



COMPENSATION FOR HOUSEHOLD SERVICES

The purpose is to provide scheme guidance to relevant authorities¹ and their claims managers about the provision of household services under subsection 29(1) of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

BACKGROUND

Where the relevant authority accepts a workers' compensation claim, it may be liable to pay compensation for household services if an employee reasonably requires the assistance for their compensable condition, under subsection 29(1) of the SRC Act.

Compensation for household services is not payable for the first 28 days after an employee's injury unless the relevant authority determines otherwise due to financial hardship or the need to supervise dependent children.²

There are two statutory requirements that must then be satisfied:

1. The services provided meet the definition of household services;³ and
2. The services are reasonably required as a result of the employee's injury.

The SRC Act provides a non-exhaustive list of matters that claims managers may take into account when determining whether the services are 'reasonably required'.⁴

Relevant cases

Court decisions provide some insight about the meaning of household services, whether reasonably required and the maximum weekly amount of compensation. The key findings are:

- > 'household' should be interpreted as the house and the area immediately surrounding a dwelling⁵
- > In relation to rural properties, a more generous view of the area surrounding the house may be taken⁶
- > An employee may require household services when they are not at home. For example, when they are in hospital.⁷

1 Subsection 4(1) of the SRC Act defines relevant authority: in relation to an employee who is employed by a licensee the licensee and in relation to any other employee Comcare.

2 Subsection 29(5) of the SRC Act.

3 Subsection 4(1) defines household services: in relation to an employee, means services of a domestic nature (including cooking, house cleaning, laundry and gardening services) that are required for the proper running and maintenance of the employee's household.

4 Paragraphs 29(2)(a) to (e) provide the list of matters.

5 Re Ryan and Telstra Corporation Limited (1995)

6 Re Keefe and Department of Defence (1998)

7 Re Mould and Comcare (1998)

GUIDANCE

Household services

Compensation for household services is not payable for the first 28 days after an employee's injury, unless the claims manager determines that there is either financial hardship or the need to provide for the adequate supervision of dependent children.

Household services are limited to services of a domestic nature, provided by way of manual labour, that are required for the proper running of the employee's household.

Household services may include, but are not limited to the following services:

- > housecleaning
- > laundry
- > gardening
- > childcare.

Childcare should only be considered a 'household service' in the following circumstances:

- > where the child/children are born before the compensable injury
- > where the employee had responsibility for caring for the child/children during working hours before the compensable injury
- > where there are no other members of the household who could reasonably be expected to care for the child/children without substantial disruption to their employment or other daily activities
- > where the employee is now having to pay for childcare because they are unable to care for their child because of their compensable injury (being costs that they did not incur before they were injured).

Household services would generally not include the following:

- > painting and decorating
- > car cleaning
- > cleaning products
- > general household items
- > replacement and repair of household items.

Where the service claimed meets the definition, and is within the time frame, it is then necessary to consider if the services are reasonably required.

Reasonably required as a result of the employee's injury

Subsection 29(2) of the SRC Act provides a list of non-exhaustive matters that claims managers may consider when determining whether an employee reasonably requires household services:

- a. the extent to which household services were provided by the employee before the date of the injury and whether they can provide those services after that date
- b. the number of persons living with the employee as household members, their ages and their need for household services
- c. the extent to which household services were provided by the persons referred to in paragraph (b) before the injury
- d. the extent to which the persons referred to in paragraph (b), or any other members of the employee's family, might reasonably be expected to provide household services for themselves and for the employee after the injury⁸, and
- e. the need to avoid substantial disruption to the employment or other activities of the persons referred to in paragraph (b).

⁸ The definition of relationships in subsection 4(2) of the SRC Act applies in determining 'members of the employee's family' for the operation of this section.

Claims managers may also consider other relevant matters based on the actual claim circumstances, such as:

- > the time taken for the employee to recover and regain the ability to perform domestic tasks themselves, and
- > if the employee learns adaptive techniques (such as for kitchen and other household activities) or use of equipment (such as kitchen, cleaning and laundry aids)⁹ to enable them to perform household tasks independently, or more independently.

Providing any aids or appliances for the employee to use must be determined by reference to section 39 of the SRC Act.

Claims managers need to ensure that they gather all the necessary evidence to apply the above considerations. It may be necessary to arrange and pay for an assessment to determine:

- > if the employee reasonably requires household services because of their injury, and
- > if so, what household services the employee reasonably requires.

This assessment should be done when the claims manager receives:

- > a new claim for household services
- > a request for an increase in household services, or
- > a claim for household services where the cost appears excessive.

Assessment of the need for household services

Section 70 (for Comcare) or section 108F (for licensees) of the SRC Act provides the relevant authority with the power to arrange and pay for an assessment of an employee's needs for household services. That power does not extend to compelling an employee to attend or to cooperate with the assessment. However, it is in the employee's interests to participate as the relevant authority may not have sufficient evidence to approve household services without the assessment.

A rehabilitation authority's power under section 36 of the SRC Act does not extend to an assessment of an employee's need for household services. However, relevant authorities are required to take into consideration (but cannot rely solely on) any rehabilitation assessment when determining if the household services are reasonably required.

The relevant authority may obtain (with the employee's consent) an assessment of household services at the same time as a rehabilitation assessment.

Comcare recommends a trained professional, such as an Occupational Therapist or a Physiotherapist, conduct the assessment of an employee's need for household services, and that the assessment be undertaken in the employee's home.¹⁰

A needs assessment should include:

- > information on household details including size of the residence, the number of people living there, their ages and occupations, the domestic activities they undertake and the hours per week they perform,
- > details of the pre-injury tasks and who performed them, and
- > an assessment of the current household needs, including if the injured employee or other household members could meet those needs.

⁹ Examples are:

- > Kitchen: devices to make opening cans, jars and containers easier, aids for preparing and cooking food
- > Cleaning: long handled dustpan and brush
- > Laundry: wheelchair friendly clothesline, wheeled linen trolleys

¹⁰ This is in line with the recommendation made by Peter Hanks QC in his 2013 report of the Review of the SRC Act. Mr Hanks referred to a Productivity Commission report on Disability Care and Support which noted that assessments of need have typically been conducted by trained assessors, and that this has been shown to produce higher rates of reliability.

Provider of household services

Section 29 of the SRC Act requires the claims manager to consider (a) the extent to which household or family members might reasonably be expected to provide household services for themselves and the employee after the injury, and (b) the need to avoid substantial disruption to their employment or other activities.

Household and family members should not be paid for household services that they can reasonably undertake. For example, general housecleaning and meal preparation are household tasks that household and family members would normally undertake. However, where household or family members are unable to undertake additional household tasks, without substantial disruption to their employment or daily activities, relevant authorities retain discretion to pay household or family members.

Comcare recommends that relevant authorities only pay for household services that are provided by a nationally certified household services provider.

- > The Australian Community Industry Alliance (ACIA) is the national peak body that endorses certification of community service providers to the Australian Community Industry Standard (ACIS).¹¹
- > Claims managers should use the ACIA register of current ACIS providers to promote the provision of quality household services.
- > While there is no requirement under the SRC Act for household services providers to demonstrate that they have suitable training and qualifications, use of the register of current ACIS providers promotes better practice across the Comcare scheme by ensuring staff have the experience, credentials and appropriate insurance cover to provide household services.
- > Where no ACIA certified provider is available, Comcare recommends that relevant authorities only pay for household services provided by service providers that are either a registered business or are employed by a registered business.
- > Use of the ACIA register, or other registered business, does not prevent a claims manager from applying their discretion to determine that household services are best provided by a family member, or other person, based on the individual circumstances of the claim. The limited situations in which it may be appropriate include:
 - the remoteness of the employee’s place of residence
 - a reasonable requirement of the employee for the household services provider to have particular skills, such as an ability to communicate in a particular language or comply with cultural expectations, or
 - the nature of the services required as a result of the injury are far and above what is reasonably expected to be provided by a family member and the employee may not be comfortable with another person providing those services.
- > Where a family member, or other person, is engaged to provide household services the claims manager should encourage them to seek the appropriate training and qualifications for the purpose of employment by an ACIA-certified provider.
- > Where household services are currently being provided a family member, or other person who is not ACIA certified, the claims manager may consider assessing whether those services continue to be reasonably required.

Managing provider complaints

- > If you or the employee have concerns or complaints about the household services provider or their service provision you can support the employee to:
 - raise the concerns with the support worker or their employer (the household services provider) if the employee feels comfortable to do so
 - change the household services provider, if the employee does not feel comfortable raising their concerns or they feel their concerns have not been addressed by the existing service provider
 - raise serious or ongoing concerns about a provider’s behaviour with ACIA, where the provider is certified by them.

¹¹ The Australian Community Industry Standard (ACIS) is the national quality management standard that specifically addresses the provision of community services. ACIA also has a range of guidelines to support best practice and consistency in the community services industry. The guidelines are reviewed every two years and are available on the ACIA website.

The amount payable for household services

A relevant authority is liable to pay compensation of such an amount it considers reasonable in the circumstances. The amount for household services must not:

- > be less than 50 per cent of the amount paid or payable by the employee
- > be more than the maximum weekly statutory rate when paying for household services.

The statutory rate is indexed, by way of consumer price index, on 1 July each year.¹²

Where there is a maximum weekly amount that can be paid for household services, the employee has discretion about when those services can be undertaken. For example, pruning and tree removal services might be spread over the whole of the year rather than occurring on a single occasion. This approach may mean the employee is entitled to receive up to the maximum weekly amount payable on each occasion.¹³

Catastrophic injury

On and after 25 August 2018 if the compensable injury is a 'catastrophic injury', subject to section 29A of the SRC Act there is no monetary cap on the amount of weekly compensation payable for household services, and compensation for household services is payable in the first 28 days after the date of injury.

Catastrophic injury is defined in subsection 4(1) of the SRC Act to mean an injury where the conditions specified in the legislative rules are satisfied. The conditions for the definition are based on the minimum benchmarks for eligibility for catastrophic traumatic injuries for the workplace accidents stream of the National Injury Insurance Scheme (NIIS). The legislative rules are published on the [Federal Register of Legislation](#) and provide an explanation of each catastrophic injury.

The employee must still reasonably require and obtain household services because of the compensable catastrophic injury and this guidance provides the relevant considerations for determining if household services compensation is payable.

MORE INFORMATION

For more information, please contact Comcare's Scheme Policy and Design team on 1300 366 979 or email scheme.policy@comcare.gov.au.

Please contact Scheme Policy and Design if you apply this scheme guidance and your determination is appealed.

¹² Subsection 29(1) provides the weekly amount and section 13 of the SRC Act provides for indexation of the amount specified in 29(1). The [annual rates](#) are published on the Comcare website.

¹³ Re GGJS and Comcare (2016)