



Australian Government

Comcare

Cost recovery impact statement

NOVEMBER 2009 – REGULATION OF SELF INSURANCE LICENSEES

the *Journal of Applied Behavior Analysis* (JABA) and the *Journal of Experimental and Applied Behavior Analysis* (JEA).

The *Journal of Applied Behavior Analysis* (JABA) is a peer-reviewed journal published by the American Psychological Association (APA). It focuses on the application of behavior analysis to various fields, including education, mental health, and social work.

The *Journal of Experimental and Applied Behavior Analysis* (JEA) is a peer-reviewed journal published by the American Psychological Association (APA). It focuses on the experimental and applied aspects of behavior analysis, including research on learning, memory, and problem-solving.

Both journals are highly respected in the field of behavior analysis and provide a platform for researchers to share their findings and advance the science of behavior.

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1. Overview

1.1 Purpose

This Cost Recovery Impact Statement (CRIS) represents an update of the previous CRIS endorsed by Comcare's CEO on 7 May 2008.

Comcare recovers from self insurance licensees, the costs incurred by Comcare and the Safety, Rehabilitation and Compensation Commission (the Commission) in carrying out their respective functions under the *Safety Rehabilitation and Compensation Act 1988* (SRC Act) and the *Occupational Health and Safety Act 1991* (OHS Act).

The purpose of this CRIS is to demonstrate Comcare's compliance with the *Australian Government's Cost Recovery Guidelines* (Cost Recovery Guidelines).

1.2 Background

Section 100 of the SRC Act provides for the Minister to declare certain Commonwealth authorities or private sector corporations eligible to be granted a licence. There is no fee associated with the declaration.

Following that declaration, the eligible corporation may make an application to the Commission under section 102 of the SRC Act for the grant of a licence to self insure its workers' compensation liabilities under the SRC Act. Section 98A of the SRC Act enables the Commission to grant licences to Commonwealth authorities or eligible corporations.

Following the grant of a licence, Comcare performs a program of regulatory oversight of the licensee to ensure the licensee meets the Commission's conditions of licence. This includes prudential conditions, performance against the Commission's performance indicators, the results of external or self audits, the licensees' improvement program reports, OHS investigations and audits and administration and review of OHS notifications.

Section 104A of the SRC Act provides for an annual licence fee payable by the licensees associated with the estimated cost incurred by the Commission and Comcare in carrying out their respective functions under the SRC Act and the OHS Act. Section 104A (4) specifies that the licence fee is payable to Comcare.

Licence fees increased from \$8.691 million in 2008-09 to \$10.795 million in 2009-10. The licence fees charged in 2008-09 were significantly lower than the actual costs of regulating self-insurance licensees in 2008-09. The increase in licence fees in 2009-10 was driven by this and the determination of the appropriate resources that the Commission and Comcare would require to continue to be a responsible regulator.

1.3 Australian Government Cost Recovery Policy

In December 2002, the Australian Government adopted a formal cost recovery policy to improve the consistency, transparency and accountability of its cost recovery arrangements and promote the efficient allocation of resources. The underlying principle of the policy is that entities should set charges to recover all the costs of products or services where it is efficient and effective to do so, where the beneficiaries are a narrow and identifiable group and where charging is consistent with Australian Government policy objectives. Cost recovery policy is administered by the Department of Finance and Deregulation and outlined in the Cost Recovery Guidelines.

The policy applies to all *Financial Management and Accountability Act 1997* (FMA Act) agencies and to relevant *Commonwealth Authorities and Companies Act 1997* (CAC Act) bodies that have been notified. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring entities' implementation and compliance with the Cost Recovery Guidelines.

2. Policy review – analysis of activities

The methodology that Comcare uses to calculate the licence fees is designed to ensure that:

- licence fees reflect resources used in servicing and the benefits accruing to individual licensees
- the Commissions complies with its statutory obligation to recover the estimated costs of regulating licensees.

Description of Activity

Under the Commonwealth workers' compensation scheme, a licensee is an organisation approved by the Commission to meet the cost of its workers' compensation liabilities and manage its own workers' compensation claims.

Certain Commonwealth authorities and eligible private corporations may apply for a licence to self-insure under the SRC Act. Licensees under the SRC Act are also covered by the Commonwealth's OHS Act, thereby providing consistent health and safety arrangements for licensees in the Comcare scheme.

The Commission and Comcare undertake a range of regulatory activities in relation to these licensees under the SRC and OHS Acts.

Stakeholders

Stakeholders are the Commonwealth authorities and corporations who have been granted a licence for self insurance. The following is a list of licensees as at 1 July 2009:

Asciano (Formerly Pacific National (ACT) Limited)	John Holland Pty Ltd
Australian air Express Pty Ltd	John Holland Rail Pty Ltd
Australian Postal Corporation	K&S Freighters Pty Ltd
Avanteos Pty Ltd	Linfox Australia Pty Ltd
BIS Industries Ltd	Linfox Armaguard Pty Ltd
Border Express Pty Ltd	National Australia Bank Limited
Chubb Security Services Limited	National Wealth Management Services Limited trading as MLC
Colonial First State Property Management Pty Ltd	Optus Administration Pty Limited
Colonial Services Pty Ltd	Reserve Bank of Australia
Commonwealth Bank of Australia Limited	Telstra Corporation Limited
Commonwealth Insurance Ltd	Thales Australia (Formerly ADI Limited)
Commonwealth Securities Ltd	TNT Australia Pty Ltd
CSL Pty Ltd	Transpacific Industries Pty Ltd
Fleetmaster Services Pty Ltd	Visionstream Pty Ltd
John Holland Group Pty Ltd	

On 11 December 2007, the Minister for Education, Employment and Workplace Relations, the Hon Julia Gillard MP, announced that: 'the Rudd Government has placed a moratorium on new applications from private corporations wanting to move to the Comcare workers' compensation scheme'. This moratorium remains in place and Comcare has assumed that no new licensees will enter the scheme in current or future financial years for the purposes of this CRIS.

Conclusion

The charging of licence fees for self insurers in the Comcare scheme complies with the principles outlined in the Cost Recovery Guidelines. It is appropriate and equitable that those organisations that apply for a self insurance licence meet the estimated costs of regulating them. Further, the SRC Act requires that the estimated costs of regulating licensees under the SRC and OHS Act are recovered through an annual licence fee.

3. Design and implementation

3.1 Basis of charging licence fees

The licence fee comprises two components:

- SRC Act regulation
- OHS Act regulation.

The above components of the licence fees are determined as follows:

- The estimated total costs of the Commission and Comcare in carrying out their respective functions under the SRC Act and OHS Act in the financial year to which the fee applies. Activity based costing is used to estimate these costs.
- These costs are then distributed to individual licensees using pricing models to estimate reasonably referable costs.

3.2 Legal requirements for the imposition of licence fees

The legal authority for the charging of the annual licence fee (both the SRC and OHS Act component) is provided under section 104A of the SRC Act.

3.3 Costs included in licence fees

The table below outlines the estimated costs that will be incurred by Comcare and Commission in regulating licensees. The costs included below are net of other regulatory income (eg interest, external training income, conference income, etc).

Table 1 – Licence fee cost components

Expense category	Explanation	Rationale for inclusion	SRC Act \$'000	OHS Act \$'000	2009-10 Licence fee \$'000
Employee expenses	Staff salaries and related expenses	Direct and indirect costs attributed to regulation of licensees	2 873	4 110	6 983
Suppliers	General administrative costs, e.g. ICT, property overheads, etc	Direct and indirect costs attributed to regulation of licensees	1 477	1 784	3 261
Depreciation and amortisation	Relates to office fit outs, ICT equipment and corporate software	Direct and indirect costs attributed to regulation of licensees	247	304	551
Total			4 597	6 198	10 795

Comcare does not include a user capital charge in compiling SRC and OHS Act regulatory costs to be recovered from licensees. The rationale for not including a capital user charge is that Comcare does not own significant assets that would require the inclusion of this cost. Comcare's assets comprise office fit outs, vehicles, office equipment and software. Comcare recovers the cost of the consumption of these assets through the inclusion of depreciation expenses in the licence fees.

Section 104A of the SRC Act requires Comcare to recover the estimated cost incurred by the Commission and Comcare in carrying out their respective functions under the SRC and OHS Acts. Comcare recovers the estimated costs based on budgets prepared for the year. Potential over or under recoveries may be included in the following years calculation of the costs to be recovered from licensees.

3.4 Outline of charging structure

The principles used in the charging structure of the annual licence fee are:

- Fees reflect the Commission's and Comcare's costs in carrying out their functions under the SRC Act and the OHS Act.
- The methodology for fee calculation and allocation is transparent and equitable.
- Embodies user pay and acknowledges activity costs.
- Licensees as a group share an appropriate level of the Comcare scheme costs.

SRC Act regulation component

The pricing methodology consists of a three-part fee structure as follows:

Base fee: This is a flat fee designed to pay for the fixed overhead costs and activities associated with Comcare's capacity to service all licensees regardless of their size or performance. The costs included in the base fee include items such as central office accommodation, corporate ICT systems, accounting and executive management. The variable costs and overheads, directly supporting the delivery of SRC regulatory services, are recovered through the Licensee specific costs and FTE fees as detailed below.

The base fee has not been revised since the SRC pricing methodology was introduced in 2005-06 and the rate was set at \$30 000. The base fee was increased in 2009-10 to \$45 000 to take account of Comcare's contemporary operating costs and to match the overall increase in SRC Act costs referable to licensees.

Licensee specific costs fee: The fee is linked to the Commission Tier Model. The Tier Model examines the licensee's performance against its conditions of licence and the requirements of the regulatory environment and allocates a tier rating based on performance, maturity and capacity to self-manage. The tier model dictates the level and type of regulatory oversight required by Comcare and the Commission. This ranges from direct audit by Comcare of a licensee at tier one through to self-audit status being applied to a licensee at tier three. The greater the need for regulatory oversight (ie direct audit by Comcare), the greater the licensee specific cost fee for the licensee.

This fee is allocated to licensees based on charges for:

- prevention audits
- claims audits
- rehabilitation audits
- quarterly financial monitoring
- annual desktop financial review
- general regulatory activity and administration
- licence renewal.

The charge rates and in some case the days allocated to particular functions, were reviewed to take account of current estimates of resources involved as well as direct costs incurred in undertaking these functions. The costs of engaging external consultant expertise and the rates for activities undertaken by Comcare staff have also been reviewed and consistently priced for all activity types. This review has resulted in a number of changes in the charges for individual activities in 2009-10.

FTE fee: This fee relates to general SRC advice, policy and regulatory development costs across clients on a 'level of benefit received' basis. This recognises that Comcare needs to maintain a critical mass of resources in the SRC area irrespective of the performance of licensees. This means that larger organisations who have more staff covered for workers' compensations purposes under the SRC Act incur a larger proportion of costs than smaller organisations with fewer staff who receive less benefit.

This component of the fee also recognises the fact that the costs incurred by Comcare in the provision of SRC advice, policy and regulatory development depends on the size of the SRC jurisdiction. The larger the number of employees (FTE) in the jurisdiction, the more resources Comcare needs to maintain to provide advice and regulatory development services. Comcare needs to maintain a certain level of resources, critical mass, which reflects the number of employees in the jurisdiction. Therefore the allocation of these costs based on FTE closely reflects the consumption of these services by licensees.

OHS Act regulation component

The pricing methodology consists of a three-part fee structure as follows:

Base fee: This fee is designed to pay for the fixed overhead costs and activities associated with Comcare's capacity to service all licensees regardless of their size. The costs included in the base fee include items such as central office accommodation, corporate ICT systems, accounting and executive management. The variable overheads, directly supporting the delivery of OHS services, are recovered through the risk related and FTE fee components as detailed below.

In setting the base fee, Comcare uses its overhead cost allocation model to reflect the estimated fixed costs that Comcare incurs for OHS regulation. The base fee for 2009-10 is shown in the table below:

Table 2 – OHS base fee schedule

Level	Number of employees (FTE)	\$
Level 1	0-50	n/a
Level 2	51-250	4 568
Level 3	251-1 000	13 973
Level 4	1 001 and above - equal share of cost pool	54 870

Risk-related fee: This fee component relates to both the reactive investigative work, which Comcare undertakes in response to incidents, and assurance related work (planned investigations). In the interim, Comcare is using relative notional premium to attribute these costs to individual licensees, as an approximation of the expected regulatory effort that will be applied to each licensee. However, as further performance and operational data becomes available, this component will be refined further, by using actual data for each licensee, instead of the notional premium.

An entry fee of 20 per cent on the risk related component of the fee is charged to new entrants for the first two years of their licence on the basis that Comcare has an increased level of regulatory oversight in the first two years until the licensees have demonstrated their performance under the Comcare scheme. The entry fee is applied to the risk component of the fee on the basis that Comcare applies its resources to new entrants mostly based on the risk profiles rather than size.

FTE based fee: This relates to general OHS advice, compliance assistance, policy and regulatory development costs across clients on a 'level of benefit received' basis. This recognises that Comcare needs to maintain a critical mass of resources in OHS regulation irrespective of the risk profiles of licensees. This means that larger organisations who have more staff protected through OHS policy incur a larger proportion of costs than smaller organisations with fewer staff who receive less benefit.

This component of the fee also recognises the fact that the costs incurred by Comcare in the provision of OHS advice, policy and regulatory development depends on the size of the OHS jurisdiction. The larger the number of employees (FTE) in the jurisdiction, the more resources Comcare needs to maintain to provide advice and regulatory development. Comcare needs to maintain a certain level of resources, critical mass, which reflects the number of employees in the jurisdiction. Therefore the allocation of these costs based on FTE closely reflects the consumption of these services by licensees.

3.5 Summary of charging arrangements

Table 3 – Licence fee charges

Activity	Method of recovery	Volume of activity	2008-09 Price	2009-10 Price	2009-10 Licence fees actual \$'000	2010-11 Licence fees estimate \$'000	2011-12 Licence fees estimate \$'000
SRC Act component							
1.1	Base fee – for generic regulatory services	29 Licensees	\$30 000	\$45 000	1 305	1 344	1,384
1.2	Specific costs fee – direct licensee regulatory oversight	Variable – depending on size, tier status and licence expiry of each licensee	<ul style="list-style-type: none"> Prevention audit \$6 000 per day Claims audit \$4 000 per day Rehabilitation audit \$4 000 per day Quarterly financial monitoring \$4 400 per annum Annual desktop financial review \$5 000 per annum General regulatory activity and administration five days @ \$3 000 per day Licence renewal four days @ \$3 000 per day 	<ul style="list-style-type: none"> Prevention audit \$6 500 per day Claims audit \$5 000 per day Rehabilitation audit \$5 000 per day Quarterly financial monitoring \$6 000 per annum Annual desktop financial review \$5 000 per annum General regulatory activity and administration seven days @ \$2 500 per day Licence renewal five days @ \$2 500 per day 	2 050	2 110	2,174
1.3	FTE fee – SRC policy development and advice	161 338 FTE (2009-10)	\$5.63 per FTE	\$7.70 per FTE	1 242	1 279	1 318

Activity	Method of recovery	Volume of activity	2008-09 Price	2009-10 Price	2009-10 Licence fees actual \$'000	2010-11 Licence fees estimate \$'000	2011-12 Licence fees estimate \$'000
OHS Act component							
2.1	Base fee – fixed overhead costs of regulation	29 Licensees (allocated based on levels – see section 3.4)	\$0 - \$42 158 (allocated based on levels – see section 3.4)	\$0 - \$54 870	1 236	1 272	1 310
2.2	Risk fee – for monitoring compliance and audits	29 Licensees 250 Investigations 6 000 notifications (allocated based on relative notional premium)	\$1 317 - \$666 784	\$1 408 - \$713 094	3 887	4 004	4 124
2.3	FTE fee – OHS policy development, compliance assistance and advice	161 338 FTE (2009-10)	\$5.26 per FTE	\$6.66 per FTE	1 075	1 108	1 140
					10 795	11 117	11 450
Total fee for service							
Total levy recovered					n/a	n/a	n/a
TOTAL					10 795	11 117	11 450

4. Ongoing monitoring

4.1 Monitoring mechanisms

Comcare monitors the cost recovery arrangements by comparing licence fee income (and other regulatory income) against the costs of SRC and OHS Act regulation on a monthly basis. Comcare will adjust the licence fees where necessary to align with the actual costs of licensee regulation, documenting these adjustments where required by the cost recovery policy.

4.2 Stakeholder consultation

The SRC Act pricing methodology has been in place since 2005-06 and Comcare undertook extensive consultation with licensees as part of the development of this methodology.

The current OHS Act pricing methodology was introduced in 2008-09 and licensees were involved in extensive consultation during 2007-08 prior to the finalisation and implementation of the methodology. Further enhancements to OHS pricing methodology as noted in section 3.4 above will be developed during 2009-10 in consultation with licensees prior to endorsement of the changes by the Commission and implementation for the 2010-11 licence fees.

Licensees were briefed on the 2009-10 pricing methodology and licence fees at the Licensee-Comcare Consultative Forum in March and June 2009. The key issues raised as part of these briefings were around the quantum of the increases in licence fees and some elements of the charging arrangements for the SRC Act licensee specific cost fee. Further consultation with licensees on these issues will occur as part of the review of the OHS pricing methodology in 2009-10 noted above.

4.3 Periodic review

The licence fees and the pricing model are reviewed on an annual basis. The estimated costs of SRC Act and OHS regulation are calculated through the annual budget process and a recommendation is made to the Commission on the fees to be charged for the following financial year.

5. Certification

I certify that this CRIS complies with the *Australian Government Cost Recovery Guidelines*.



Paul O'Connor
Chief Executive Officer
Comcare

20 November 2009

6. Cost recovery links

The *Australian Government Cost Recovery Guidelines* and the accompanying Finance Circulars can be found at:

<http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/cost-recovery.html>

For proposals that involve regulation or amendment to regulation that affects business, a Regulation Impact Statement is required. Contact the Office of Best Practice Regulation for further information below:

<http://www.finance.gov.au/obpr/index.html>



