



Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2007 (SRCOLA)

The following table provides a brief summary of changes to the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) by the passage of the SRCOLA Act by the House of Representatives on Thursday 29 March 2007 and now having been given its Royal Assent on 12 April 2007.

A copy of the Act, the Bill and explanatory memoranda is currently available on Comcare’s website www.comcare.gov.au

Please consolidate any enquiries through your Corporate HR Manager.

Type Section of SRC Act	Amendment	Date of effect/application
<p>Change to liability rules</p> <p>Section 4 Interpretation</p> <p>[Disease contribution by employment]</p>	<p>The definition of <i>disease</i> is repealed and the new definition appears in new section 5B. New subsection 5B(1) defines <i>disease</i> to mean an ailment suffered by an employee, or an aggravation of such an ailment, that was contributed to, to a <i>significant degree</i>, by the employee's employment by the Commonwealth or a licensee. New subsection 5B(3) then defines <i>significant degree</i> to mean a degree that is substantially more than material. The matters to be taken into account when considering significant are contained in 5B(2).</p>	<p>On and from 13 April 2007.</p>
<p>Change to liability rules</p> <p>Section 4 Interpretation</p> <p>[Injury and exclusionary provisions]</p>	<p>The definition of <i>injury</i> is repealed and the new definition is relocated to new section 5A. The new definition retains all the elements of the existing definition of <i>injury</i> but extends the exclusionary provisions.</p> <p>New subsection 5A(1) will provide that a disease, injury or aggravation suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee’s employment is excluded from the definition of <i>injury</i>. Examples of matters which constitute ‘reasonable administrative action’ are provided in 5A(2).</p>	<p>On and from 13 April 2007.</p>
<p>Change to liability rules</p> <p>Section 6 Injury arising out of or in the course of employment [removes coverage for journey and recess claims]</p>	<p>The amendments will provide that injuries incurred while an employee was temporarily absent from the workplace during an ordinary recess in employment will generally not be compensable (not injuries arising out of, or in the course of, employment).</p> <p>New paragraph 6(1)(d) will provide that the SRC Act will apply to injuries that occur while the employee was travelling, at the request or direction of the employer, for the purposes of the employment.</p>	<p>On and from 13 April 2007.</p>



	<p>New subsection 6(1C) makes clear that normal travel between an employee's residence and usual place of work is not taken at the direction or request of the employer and is therefore not compensable.</p> <p>As a result of a government amendment, a new paragraph 6(1)(g) will include coverage travel between work and a place for the purposes of:</p> <ul style="list-style-type: none"> • education (such as to an approved course) • to receive medical treatment for an injury • to undergo a rehabilitation program provided under the SRC Act, and • to undergo a medical examination or rehabilitation assessment in accordance with a requirement made under the SRC Act. <p>Workers' compensation will continue to be payable in respect of injuries arising from circumstances where an employer is able to take reasonably practicable steps to protect an employee, eg when the employee remains at the workplace during a recess or leaves the workplace for the purposes of his or her employment or at the employer's direction.</p>	
<p>Change to Benefit (funeral)</p> <p>Section 18 Increase in Funeral expenses</p>	<p>The new subsection 18 (4) increases the maximum lump sum amount of compensation for a funeral to \$9,000 (to be indexed in accordance with section 13). In addition, new paragraph 18(4)(b) enables the maximum amount of benefit to be increased by regulation should the indexation adjustments not keep pace with real costs.</p>	<p>On and from 13 April 2007 where date of death is after this date.</p>
<p>Change to Benefit (incapacity)</p> <p>Section 4 Interpretation</p>	<p>The definition of suitable employment in 4(1) is amended to allow consideration of an employee's capacity to work outside Commonwealth employment (or employment by a licensed corporation) when calculating their weekly incapacity payments under section 19 of the SRC Act - regardless of the circumstances of separation from employment.</p>	<p>For weeks of incapacity determined on and from 13 April 2007, for both new and existing claims.</p>



<p>Change to Benefit (incapacity) Section 4 Interpretation</p>	<p>The definition of <i>superannuation scheme</i> is amended to include <i>retirement savings account</i>. The relevant retirement savings account has to be one to which the employer also made contributions, as it is only the employer’s contributions that are taken into account for the purposes of sections 20, 21 and 21A.</p>	<p>On and from 13 April 2007 for new retirees only (first determinations of section 20,21,21A only).</p>
<p>Change to benefit (incapacity) Section 20,</p>	<p>To restore the original policy intention of the Act, the new s20 formula aims to set a standard compensation payment at 70 per cent of normal weekly earnings by, for new retirees from date of proclamation, replacing “SC” in the formula with “5% of employee’s normal weekly earnings”.</p>	<p>From 27 April 2007.</p>
<p>Change to benefit (incapacity) Sections 21 and 21A Incapacity benefit for retirees in receipt of superannuation</p>	<p>The above change from “SC” to “5%” will apply to new retirees. In addition, for all the employees under section 21 and 21A the interest rate applying to lump sums (interest deeming rate) will be that set under the new subsection 21(5) and be set equivalent to market rates – likely to be the average 10 year government bond rate for the previous 12 months (reviewed yearly).</p>	<p>From 27 April 2007 at a rate of 5.72%</p>
<p>Administration Section 16 Medical expenses</p>	<p>Where a medical account is payable under this section, these amendments will provide that if the employee has paid the account, reimbursement of the cost of the medical treatment will be at the direction of the employee, which may be to the employee – [amended paragraph 16(4)(a)]; and if the cost of the medical treatment has not been paid, then Comcare may make the payment direct to the person to whom the cost is payable, without needing to seek a direction from the employee – [amended paragraph 16(4)(c)].</p>	<p>On and from 13 April 2007.</p>
<p>Administration Section 8 Indexation</p>	<p>New subsections 8(9E), (9F) and (9G) provide for a current employee’s NWE to be updated by reference to a prescribed index, where the NWE cannot otherwise be updated under the existing provisions of section 8.</p>	<p>For new claims and existing claims from 1 July 2007 then annually.</p>



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<p>Administration Sections 20, 21 Incapacity benefit for retirees in receipt of superannuation</p>	<p>The new subsections have been drafted to make clear that irrespective of the actual date of retirement, if the employee has an entitlement to weekly incapacity payments and also has a superannuation entitlement, then the weekly compensation payments are to be adjusted in accordance with section 20, 21, or 21A.</p>	<p>On and from 13 April 2007 for new retirees only.</p>
<p>Administration Section 37 Rehabilitation program</p>	<p>The proposed new subsection 37(1) provides that a rehabilitation authority may make a determination that an injured employee should undertake a rehabilitation program. New subsection 37(2) provides that, if the rehabilitation authority has made a determination under subsection 37(1), the rehabilitation authority may provide the rehabilitation program itself, or make arrangements with a Comcare approved rehabilitation provider to provide the program.</p>	<p>On and from 13 April 2007 for new s37(1) determinations.</p>