR Act.

⁴¹² ss 15B, 15D and 15E and Ch 3A of the *Fair Work Act 2009* (Cth).

⁴¹³ *TWU regulated worker minimum standards orders applications (MS2024/1-3)*, FWC.

An Expert Panel of the FWC made the Interim On-Demand Delivery Employee-like Worker Minimum Standards Order, which commenced on 17 August 2026.⁴¹⁴ The order is described as *interim* because the FWC is continuing to consider related applications concerning broader minimum standards for employee-like workers and other forms of last-mile delivery work. The Commission has indicated that the order will be reviewed if draft minimum standards orders are issued in those related proceedings.

This development will only have implications for workers' compensation coverage in the scheme if the Queensland Government chooses to activate the regulation-making mechanism introduced by the 2024 amendments.

Stakeholder views

Several industry stakeholders opposed the retention of section 11(1)(b) of the WCR Act, arguing that the scheme is designed for traditional employment relationships and is not well suited to Commonwealth-regulated platform workers and contractors. Key concerns included uncertainty regarding policy ownership, premium liability, remuneration declarations, return to work obligations, coverage where workers engage with multiple platforms, and interaction with Commonwealth minimum standards instruments and existing insurance arrangements.

Some industry stakeholders highlighted existing accident insurance arrangements for platform workers and supported a model requiring platforms to provide such coverage, rather than extending the scheme. Concerns were also raised that extending coverage could create overlapping obligations where businesses are required to maintain both Commonwealth-mandated insurance and state workers' compensation coverage.

Other industry stakeholders submitted that, at a minimum, no regulated-worker class should be prescribed until further review has resolved policy, operational and financial issues, including scheme costs, premium arrangements, insurance availability and interaction with Commonwealth regulation. Concerns were also expressed that extending coverage could increase scheme costs and administrative complexity, while issues such as fraud risk, liability allocation and coverage for workers operating across multiple platforms remain unresolved.

Findings

The WCR Act was amended in August 2024 to support potential coverage of gig workers. A regulation making head of power was introduced to prescribe by regulation certain individuals as 'workers' and certain entities as 'employers' if they are covered by a minimum standards order, minimum standards guideline, or relevant collective agreement registered by the FWC.⁴¹⁵ No regulation has been made and currently there is no coverage for gig economy workers in the scheme unless they meet the current definition of worker.

The recent Interim On-Demand Delivery Employee-like Worker Minimum Standards Order of the Expert Panel of the FWC demonstrates the FWC is willing to incorporate

⁴¹⁴ [Interim On-Demand Delivery Employee-like Worker Minimum Standards Order](#), FWC.

⁴¹⁵ s 11(1)(b) of the WCR Act.

insurance terms into minimum standards orders. Notably, the order was supported by both digital platforms and worker representatives (through the Transport Workers' Union). While the order contemplates that workers' compensation coverage may be extended to gig economy workers covered by the order by federal, state or territory schemes, doing so may result in disruption to all parties in circumstances where arrangements for private accident insurance have been agreed.

The order is limited to a specific cohort of gig economy workers, namely those involved in the on-demand provision of consumables or food products. There are other cohorts of gig economy workers in the digital platform economy (for example, those involved in home care and social assistance) who are not covered by the order and the insurance arrangements proposed. Despite this, the order demonstrates that the FWC's regulated worker jurisdiction is an effective vehicle for addressing these matters.

Industry stakeholders raised concerns regarding the appropriateness of extending coverage to gig economy workers. These concerns centred on the feasibility of providing such coverage and whether workers' compensation is suitable for the nature of this work.

We consider it appropriate that section 11(b) of the WCR Act be removed. However, it is not recommended that this be progressed at this stage as the FWC is continuing to consider related applications concerning broader minimum standards for employee-like workers and road transport contractors performing last-mile delivery work. The FWC has indicated that the order will be reviewed if a notice of intent and draft order is issued on the other related applications. It would be prudent not to remove section 11(1)(b) of the WCR Act until federal proceedings have been finalised to ensure the removal of this section does not cause any unintended consequences.

WCS Recommendation 29: Gig economy workers

That the Queensland Government consider the status of section 11(1)(b), with regard given to the outcomes of the applications for relevant minimum standards orders before the Fair Work Commission.

2.8.4 Presumptive provisions for first responders

Background

In 2015, Queensland introduced presumptive entitlements for firefighters diagnosed with specified cancers.⁴¹⁶ The amendments were intended to provide greater certainty of entitlement and improved access to compensation for firefighters who develop occupational diseases associated with exposure to hazardous substances encountered during firefighting activities. The provisions recognise that, although firefighters may be exposed to carcinogens over the course of their careers, it can be difficult to identify and prove the precise workplace exposures that contributed to the development of a particular cancer.

⁴¹⁶ Ch 1, Pt 4, Div 6, Subdiv 3B of the WCR Act and s 18 and 21 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2015*.

Under the WCR Act, a current or former firefighter diagnosed with a prescribed cancer may be entitled to presumptive compensation benefits where they satisfy the relevant legislative requirements, including a minimum qualifying period of active firefighting service.⁴¹⁷ Where the requirements are met, the cancer is presumed to be work-related unless the presumption is rebutted.

Queensland subsequently expanded the use of presumptive provisions in 2021 through the introduction of a presumption for PTSD affecting specified first responders and other eligible workers.⁴¹⁸ The PTSD presumption recognises the unique nature of occupations that involve repeated or extreme exposure to traumatic events and reduces the evidentiary burden on eligible workers seeking compensation for work-related psychological injuries.

The presumptive provisions operate within, rather than separately from, the broader workers' compensation framework. Individuals who do not satisfy the statutory requirements for a presumption may still seek compensation through the ordinary claims process by establishing the connection between their employment and injury or disease.

Accordingly, presumptive provisions do not create a separate entitlement. Rather, they modify the evidentiary requirements that would otherwise apply by deeming the necessary connection between employment and the injury or disease, unless this can be rebutted by evidence proving there was not a requisite connection between the injury or disease and employment.

Stakeholder views

Stakeholders expressed a range of views on Queensland's presumptive PTSD framework for first responders and related workers.

A number of stakeholders supported expanding who can make the diagnosis for presumptive PTSD claims to include registered psychologists with appropriate clinical expertise. Several submissions also supported explicitly stating the presumptive PTSD provisions include aggravations of PTSD.

There was also support for the introduction of a non-liability treatment pathway for psychological injuries suffered by first responders. These stakeholders proposed a model similar to the veterans' White Card system, enabling earlier access to psychological treatment without the need for liability to be determined first.

Some stakeholders advocated for broadening the scope of the presumptive PTSD framework, including extending the presumption beyond first responders to cover all healthcare workers and public servants. Another stakeholder called for a review of whether a category of worker should continue to be covered by the presumptive PTSD provisions.

In contrast, some stakeholders supported a more rigorous approach to the presumptive

⁴¹⁷ Ch 1, Pt 4, Div 6, Subdiv 3B and Sch 4A of the WCR Act.

⁴¹⁸ Ch 1, Pt 4, Div 6, Subdiv 3BA of the WCR Act, ss 206-208 and Sch 10 and 11 of the WCR Regulation and s 3, 8 and 9 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2021*.

PTSD framework, including proposals to retain or require psychiatrist-only diagnoses for all claims for PTSD under the WCR Act and to review existing eligibility requirements.

Other submissions focused on the coverage of specific occupations. One stakeholder recommended amending the WCR Act to include Queensland Parks and Wildlife Service (QPWS) firefighters within the definition of “firefighter” for the purposes of the presumptive injury provisions, noting that equivalent provisions in NSW, Victoria and Tasmania apply to firefighters employed by land-management agencies. It is submitted that QPWS firefighters undertake materially identical firefighting work to other firefighters already covered by presumptive provisions, are exposed to comparable cumulative occupational risks, and do so with increasing frequency and duration as Queensland’s planned burning and bushfire response effort expands.

Findings

The current presumptive PTSD framework provides a targeted and established mechanism for supporting eligible workers while preserving appropriate safeguards within the scheme.

An analysis has shown that overall, the introduction of the PTSD legislation does not appear to have significantly altered the pre-existing claim trends for PTSD claims from first responders. However, there is some evidence of a moderate difference in trends between first responders and the rest of the scheme since the introduction of the presumptive framework.

The analysis also shows that acceptance rates for first responder PTSD claims were already very high prior to the legislative change, approaching 95% to 100% in the years leading up to 2021. Following the introduction of presumptive coverage, acceptance rates declined slightly, to around 92%, likely reflecting higher claim volumes and behavioural effects. Given the already very high likelihood of a PTSD claim from first responders being accepted prior to 2021, the key impact of presumptive PTSD legislation has been to reduce the administrative and psychological burden on first responders. This analysis indicates that the provisions balance improved access to compensation with the need to maintain confidence in the integrity of the scheme.

Retaining the current requirement for diagnosis by a psychiatrist supports a consistent and robust approach to the application of the presumption. Given that the presumption alters the ordinary evidentiary requirements that apply to workers’ compensation claims, maintaining established clinical thresholds assists in ensuring claims are assessed using a clear and consistent process. This also reduces the risk of unintended consequences arising from changes to eligibility criteria or diagnostic requirements.

Some stakeholders supported the introduction of a non-liability treatment pathway for psychological injuries suffered by first responders. The scheme already provides a requirement for an insurer to take all reasonable steps to provide reasonable services to support the worker in relation to a psychological injury while a claim is being assessed.⁴¹⁹ Given that early treatment and support are currently available through the scheme, there is limited argument to necessitate the introduction of a separate non-

⁴¹⁹ s 232AB WCR Act.

liability treatment pathway. Establishing a dedicated pathway for first responders may also create duplication within existing arrangements and introduce additional complexity to the scheme.

A strong case exists for extending presumptive coverage to QPWS firefighters. QPWS firefighters undertake firefighting duties that are substantially similar to those performed by firefighters already covered by the presumptive provisions. QPWS firefighters are exposed to comparable occupational hazards, including bushfires, emergency incidents, life-threatening situations and traumatic events as other firefighters covered within the scheme. Extending coverage to QPWS firefighters ensures like occupations are treated fairly and consistently and does not expand the presumption to occupations of a different character.

It is considered that the WCR Act be amended to extend presumptive firefighter coverage to QPWS employees who perform firefighting duties. This includes extending presumptive cancer coverage as well as presumptive PTSD first responder coverage to QPWS firefighters.

WCS Recommendation 30: Extend presumptive coverage to Queensland Parks and Wildlife Service firefighters

That the WCR Act be amended to extend presumptive firefighter coverage to Queensland Parks and Wildlife Service employees who perform firefighting duties.

2.9 Governance of independent medical examiners, assessments, rehabilitation and claims management

2.9.1 Independent Medical Examiners and Assessments

Background

Medical providers play an important role in the schemes management of statutory compensation and common law claims. They provide diagnosis, medical treatment, clinical advice and support, and assist injured workers throughout their recovery and rehabilitation. Medical providers also contribute to claims management by assessing and documenting a worker's capacity for work and recommending treatment that is reasonable and necessary for the management of an injury. Where appropriate, medical providers may refer injured workers to allied health practitioners and other support services.

As part of this role, work capacity certificates under the WCR Act are issued by a doctor and, in limited circumstances, a nurse practitioner (for a minor injury) or a dentist (for an oral injury).⁴²⁰ The scheme also incorporates a range of medical and rehabilitation assessments to support claims management, rehabilitation and return to work outcomes. These arrangements are intended to promote consistency, independence and evidence-based decision-making in relation to injury management, work capacity, permanent impairment and rehabilitation.

Independent medical examinations

As part of the claim determination and management process, an insurer may require a worker to be examined by a registered person.⁴²¹ Independent medical examinations are used within the scheme to obtain independent specialist medical opinions regarding diagnosis, causation, treatment requirements, work capacity, rehabilitation needs and permanent impairment. Independent medical examinations may also assist in resolving differing medical opinions and clarifying complex clinical issues.

Insurers appoint Independent Medical Examiners (IMEs) to undertake work as direct commercial arrangements with insurers. For example, WorkCover engages medical specialists and allied health professionals through its Medical and Allied Health Services (MAHS) provider panel to undertake independent medical assessments and provide clinical advice in support of claims management and decision making. Providers are appointed through an open market procurement process that assess professional qualifications, registration status and relevant expertise, including workers' compensation, occupational medicine, permanent impairment assessment, psychological injury, rehabilitation and other relevant specialities. WorkCover has advised that the composition and size of the MAHS panel are determined based on operational requirements and service demand. We understand that the MAHS panel currently has 186 suppliers across a range of specialties and provider types, including:

⁴²⁰ s 132 of the WCR Act

⁴²¹ s 135 of the WCR Act

- Audiology
- Dental
- Dermatology
- ENT
- General Surgery
- Nephrology
- Neurology
- Neuropsychology
- Neurosurgeon
- Occupational Physician
- Ophthalmology
- Oral and Maxillofacial
- Orthopaedic
- Pain Specialist
- Pharmacy
- Physiotherapy
- Plastic and Reconstructive
- Psychiatry
- Radiology
- Rehabilitation Physician
- Rheumatology
- Sport and Exercise Physician
- Thoracic/Respiratory Physician
- Urology

Insurers and workers (or their legal representatives) may also use IMEs during a claim for damages.

Assessment of degree of permanent

During the claim management process, an insurer may decide or a worker may ask to have the worker's injury assessed to determine if it has resulted in a degree of permanent impairment (DPI).⁴²² This is for the purpose of determining whether the worker's injury has reached maximum medical improvement and whether an offer of lump sum compensation corresponding with the assessed DPI needs to be made to the worker.⁴²³

The scheme uses the *Queensland's Guidelines for Evaluation of Permanent Impairment, 2nd edition* (Queensland Guidelines) to assess permanent impairment for compensation purposes.⁴²⁴ Permanent impairment assessments must be undertaken by appropriately trained Assessors using the prescribed methodology set out in the Queensland Guidelines to prepare reports for insurers on a worker's DPI that complies with the Queensland Guidelines. Noting under the WCR Act certain assessments must be undertaken by the Medical Assessment Tribunal.

The Regulator is responsible for the administration of Assessor training and maintaining a register of persons authorised to undertake permanent impairment assessments.⁴²⁵ An Assessor must complete and pass the required training administered by the Regulator and be a specialist in the relevant body system being assessed. These arrangements support consistency and transparency in the assessment of permanent impairment across the scheme.

There are currently 854 individual Assessors⁴²⁶ for the Queensland Guidelines. Specialties with the most Assessors include Orthopaedic (606), Audiology (465), Psychiatry (400) and Occupational and Environmental Medicine (233).

⁴²² s 179(1) of the WCR Act.

⁴²³ ss 178 and 180 of the WCR Act.

⁴²⁴ *Queensland's Guidelines for Evaluation of Permanent Impairment (2nd edition)*, Workers' Compensation Regulator.

⁴²⁵ s 329B of the WCR Act.

⁴²⁶ Some specialties are eligible to complete examinations in multiple body systems, for example occupational physicians can complete all 16 body systems.

Assessors are either engaged under commercial arrangement with insurers (and may provide other IME services) or through appointment to the MATs.⁴²⁷

Fees for examinations and assessments

The fees paid for independent medical examination and assessment services in a statutory compensation claim are outlined in the Table of Costs made under the WCR Act.⁴²⁸ While the Table of Costs sets scheme wide fees it is managed and published by WorkCover, not the Regulator. From 1 January 2026 WorkCover introduced an updated Independent Medical and Allied Health Services Table of Costs which increased the fees for some provider types to improve market competitiveness and support the attraction and retention of highly qualified providers including medical specialists. The Table of Costs does not apply to the fees paid for these services in a damages claim.

Quality assurance of examinations and assessments

Where concerns are raised in relation to performance there are avenues available depending on the nature of the service being provided.

For the general engagement of IMEs there will be avenues to resolve disputes under the commercial arrangements with the insurer. There are also avenues available, depending on the nature of the complaint, with agencies such as the Australian Health Practitioner Regulation Agency (AHPRA) and the Office of the Health Ombudsman. The Regulator has no legislative ability to intervene in these arrangements.

Where an IME is undertaking an assessment of a DPI the Queensland Guidelines provide direction for insurers to address any concerns they have with the behaviour of the Assessor or the quality of the report directly with the Assessor. If complaints recur the Queensland Guidelines say that the complaint can be referred to the Regulator who may then refer the matter to AHPRA or the Audiology registration body for investigation/further action pending the nature of the matter raised.⁴²⁹

It is noted that under section 179 of the WCR Act, there is the facility for the Regulator to cancel or suspend an Assessor's ability to undertake DPI Assessments.⁴³⁰ Despite a Regulation not been made to provide this process, Assessors have been removed from the register following audits or other actions of the Regulator as a result of expiring AHPRA registration, changes to an Assessor's AHPRA registration status (including suspensions) and for other reasons.

Stakeholder views

Stakeholder views on IMEs were mixed with submissions supportive of the importance and use of IMEs but noted improvements are needed in relation to the quality and timeliness of reports and a stronger framework for managing providers.

Some medical stakeholders expressed concerns about conflicts of interests not being appropriately managed and issues with both the quality and timeliness of IME reports.

⁴²⁷ s 179(2) of the WCR Act.

⁴²⁸ [Fees and tables of costs](#), WorkCover Queensland.

⁴²⁹ Sections 1.57 and 1.58 of the [Queensland Guidelines](#).

⁴³⁰ s 179(6)(b) of the WCR Act.

The views expressed by some stakeholders around the poor standard of reports focused on examples of reports conflicting with other medical information and failing to address all issues and IMEs not sufficiently examining the worker or exploring or disclosing information.

Stakeholders also expressed concerns that insurers are not appropriately acting on all issues raised in relation to IMEs. In particular, they note that medico-legal issues are not dealt with within the scheme and instead referred to the Office of the Health Ombudsman who does not have jurisdiction to manage the nature of some of these complaints.

Some stakeholders also expressed concerns that IMEs are not sufficiently trained in preparing medico-legal reports and that clinical experience was highly varied.

Concerns were also raised by medical stakeholders around the assessment of DPIs under the Queensland Guidelines. In particular that the Queensland Guidelines should be reviewed noting the growth in psychological injuries since it was last updated in 2016 as changes in disease profile and a number of diagnostically challenging conditions are not reflected in the current edition. The Queensland Guidelines currently refer to AMA5 however medical stakeholders supported the use of AMA 6th Edition, which is considered more comprehensive and supports a best estimate of permanent impairment.

Stakeholders representing both workers and employers expressed concerns that work capacity certificates should be able to be issued by psychologists and physiotherapists, not just doctors.

Findings

Independent Medical Examiners and Assessors

IMEs are currently engaged directly by insurers under service standards set by insurers. Insurers are responsible for ensuring that IMEs have the required qualifications and experience. Some stakeholders reported variable experience amongst persons undertaking examinations and assessments, and variable quality in medical reports and permanent impairment assessments, with adverse impacts on workers and scheme outcomes.

We consider that the experience of stakeholders suggests that the current practices for assuring quality of assessments and examinations are not adequate.

The Regulator currently maintains a register of specialists and audiologists who have undertaken training in the Queensland Guidelines and are able to undertake assessments of permanent impairment under section 179 of the WCR Act.⁴³¹ The WCR Act also provides a regulation can be made that among other matters:

- prescribes requirements that must be met for an audiologist, a member of the medical assessment tribunal or a specialist to be authorised to make a permanent impairment assessment; and

⁴³¹ [List of trained assessors – Queensland Guidelines](#), Workers' Compensation Regulator

- provides for the suspension or cancellation of an authorisation.⁴³²

To date no regulation has been made.

We consider that establishing a centralised register for both IMEs and Assessors would help ensure quality, independence and consistency of medical examinations and assessments carried out within the scheme. It would be a requirement that, to undertake IME services for the purpose of the WCR Act and assessments under the Queensland Guidelines, a medical provider be registered on this register.

The Regulator should oversee the register and develop and implement a transparent governance framework to ensure appropriate qualifications, experience, training/refresher training, consistent service standards and ongoing due diligence checks for authorised IMEs and Assessors in the scheme.

Under this model, insurers would retain responsibility for entering into and managing commercial arrangements with authorised IMEs and Assessors. Clear jurisdictional boundaries with the AHPRA and other medical and dispute resolution bodies should also be maintained.

We recognise that in transitioning to this model, consideration must be had to ensure minimal disruption to ongoing delivery of IME and Assessor services to the scheme.

WCS Recommendation 31: Strengthen governance of independent medical examiners and Assessors

31.1 That the WCR Act be amended to establish a register of authorised independent medical examiners and Assessors able to provide services to the scheme. The register is to be managed by the Workers' Compensation Regulator.

31.2 That the Queensland Government, in consultation with the Workers' Compensation Regulator and WorkCover Queensland, consider the most effective way to transition to the new model for independent medical examiners under the scheme.

Permanent impairment assessments

Queensland's *Guidelines for evaluation of permanent impairment* first edition was published on 8 November 2013. The second (current) edition took effect from 1 July 2016 and was based on the template guide that was developed through a national process facilitated by SWA.⁴³³ The template national guide is based on a similar set of guidelines that was developed and used extensively in the NSW workers' compensation scheme.⁴³⁴ The Queensland Guidelines have not been updated since 2016. For physical injuries, it relies on an outdated framework (AMA5) published on 1 January 2001, while its psychiatric chapters rely on the decades old Psychiatric Impairment Rating Scale (PIRS).

Medical stakeholders are of the view that neither of these models reflect modern, evidence-based medical and psychiatric practices. A modern framework would

⁴³² s 179(6) of the WCR Act.

⁴³³ [Permanent impairment | National Permanent Impairment Guidelines](#), Safe Work Australia.

⁴³⁴ [New South Wales workers compensation guidelines for the evaluation of permanent impairment](#), State Insurance Regulatory Authority (SIRA) (NSW).

accurately rate complex trauma, chronic pain, and mental health conditions according to current clinical evidence.

We consider that a comprehensive review of the Queensland Guidelines is necessary. As part of this review, the Regulator is to monitor national developments including the NSW State Insurance Regulatory Authority Chief Psychiatrist review of the PIRS, and consult with the MATs.

WCS Recommendation 32: Queensland's Guidelines for evaluation of permanent impairment

That the Queensland Government, in consultation with the Workers' Compensation Regulator, review whether Queensland's Guidelines for evaluation of permanent impairment remains the most contemporary, appropriate and evidence-based tool for assessing degrees of permanent impairment.

Certificates of capacity

While there was support for expanding certification authority to appropriately qualified allied health practitioners, we consider maintaining the current requirement⁴³⁵ for certificates of capacity to be issued by a doctor, nurse practitioner (for a minor injury) or registered dentist (oral injury) is preferred due to the importance of clear clinical accountability, consistency in certification decisions and medical governance. Any expansion would require additional governance and oversight mechanisms to ensure the integrity and consistency of certification practices across the scheme.

2.9.2 Rehabilitation and Return to Work Coordinators and Claims Managers

Background

The WCR Act currently contains two restrictions that govern the physical locations of persons who perform certain legislative functions for employers and self-insurers.

Rehabilitation and Return to Work Coordinators (RRTWCs) are a key component of Queensland's rehabilitation framework. RRTWCs assist in coordinating workplace rehabilitation activities, facilitating communication between stakeholders, identifying suitable duties and supporting workers to return to work safely and sustainably. Employers and self-insurers required to appoint a RRTWC must ensure the coordinator is appropriately qualified and based in Queensland, supporting knowledge of local legislative requirements, scheme processes and rehabilitation practices.⁴³⁶

⁴³⁵ s 132 of the WCR Act

⁴³⁶ ss 71, 72 and s 226(2) of the WCR Act

Self-insurers have a range of functions and powers under the WCR Act to support the management of claims and rehabilitation and return to work. A self-insurer may only engage persons who are in Queensland and employed under contract to exercise certain powers. As these powers include claims management functions, a self-insurer is only able to have Queensland based claims managers.⁴³⁷

Stakeholder views

Insurer stakeholders submitted the current legislative requirement that RRTWCs and claims managers be Queensland based is an outdated approach. It was noted that modern claims management is no longer reliant on physical location, with service delivery supported by secure digital platforms, national specialist teams, virtual engagement, and real time access to information.

An insurer stakeholder advised that, in instances of unforeseen resourcing constraints, insurers are unable to draw on experienced claims personnel from interstate offices due to the Queensland based requirement. They further noted that equivalent requirements do not exist in other Australian workers' compensation jurisdictions, where decision makers are not required to be physically located within the relevant state or territory.

Another insurer stakeholder submitted that the requirement may necessitate the creation of duplicative Queensland specific roles that do not align with an employer's actual organisational structure or operating model. They argued that this creates administrative inefficiencies and limits an employer's ability to leverage existing national claims management and return to work resources.

Insurer stakeholders argued that permitting RRTWCs and claims managers to be located outside Queensland would provide greater workforce flexibility, improve operational efficiency, and enable access to a broader pool of experienced interstate decision makers, while maintaining service standards through contemporary digital systems and communication channels.

Findings

Insurer stakeholders raised concerns regarding the mandatory requirement for RRTWC and persons who perform self-insurer functions (such as claims managers) to be located in Queensland.⁴³⁸

The requirement for Queensland based coordinators and persons performing self-insurer functions to be located in Queensland is historical and was intended to ensure strong knowledge of the Queensland scheme, local medical provider relationships and face-to-face contact.

We consider that this requirement is no longer contemporary and is unnecessarily limiting, given the availability of telehealth and virtual collaboration technologies that facilitate effective remote support. Advances in digital communication and claims management systems have reduced the need for physical proximity, enabling claims managers and RRTWCs to effectively communicate with workers, employers and service

⁴³⁷ s 92(4) of the WCR Act.

⁴³⁸ s 92, of the WCR Act.

providers regardless of location. Broadening eligibility may increase access to skilled and experienced personnel, assist insurers in managing workforce shortages and reduce recruitment constraints. Lifting this restriction would also drive greater competition by allowing diverse interstate and national providers to enter the market.

In transitioning to this approach, consideration should be given to ensuring persons outside of Queensland possess appropriate up-to-date knowledge of the Queensland scheme.

WCS Recommendation 33: Interstate rehabilitation and return to work coordinators and claims managers

That the WCR Act be amended to remove the Queensland-based requirement for rehabilitation and return to work coordinators and for persons who perform self-insurer functions.

2.10 Review and appeal of insurer decisions

2.10.1 Background

Review of insurer decisions

The WCR Act provides a mechanism for independent, prompt, non-adversarial review of certain decisions made by insurers.

Under the WCR Act, a worker or employer aggrieved by certain insurer decisions may apply to the Regulator for a review of that decision.⁴³⁹ Reviewable decisions include decisions to accept or reject a workers' compensation claim, an insurer's failure to make a decision within time, decisions made in the course of managing claims, and certain decisions made by WorkCover about policy and premium matters.⁴⁴⁰

The review process is not an adversarial or court process. It involves a review of all the documentation available to the insurer in relation to a worker's application for compensation. The matter is not reinvestigated by the Regulator. The Regulator can either confirm or vary the decision, set aside the decision and substitute a new decision, or set aside the decision and return the matter to the insurer with directions.⁴⁴¹

It is noted that in addition to reviews of insurer decisions the Regulator also undertakes reviews of compliance notices under the WCR Act. The team that undertakes these reviews also reviews certain notices under Queensland's work health and safety and electrical safety legislation and decisions around labour hire licensing.

Review application trends

The Regulator has experienced sustained growth in applications for review of insurer decisions. Between 2021-22 and 2025-26 workers' compensation review applications increased by 86.8% (2,506 to 4,681 a year) with expected further growth for 2026-27 year of 5.2%.

A notable feature of this growth has been the increase in applications relating to psychological injury claims. Between 2021-22 and 2025-26, psychological injury review applications increased by 116.0%. In 2025-26 they made up 46.1% of review applications. These matters are generally more complex and take more time to determine than other review types, often requiring detailed consideration of medical and factual evidence.

Growth in workers' compensation review applications has also occurred alongside the ongoing requirement to complete reviews under work health and safety, electrical safety and labour hire licensing legislation.

Legislative timeframes

Under section 542 of the WCR Act, an application for review must be made within three months after the applicant receives written notice of and reasons for an insurer's decision. The applicant may, at any time but not more than once, ask the Regulator to

⁴³⁹ s 541 of the WCR Act.

⁴⁴⁰ s 540 of the WCR Act.

⁴⁴¹ s 545(1) of the WCR Act.

allow further time to apply for review on the grounds of special circumstances.⁴⁴² In 2025-26 the average timeframe between the date of the insurer's decision and the date the application for review was made was 54.1 business days.

Section 545(1) of the WCR Act requires the Regulator to make a review decision within 25 business days of receiving a valid application and to provide written notice of the decision, including reasons, within a further 10 business days. In 2025-26 the average time to make a review decision was 65.7 business days.

It is noted that while section 545(4) of the WCR Act permits the review period to be extended, this can only occur at the request of, or with the consent of, the applicant or where the applicant requests additional time to provide further information. Under section 546(4), an applicant may appeal to an Industrial Magistrate if the Regulator fails to make a review decision within the prescribed timeframe.⁴⁴³ In 2025-26 three appeals were made.

Operational performance

In 2025-26, 2% of workers' compensation reviews were finalised within the statutory 25 business day timeframe, compared with 4% in 2024-25. During the same period, the average duration of a finalised review increased from 62.6 business days to 65.6 business days.

It is noted that strong performance across other review functions was maintained, with 100% of work health and safety, electrical safety and labour hire licensing reviews finalised within legislated timeframes during 2025-26. These reviews must be prioritised due to deemed decision provisions once the timeframe for making a review decision has passed.

Notwithstanding these challenges, productivity has improved. Average monthly finalisations continue to increase year on year and have increased by 25% between 2023-24 and 2025-26, while the average review timeframe increased from 62.6 business days to 65.6 business days.

Initiatives

To respond to increasing demand and support service delivery, the Regulator has implemented a range of workforce, process and capability initiatives over the past three years. These have included the establishment of additional positions, business process improvements, technology enhancements, enhanced training and knowledge management practices, strengthened communication processes, and improvements to change governance. An applicant is also able to request that their matter be prioritised due to psychological or financial hardship.

⁴⁴² s 542(2) of the WCR Act.

⁴⁴³ s 546(4) of the WCR Act.

Following the third independent review of the workers' compensation scheme⁴⁴⁴ the Regulator also publishes and distributes a biannual stakeholder newsletter that updates scheme stakeholders on the performance of the review function as well as other regulatory services.

Appeals of Regulator decisions

The Regulator also manages the conduct of workers' compensation appeals of review decisions to ensure the ongoing integrity of the review decision-making process and consistent application of the WCR Act.⁴⁴⁵ Unlike the review process, an appeal is not an administrative process. It is hearing of the entire matter afresh before an appeal body. This means new evidence can be obtained by parties, witnesses can be cross-examined, and competing evidence given under oath can be tested.

Under the WCR Act, different appeals on workers' compensation matters are heard by different appeal bodies. Appeals relating to review decisions of the Regulator on workers' compensation claims are heard by the QIRC, while appeals relating to policy and premium matters, non-reviewable decisions, Regulator decisions about the amount of weekly wages payable for incapacity under an industrial instrument, and a failure to make a review decision within time are heard by the Industrial Magistrates Court.⁴⁴⁶

An appeal of a review decision must be made within 20 business days after the appellant receives the notice of the review decision (or, for a non-reviewable decision, within 20 business days after the appellant receives the notice of the decision stating the reasons for the decision).⁴⁴⁷ For 2025-26, the average timeframe from the date of the review decision until an appeal was served was 30 business days.

Not surprisingly there has been sustained growth in appeal volumes over recent years. Between 2021-22 and 2025-26 there has been an increase of 56.4% in appeals serviced (236 to 369). In addition to increased volumes, appeal matters are becoming more complex and resource intensive, often involving extensive evidence, detailed legal submissions and high proportions of self-represented appellants (57% of appellants in 2025-26).

Note the team that undertakes these reviews also manages work health and safety, electrical safety and labour hire licensing appeals arising from review decisions before the QIRC and QCAT.

2.10.2 Stakeholder views

Stakeholders identified several opportunities to improve the effectiveness, timeliness and transparency of the workers' compensation review and appeals process.

Several stakeholders raised concerns regarding review timeliness and suggested measures to improve efficiency, including stronger adherence to legislated decision-making timeframes, improved triaging of complex psychological injury matters, earlier

⁴⁴⁴ [2023 Review of the operation of the Queensland workers' compensation scheme.](#)

⁴⁴⁵ [Ch 13, pt 3](#) of the WCR Act.

⁴⁴⁶ [s 548A](#) of the WCR Act.

⁴⁴⁷ [s 550](#) of the WCR Act.

identification of evidentiary gaps during claim determination, and enhanced reporting on review delays and performance. Some stakeholders also supported reducing the timeframe for making review applications while ensuring statutory review determination timeframes are met.

One stakeholder proposed amending the WCR Act to allow insurers to refer accepted claims decisions to the Regulator for review where a decision was made based on a mistake of fact that cannot otherwise be corrected.

An employer stakeholder raised concerns regarding the application of legal principles arising from *Rowe v Q-COMP*⁴⁴⁸ in the review process and suggested legislative or administrative clarification regarding the assessment of causative workplace stressors in psychological injury claims.

Overall, stakeholders considered that improvements to review processes could reduce uncertainty for parties, support earlier dispute resolution, and contribute to a more efficient and effective workers' compensation scheme.

2.10.3 Findings

Timeframe to lodge review and appeals

The current timeframe to lodge a review application is three months from receiving the insurer's written reasons for decision or failure to make a decision.

Some insurer stakeholders raised that this extended timeframe can leave disputed claims unresolved for longer than necessary, creating uncertainty, delaying final outcomes, prolonging worker distress, increasing scheme costs and negatively impacting rehabilitation and return to work outcomes.

We have considered that, under section 131 of the WCR Act, a worker has up to six months from the date their entitlement arises to lodge an application for compensation, after which the insurer has 20 business days to determine the claim.⁴⁴⁹ Consequently, workers may already have experienced up to seven months without access to funded treatment, rehabilitation, or return to work support before an insurer's decision is made.

Where a claim is rejected, the additional three-month period available to apply for a review can further delay access to treatment, rehabilitation and return to work support for injured workers.⁴⁵⁰ Following legislative timeframes, by the time an application reaches the Review Unit, workers may be up to 10 months post injury and continue to experience uncertainty regarding their entitlement to compensation, often with limited access to treatment and rehabilitation services. This means some workers may not receive a final review outcome until over 11 months after sustaining their injury.

These cumulative legislative and administrative delays do not support the scheme achieving early intervention, optimal recovery and strong return to work outcomes. The *National Return to Work Strategy 2020-2030* highlights the importance of timely intervention and support to minimise the impact of work-related injury and illness and

⁴⁴⁸ *Rowe v Q-COMP* [2009] QIRC 106 (2009) 190 QGIG 93.

⁴⁴⁹ s 131 of the WCR Act.

⁴⁵⁰ s 542(1) of the WCR Act.

facilitate a timely, safe and durable return to work.⁴⁵¹ Prolonged delays can hinder access to treatment, rehabilitation and workplace supports, which can adversely affect recovery and return to work outcomes. Accordingly, the current review timeframe may inadvertently contribute to poorer health outcomes for workers, increased scheme costs and reduced return to work success.

The impacts also extend to employers, who are often unable to implement meaningful rehabilitation or return to work strategies. This can result in extended workplace absences, reduced productivity and greater organisational uncertainty.

To address these issues, we consider that the statutory timeframe for lodging an application for review should be reduced from three months to 20 business days. Reducing the timeframe would promote earlier engagement with the review process, shorten the period of uncertainty following an insurer's decision, and facilitate more timely access to treatment, rehabilitation and return to work supports if the claim is accepted. It also recognises and supports the administrative non-adversarial nature of the review process and ensures medical and factual evidence remains current.

The change aligns with the principles of early intervention, supports improved return to work outcomes, may reduce the risk of secondary psychological injuries, and better supports the scheme's objectives of delivering timely, fair and effective outcomes for workers and employers.

Importantly, applicants' rights under section 545(4) of the WCR Act to seek an extension of time from the Regulator or additional time to provide information and supporting evidence would remain unchanged. This ensures current procedural fairness and the ability for relevant information and evidence to be considered is maintained.

We also consider that the timeframe for serving an appeal should be extended from 20 to 30 business days, recognising the proposed reduction in the review application period, and the different nature of the appeals process.

A 30-business day appeal period would provide parties with additional time to carefully consider the review decision, obtain legal or professional advice, and prepare the necessary documentation to commence an appeal. Unlike review applications, appeals generally require consideration of detailed review reasons, assessment of legal and factual issues, and evaluation of the merits of commencing further proceedings.

The average time taken to serve an appeal during the last financial year was 30 days. This suggests the current 20-business day timeframe may not always provide sufficient time for parties to assess a review decision and determine whether an appeal should be pursued. Extending the timeframe to 30 business days would better reflect current appeal lodgement patterns while supporting procedural fairness and informed decision-making.

The additional 10 business days is unlikely to materially delay the overall resolution of disputes, particularly when considered alongside the reduction in the timeframe for lodging a review application. On balance, increasing the appeal timeframe from 20 to 30 business days would maintain access to justice while preserving the benefits of earlier

⁴⁵¹ [National Return to Work Strategy 2020-2030](#), and [Return to Work in Psychological Injury Claims](#), Safe Work Australia.

engagement with the review process.

Importantly, the existing ability to apply for an extension of time to serve an appeal should remain unchanged.

WCS Recommendation 34: Timeframe to lodge disputes

That the WCR Act be amended to update the timeframe to lodge an application for review to 20 business days and the timeframe to lodge an appeal to 30 business days.

Decision-making timeframes for reviews

Insurer, legal, industry and worker stakeholders raised concerns regarding delays in review decisions being finalised by the Regulator and the impact these delays have on workers, employers and the scheme.

The current average duration of a review is approximately 65.6 business days, well over the legislated timeframe of 25 business days. We note however, that insurers on average provide their files within 54.1 business days and once a review is allocated to a Review Officer, a decision is made within an average of 16.6 business days. This indicates that overall review timeframes are being primarily impacted by application volumes and delays in allocation rather than the time taken to determine applications once assigned to a Review Officer.

Demand for review services has increased significantly in recent years. In 2025-26, review application volumes increased by 30.3%, influenced in part by growth in applications relating to psychological injury claims. This increase in demand has contributed to longer allocation and overall review timeframes.

The Regulator has implemented a range of operational initiatives to improve review timeliness. These initiatives have contributed to year-on-year going increases in review finalisations since 2022-23, with 14.2% more reviews finalised in 2025-26.⁴⁵²

Notwithstanding these improvements, prolonged review timeframes extend periods of uncertainty for workers and employers, increase worker distress, delay access to rehabilitation and return to work opportunities, and contribute to increased scheme costs. The delays may also reduce the effectiveness of early intervention, which is recognised as an important factor in supporting recovery and return to work outcomes.

We consider it important that the Regulator continue to explore reforms to streamline the review process, to improve timeliness and efficiency while maintaining procedural fairness and the quality and integrity of review decisions. Further that the Regulator consider targeted regulatory action to reduce demand for reviews by supporting improved decision-making and reasons for decisions by insurers. We note our recommendations in 2.2 Psychological injuries that support greater clarification of the definition of injury for psychological injuries, applying more rigour around claims decision-making and upskilling of insurer staff, may assist in reducing demand for reviews and appeals.

⁴⁵² Note 14.2% more review decisions finalised in 2025-26 compared to 2024-25.

WCS Recommendation 35: Decision-making timeframes for Review Unit

That the Workers' Compensation Regulator continue to focus on operational reforms to reduce the timeframes for the Workers' Compensation Review Unit to determine review applications, while maintaining procedural fairness and quality decision-making.

Insurer to apply to Regulator if mistake of fact

Under the WCR Act, there is currently no mechanism for an insurer to seek review by the Regulator where an application for compensation has been accepted based on a mistake of fact. In practice, the only avenue for reconsideration of a decision to allow a claim is where an employer seeks a review under Chapter 13, Part 2 of the WCR Act.⁴⁵³

An insurer stakeholder identified that the current framework does not provide an efficient or transparent mechanism to address circumstances where new information subsequently demonstrates that a decision to accept a claim was based on a material factual error. This can create difficulties in finalising claims that may not be work-related, negatively impact scheme integrity and result in premium consequences for employers.

To address this gap, we consider insurers should be able to apply to the Regulator for a decision on whether a decision to accept an application for compensation was based on a mistake of fact due to the receipt of information that was not reasonably available to the insurer when the original insurer decision was made. This ability does not need to be extended to decisions to reject an application for compensation noting the current review rights.

Under this approach an application would be required to be made to the Regulator within 20 business days of the insurer becoming aware of the relevant information. The Regulator's role would be to determine whether a mistake of fact existed and whether the information was not reasonably available to the insurer at the time the original decision was made. If satisfied the Regulator would set aside the decision and return the matter to the insurer for a fresh decision. Importantly, this approach preserves all parties' rights of review on the insurer's decision.

Importantly, this approach does not provide insurers with a broad right or power to challenge or overturn their own claim decisions and supports quality decision-making in the first instance.

We consider this approach will strengthen scheme integrity and transparency while maintaining appropriate limits and review rights.

WCS Recommendation 36: Decisions to be referred to Review Unit by insurers

That the WCR Act be amended to enable insurers to refer decisions to the Workers' Compensation Regulator for review within 20 business days of becoming aware there was a mistake of fact that was not reasonably available to the insurer at the time of their decision.

⁴⁵³ Note the broader rights of self-insurers to participate as a party to review and appeal proceedings are considered separately in [Self-insurers as a party to reviews and appeals](#).

Appeals for policy and premium matters

The current appeals framework for workers' compensation matters involves different appeal pathways depending on the type of decision being appealed.⁴⁵⁴ Appeals of Regulator review decisions relating to policy and premium matters are currently heard by the Industrial Magistrates Court, while most other workers' compensation appeals are heard by the QIRC. This split jurisdiction can create complexity for scheme participants, results in different appeal processes applying across the scheme, and reduces the consistency of the overall dispute resolution framework.

We consider transferring appeals of Regulator decisions relating to policy and premium matters to the QIRC would establish a single, unified appeal pathway. A consolidated appeal framework would provide greater consistency in the administration and determination of appeals, while improving accessibility and understanding for workers, employers, insurers and other scheme participants.

The QIRC is a specialist tribunal with extensive experience in determining workplace and employment related disputes. Concentrating appeals within a single jurisdiction would support greater consistency in decision-making, reduce the administrative complexity associated with multiple appeal forums, and promote a more consistent approach to the interpretation and application of workers' compensation legislation.

A single appeal pathway would also promote greater efficiency by ensuring appeals are managed through one established tribunal with expertise in workplace matters, reducing the need for stakeholders to navigate different appeal processes depending on the type of decision under consideration.

Consideration could also be given to transferring appeals of non-reviewable workers' compensation decisions and other decisions of the Regulator able to be taken before the Industrial Magistrates Court to the QIRC for full alignment.

WCS Recommendation 37: Appeals for policy and premium matters

That the WCR Act be amended to move appeals for premium and policy matters to the Queensland Industrial Relations Commission.

⁴⁵⁴ s 548A of the WCR Act.

2.11 Governance and management of workers' compensation information

2.11.1 Insurer access to medical information

Background

Access to medical information is central to the effective administration of workers' compensation claims. Insurers rely on this information to determine claims, assess the nature and extent of injuries, evaluate a worker's capacity for work, facilitate rehabilitation and return to work, and administer compensation entitlements.

Information may be obtained from a range of sources, including treating medical practitioners, allied health providers, hospitals, independent medical examiners and other healthcare providers involved in a worker's treatment and recovery.

The scheme relies on worker consent to facilitate insurers' access to information relevant to the assessment and management of claims. As part of an application for compensation, a worker may provide authority for relevant information to be obtained for claim management purposes. Insurers may also seek separate consent from workers during the life of a claim to obtain information from treating practitioners, hospitals and other health providers.

The availability of relevant medical information is largely dependent on workers providing and maintaining appropriate authorities for the release of information and, where required, providing ongoing medical evidence in support of their claim.

The WCR Act contains a range of mechanisms that support the collection of medical information relevant to claim determination, ongoing entitlement to compensation, rehabilitation and return to work. These include powers for insurers to require workers to attend independent medical examinations,⁴⁵⁵ obligations on workers to participate in rehabilitation and return to work activities,⁴⁵⁶ and provisions enabling compensation entitlements to be suspended or stopped where a worker does not comply with certain statutory obligations or where there is insufficient evidence to support an ongoing incapacity arising from the work-related injury.⁴⁵⁷ We note that a failure to participate in rehabilitation⁴⁵⁸ would include where a worker has restricted their ability to achieve the earliest possible return to work or maximise their independent functioning through not providing access to medical information that will support the provision of services, aids, and suitable duties programs.

Stakeholder views

Insurer stakeholders reported challenges obtaining timely access to medical information relevant to the assessment and management of claims.

⁴⁵⁵ s 135 of the WCR Act.

⁴⁵⁶ ss 232 and 231 of the WCR Act.

⁴⁵⁷ ss 232 and 144A of the WCR Act.

⁴⁵⁸ s 40 of the WCR Act.

An insurer stakeholder advised that some medical providers will not release information to insurers under the authority contained within a worker's application for compensation. Instead, providers may require completion of a further consent form before releasing records. It was noted that where a worker declines to provide further consent, insurers may be unable to access information relevant to the claimed injury. An insurer stakeholder also advised that a worker may withdraw consent after it has been provided, which can further restrict insurers' access to information required for claims management.

An insurer stakeholder also raised concerns regarding delays in obtaining hospital records. It was reported that records can take many months to be provided, which may affect the timeliness of claim determinations and other decisions made throughout the life of a claim.

An employer stakeholder advised that information provided by treating medical practitioners and specialists is often limited, which can affect insurers' ability to effectively plan and support rehabilitation and return to work outcomes.

Findings

Insurer stakeholders raised concerns regarding their ability to obtain timely and comprehensive medical information necessary for effective claims management. Medical information is central to determining claims, assessing capacity for work, facilitating rehabilitation and supporting return to work outcomes. Stakeholders advised that limitations in access to relevant and critical medical information can affect the timeliness and quality of claim-related decision-making.

Some insurers rely on medical authorities contained within workers' applications for compensation to obtain medical information. However, the scope of these authorities is not consistent across the scheme and, in some instances, is limited in its operation. Stakeholders reported that this can restrict access to information considered necessary to proactively manage claims and support rehabilitation and return to work outcomes. In particular an insurer stakeholder advised that some healthcare providers do not rely on the authority contained within the application for compensation form and instead require completion of subsequent consent forms before releasing information.

We consider the application for compensation forms approved under the WCR Act should be reviewed to ensure that the medical authorities are robust and suitable. The authority provided in the Notice of Accident Claim Form under the *Motor Accident Insurance Act 1994* may provide a solid basis for consideration.

An insurer stakeholder also noted that, where a worker declines to provide any further consent to a specific healthcare provider, insurers may be unable to access information relevant to the claimed injury. A worker may also withdraw consent during the life of a claim, after which insurers may be unable to continue obtaining information from treating practitioners or engage directly with treating doctors regarding rehabilitation and return to work matters.

Concerns were also raised regarding delays in obtaining information from certain providers, particularly hospital records, which can take many months to be released.

These delays may affect the timeliness of claim determinations, treatment approvals, rehabilitation planning and return to work activities.

The current framework can create operational barriers to effective claims management and may limit insurers' ability to obtain information required to make timely and informed decisions throughout the life of a claim.

We consider it essential that insurers have timely access to relevant medical information to support appropriate claims determination, effective claims management, rehabilitation, and return to work outcomes. Access to relevant medical information enables insurers to assess a worker's entitlement to weekly payments of compensation and medical treatment.

The WCR Act already contains mechanisms to support insurers in responding where access to medical information necessary for the management of claims is restricted by a worker. For example, the Act provides for the suspension or termination of compensation in circumstances where a worker fails to satisfactorily participate in rehabilitation or fails to demonstrate an ongoing incapacity for work.

A review should be undertaken to examine whether insurers are effectively utilising existing legislative mechanisms to terminate or suspend compensation where access to relevant medical information is denied or consent for its release is withdrawn.

The review should consider whether the current legislative framework has any gaps. This should include reviewing the existing consent arrangements and the options available where a worker unreasonably refuses to provide, or subsequently withdraws, consent for the release of information reasonably required for claims management under the WCR Act. It should also consider whether insurers should have the ability to issue a legislative notice to require the provision of medical information in certain circumstances. The review should take into account the nature of the role of insurers, privacy, human rights and the potential suitability of provisions in the *Motor Accident Insurance Act 1994*.

WCS Recommendation 38: Insurer access to medical information

That the Queensland Government, in consultation with the Workers' Compensation Regulator, review insurers' statutory power to access and obtain medical information.

2.11.2 Access to worker's claim history

Background

Workers' compensation claims information is personal information that is generally protected from disclosure under the WCR Act. Historically, there has been a need to balance the protection of workers' privacy with the ability of employers to make informed recruitment decisions and appropriately manage work health and safety risks associated with pre-existing injuries and previous workers' compensation claims.

To support this balance, between 2013 and 2015 the WCR Act contained a mechanism that enabled prospective employers to access a verified workers' compensation claims history summary for a prospective worker, where the worker provided their written

consent. This mechanism was established through the then section 571D, which allowed the Regulator to provide a claims history summary to a prospective employer upon payment of a prescribed fee.⁴⁵⁹

The provision was intended to provide employers with access to reliable claims history information obtained from the workers' compensation scheme, rather than relying on self-disclosure by prospective workers. It also sought to assist employers in assessing an applicant's suitability for particular duties and identifying any workplace adjustments or risk management strategies that may be required.

Recognising the sensitivity of claims history information, section 571D was accompanied by safeguards regulating its use and disclosure. Employers who obtained a claims history summary were prohibited from disclosing the information except as authorised by the WCR Act. These safeguards were intended to ensure that access to claims information occurred within a controlled legislative framework.

Since section 571D was repealed in 2015 there has been no equivalent mechanism under the WCR Act that enables a prospective employer to obtain a verified claims history summary from the Regulator.

Stakeholder views

Stakeholders broadly expressed support for greater transparency and information sharing within the workers' compensation scheme. Employer stakeholders also emphasised the importance of employers having access to relevant information to assist in managing workplace risks, supporting safe return to work outcomes, and meeting work health and safety obligations. A common theme was that improved access to relevant information may assist employers to make informed decisions and implement appropriate measures to support worker health, safety and wellbeing and reduce risks.

Findings

We identified merit in, and support reinstating a mechanism that enables prospective employers to obtain a verified workers' compensation claims history summary from the Regulator, with the informed written consent of the prospective worker. The previous section 571D provided a regulated process for access to this information and its repeal in 2015 removed the only legislative mechanism under the WCR Act through which employers could obtain a verified claims history summary.

Access to a worker's claims history may assist employers in assessing the suitability of applicants for particular roles and in identifying and managing the risk of aggravation of previous workplace injuries. A verified claims history summary may also support employers to make informed decisions regarding work health and safety risk management and any reasonable measures required to support a worker in the workplace.

We consider that allowing access to claims history information should be supported by appropriate privacy and confidentiality safeguards. Consistent with the former section

⁴⁵⁹ inserted in section 98 of the [Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2013](#), omitted by section 30 of the [Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2015](#).

571D, access should only be available with the worker's informed consent and the use and disclosure of information should be strictly limited. In particular, prospective employers should be prohibited from disclosing the contents of, or providing access to, a claims history summary except as authorised under the WCR Act.

WCS Recommendation 39: Access to worker's claims history

That the WCR Act be amended to allow prospective employers to request a prospective worker's claims history summary from the Workers' Compensation Regulator for a fee.

2.11.3 Use of workers' compensation documents for employment purposes

Background

Section 572A of the WCR Act regulates the use of workers' compensation documents for employment-related purposes.⁴⁶⁰ The provision prohibits a person from obtaining or using a workers' compensation document for a purpose relating to a worker's employment, including processes for selecting a person for employment or deciding whether a person's employment should continue. An exception applies to information relating to a worker's capacity for work where the information is necessary to secure the worker's rehabilitation or early return to work.

Section 572A was inserted in 2005 by the *Industrial Relations and Other Acts Amendment Act 2005*.⁴⁶¹ The provision formed part of amendments designed to protect workers from the use of workers' compensation information obtained for the purposes of managing a claim under the WCR Act in employment-related decisions. The provision introduced an offence prohibiting persons from obtaining or using documents relating to a person's application for compensation or claim for damages for purposes associated with employment, including decisions relating to recruitment and the continuation of employment.

The provision was not intended to restrict the use of information where that information will assist a worker's rehabilitation or early return to work. The legislation therefore preserves an exception for documents relating to a worker's capacity for work where the information is required for rehabilitation and return to work purposes.

Since its introduction, the provision has remained a key safeguard regulating the use of workers' compensation information in employment-related decision-making.

Stakeholder views

Employer and insurer stakeholders submitted that section 572A may create unintended practical consequences by limiting the use of workers' compensation information in circumstances where there are legitimate employment-related purposes for accessing or using the information.

⁴⁶⁰ s 572A of the WCR Act.

⁴⁶¹ s 63 of the *Industrial Relations and Other Acts Amendment Act 2005*.

Some stakeholders proposed that consideration be given to introducing additional exceptions to section 572A. It was suggested that any exceptions could be modelled on existing exemptions contained in the Information Privacy Act 2009⁴⁶² to provide greater clarity regarding circumstances in which workers' compensation information may be used for employment-related purposes.

Stakeholders also submitted that the current restrictions may result in duplication of processes, including the need for workers to undergo repeated medical assessments or provide the same information through multiple channels. It was suggested that reasonable exceptions could reduce administrative burden and improve information sharing where there is a legitimate operational need.

A number of stakeholders supported broader reform of section 572A, including removal of the provision or amendments to expand the circumstances in which workers' compensation documents may be accessed and used for employment purposes.

Stakeholders further submitted that the current prohibition may limit an employer's ability to address unacceptable worker conduct arising during the claims process where relevant information is contained within workers' compensation documents. It was suggested that consideration be given to permitting the use of information for specific employment-related purposes where appropriate safeguards are in place.

Findings

Section 572A was introduced in 2005 to protect workers from the use of workers' compensation information in employment-related decision-making, while preserving access to information required to support rehabilitation and return to work outcomes. The provision ensures workers are not disadvantaged because they have accessed workers' compensation entitlements, and their personal information is only able to be disclosed or used for the purpose that it was obtained under the WCR Act.

Stakeholders raised concerns regarding the practical operation of section 572A and whether the provision continues to strike an appropriate balance between protecting worker privacy and supporting legitimate employment and workplace management functions. Stakeholders submitted that the broad prohibition on obtaining and using workers' compensation documents for employment purposes may give rise to unintended consequences and restrict the use of information in circumstances where there is a legitimate operational need.

Given the provision has remained largely unchanged since its introduction in 2005, we consider there is value in reviewing whether section 572A remains fit for purpose. In particular, consideration should be given to whether the current legislative provision appropriately balances worker privacy protections with the legitimate need for employers to access and use information in limited and clearly defined circumstances.

The review should examine the original policy intent and practical operation of section 572A, including whether the existing exception for rehabilitation and return to work remains appropriate and whether additional exceptions should be considered. The

⁴⁶² [Ch 3A, Pt 3, Div 3](#) and [Sch 3](#) and [4](#) of the *Information Privacy Act 2009*

review should also assess whether the current restrictions create unintended barriers to rehabilitation, return to work, work health and safety, or workplace management.

Consideration should be given to circumstances where access to, or use of, workers' compensation information may support broader scheme objectives, including the identification and management of health and safety risks, investigation of workplace incidents, identification of systemic hazards, and implementation of measures to prevent further workplace injuries. Greater access to relevant information in clearly defined circumstances may assist employers to identify and address risks earlier, contributing to improved work health and safety outcomes.

Any review should ensure that appropriate safeguards remain in place to protect workers from unfair, discriminatory or inappropriate use of workers' compensation information which has been obtained solely for the purpose of managing a workers' compensation claim under the WCR Act. Consideration should also be given to whether greater alignment with exemptions contained in other legislative information-sharing frameworks would improve the clarity and operation of section 572A.

WCS Recommendation 40: Use of workers' compensation documents for employment purposes

That the Queensland Government, in consultation with the Workers' Compensation Regulator, review employers' permissible access to and use of workers' compensation information.

2.11.4 Provision of information statements

Background

The *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024* introduced section 46B into the WCR Act.⁴⁶³ The provision requires employers to provide workers with an information statement about the workers' compensation scheme before, or as soon as practicable after, commencement of employment, unless the worker has received the statement from the same employer within the preceding 12 months. Non-compliance attracts a maximum penalty of 50 penalty units.

Section 46B was introduced to improve worker awareness of rights, entitlements and obligations under the scheme. The provision forms part of a broader package of reforms aimed at strengthening worker protections, increasing transparency and supporting informed participation in the claims, rehabilitation and return to work processes.

The WCR Regulation requires information statements to be in an approved form and include information about key worker rights, including access to compensation, choice of treating practitioner, participation in rehabilitation and return to work planning, and access to legal or industrial representation.⁴⁶⁴

While the legislative requirement commenced on 1 January 2025, implementation is dependent on the approval of an information statement by the Regulator. To date, the

⁴⁶³ s 29 of the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024*.

⁴⁶⁴ s 209 of the WCR Regulation.

Regulator has not approved a statement for this purpose and as a result, this requirement on employers is not presently operational. Section 46B of the WCR Act is separate from the requirements under section 132AA of the WCR Act, which require insurers to provide approved information statements to injured workers and employers after a workers' compensation claim is lodged. The section 132AA requirements also commenced on 1 January 2025 and an information statement has been approved by the Regulator.

Stakeholder views

A worker representative stakeholder supported retaining the commencement of the employment information requirement under section 46B but considered that it does not adequately address circumstances where workers sustain a work-related injury. The stakeholder noted that workers may mistakenly believe that lodging an internal injury management notification, or applying for leave associated with a work-related injury, initiates a workers' compensation claim. In their view, these misunderstandings can materially prejudice injured workers.

The stakeholder acknowledged that section 46B requires employers to provide workers with information about the workers' compensation scheme at, or shortly after, the commencement of employment. However, they considered that information provided at the commencement of employment may not be remembered, understood or readily accessible when a worker sustains an injury, particularly where the injury occurs years after employment commenced. The stakeholder submitted that the information is most relevant when the employer becomes aware that a worker has sustained, or may have sustained, a potentially compensable injury. Accordingly, the stakeholder proposed that employers be required to provide a workers' compensation information statement at that point in time.

An employer representative stakeholder proposed repealing section 46B of the WCR Act. The stakeholder noted that the provision commenced on 1 January 2025 and requires employers to provide workers with a Regulator-approved information statement. However, they observed that no approved information statement has been made available to employers since the provision commenced. The stakeholder submitted that, given the continued absence of an approved statement, there appears to be no intention to activate the provision.

A stakeholder also noted that workers periodically enquire about the mandatory information statement, requiring an explanation that no approved statement is currently available. In light of the continuing absence of an approved statement, the stakeholder considered that section 46B should be repealed.

Findings

Section 46B is not currently operational, as the provision is contingent on the approval of a workers' compensation information statement by the Regulator, and no approved statement has been made available since the provision commenced on 1 January 2025.

It is important that workers receive information about their rights and entitlements under the scheme at a time when that information is accurate, relevant and most likely

to be used. While information provided at the commencement of employment may assist some workers, it may not be readily accessible or recalled when a work-related injury subsequently occurs.

On balance, the provision of publicly available information published by the Regulator and WorkCover and Regulator-approved information statements provided by insurers supports worker awareness of rights to claim compensation and informed participation in the scheme, while minimising unnecessary regulatory burden on employers.

Information provided after a claim has been lodged is more likely to be accurate, timely and relevant to the worker's circumstances. Accordingly, the existing requirement under section 132AA of the WCR Act for insurers to provide Regulator-approved information statements to workers and employers following claim lodgement remains appropriate.

In light of the above, we consider it appropriate to remove the requirement that employers provide an information statement on commencement of employment to workers.

WCS Recommendation 41: Provision of information statements

That the WCR Act be amended to remove the requirement that employers provide an information statement on commencement of employment.

2.11.5 Interagency and industry collaboration

Background

The scheme and Workplace Health and Safety Queensland (WHSQ) frameworks operate under separate legislative schemes with distinct objectives, responsibilities and regulatory functions. In Queensland, the workers' compensation framework is established under the WCR Act and provides a no-fault statutory scheme that supports workers who sustain work-related injuries or illnesses through compensation, rehabilitation and return to work assistance. The scheme also provides access to common law damages in certain circumstances.

In contrast, WHSQ is responsible for regulating and promoting work health and safety in Queensland to prevent work-related injury, illness and fatalities. WHSQ administers and enforces the WHS Act and associated legislation through a range of functions, including workplace inspections, incident investigations, compliance and enforcement activities, prosecutions, and education and advisory services for employers, workers and other duty holders.

While the workers' compensation and WHSQ frameworks may respond to the same workplace incidents, they serve distinct legislative purposes and perform different functions. The separation of these frameworks under different legislative schemes means information sharing and coordination between the frameworks can be limited.

Stakeholder views

Employer and worker representative stakeholders were broadly aligned in their support for reforms that strengthen the prevention of psychosocial hazards through improved

coordination between the scheme and WHSQ. Employer representatives emphasised the value of enhanced data and information sharing regarding WHS outcomes, regulatory actions and workplace interventions. Worker representatives similarly supported stronger preventative measures and advocated for greater alignment between the workers' compensation scheme and employers' WHS obligations, particularly in relation to workplace sexual harassment.

Findings

Consultation identified opportunities to strengthen coordination and information sharing between the scheme and WHSQ where matters intersect. Stakeholders noted that the separation of operational and regulatory functions across the Regulator, WHSQ, insurers and industry can limit visibility of emerging issues, reduce opportunities for early intervention, and constrain the sharing of information that could support prevention and improved system performance.

There may be value in examining opportunities to improve collaboration, communication and information exchange across relevant entities, while maintaining the distinct legislative purposes and responsibilities of the scheme and WHSQ. Enhanced coordination may support earlier identification of trends and risks, more informed regulatory and policy decision-making, and stronger alignment between prevention, injury management and return to work outcomes.

Accordingly, it is recommended that the OIR Leadership Team investigate systems, practices and policies that may strengthen operational coordination between the Regulator, WHSQ, insurers and industry stakeholders. Improved communication channels, information flows and governance arrangements may support more proactive and efficient operations, contribute to the prevention of workplace injuries, assist in reducing claims costs and support scheme sustainability.

The objective is not to blur the distinct roles and functions of the scheme and WHSQ. Rather, both systems may benefit from enhanced cooperation where there are shared stakeholders, overlapping information needs or related policy considerations, while preserving the integrity of each framework's legislative purpose and regulatory responsibilities.

WCS Recommendation 42: Collaboration between the workers' compensation scheme, Workplace Health and Safety Queensland and industry

That the leadership of the Office of Industrial Relations investigate and consider the systems, practices and policies necessary to maximise coordination between workers' compensation, workplace health and safety and industry, without compromising the objectives of either system.

Appendix A: Current self-insurers

Aged Care Employers Self-Insurance Group

Arnott's Biscuits Limited

Aurizon Operations Limited

BHP Group Limited

Brisbane City Council

CSR Limited

Coles Group Limited

Collins Foods Limited

Endeavour Group Limited

Gold Coast City Council

Inghams Enterprises Pty Limited

JBS Australia Pty Limited

Liberty Holdings Australia Ltd

Local Government WorkCare

Qantas Airways Limited

Queensland Rail Limited

South32 Cannington Pty Ltd

Teys Australia Meat Group Pty Ltd

The Star Entertainment Group Limited

The University of Queensland

Toll Holdings Limited

Townsville City Council

UnitingCare Queensland Limited

Wesfarmers Limited

Westpac Banking Corporation

Wilmar Sugar Pty Ltd

Woolworths Group Limited.

