

# COMCARE DELEGATED CLAIMS INITIAL LIABILITY


## Purpose

This procedure describes the steps a Case Manager follows when determining liability in the initial stages of a claim, and when reviewing the liability status of an ongoing claim. Liability determinations are to be objective, evidence based and made in accordance with the Safety, Rehabilitation and Compensation Act (SRC Act).

Under the SRC Act Accepted Claims have entitlements including:

- Incapacity payments (SS19 – 21A), including redemptions (S30)
- Medical expenses (S16)
- Rehabilitation (S37)
- Household support and attendant care services (SS29 – 29A)
- Permanent impairment benefit (SS24 – 27)
- Death benefits and funeral expenses (SS17 – 18)

It is important that EML determines the liability of a claim within a reasonable timeframe, and provide the worker, and the employer the correct response as soon as practicable, in accordance with our values, customer commitments, and the SRC Act.

 Noise induced hearing loss claims are managed as per [CDC\\_SA\\_P019 Industrial Deafness Claim](#)

## Audience

Claims staff – EML Comcare Team

## Delegated Authority & Responsibilities

Responsible For	Case Managers	Team Leaders	IMS	ES / TS	Services Australia
Gathering sufficient Information to ensure that an informed liability determination is reached.	RA		C	C	
Endorse liability of the claim				C	RA
Providing advice to support Case Managers regarding liability and treatment.		C	RAC	RAC	

**R** - Responsible for doing the work

**A** - Accountable for outcomes

**C** - Consulted in the decision-making process

**I** - Informed (i.e., reported to)

**X** - Cannot make the decision (explicit)

## Liability Determination Timeframes

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Section 14 of the SRC Act does not specify a mandated period for when a determination of liability must be made.

However, EML and Comcare KPI's specify that a liability determination is required:


Support for initial determination of liability Service Provider to track the KPI targets (20 & 60 days) and report on all exceptions where the target has not been achieved.


Target Compliance: 95% of Draft initial liability recommendations are submitted to the Services Australia Delegate:

- for injury Claims, at least three (3) business days prior to the date that is 20 calendar days after the date the Claim is received.
- For disease Claims, at least five (5) business days prior to the date that is 60 calendar days after the date the Claim is received

Target Compliance of 95% of initial liability determinations are finalised by:

- for injury Claims, 20 calendar days after the date the Claim is received.
- For disease Claims, 60 calendar days after the date the Claim is received

 Inform the Rehabilitation Case Manager as soon as possible if a liability determination is unable to be made within the required timeframes.

 Liability timeframes maybe impacted by stop clock provisions that allow additional time to obtain required information.

## Pre-Liability Conference

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Every Monday there is a Delegate Agency meeting to discuss claims without a liability determination. This ensures that if there are any concerns or strategies are discussed. Not every claim is discussed every week. These meetings are usually 1 hour.

EML manage a tracker with the correct liability due date required and send it to the Delegate Agency on the Friday ready for Monday.

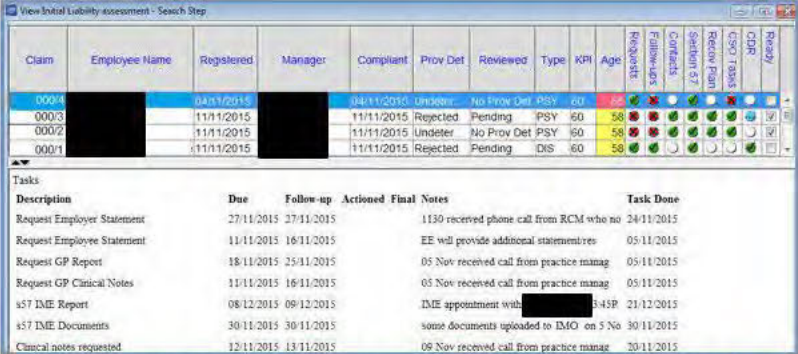
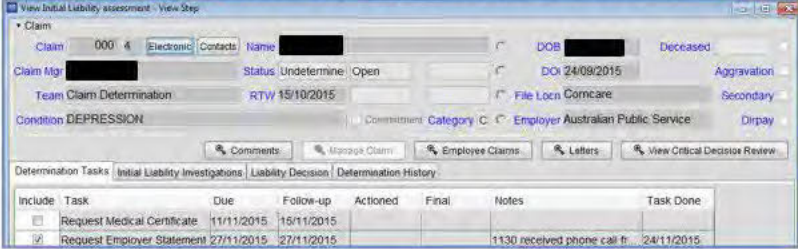

EML circulates minutes of the meeting with action items.

## Claim Liability Criteria

Criteria	
<p>To determine liability for a compensable injury under Section 14 of the SRC Act, the Case Manager must determine:</p> <ul style="list-style-type: none"> <li>▪ What the claimed medical condition is</li> <li>▪ Whether the claimed medical condition meets the test for an employment related injury or disease</li> </ul>	
Step	Consideration
<b>1</b>	<p><b>Employee?</b></p> <p>The person must be an 'employee' for the purpose of the Act (Section 5)</p> <p>If <b>No</b>, document and further information is required.</p>
<b>2</b>	<p><b>Injury? What is the claimed medical condition?</b></p> <p>There must be an employment related 'injury' or 'disease' or an aggravation of same within the meaning of the Act (Sections 4, 5A, 5B and 7)</p> <p>The 'injury', 'disease' or aggravation must result in:</p> <ul style="list-style-type: none"> <li>▪ Incapacity for work</li> <li>▪ 'impairment' – the loss, loss of use, damage or malfunction or any part of the body, bodily system, or function of part (Section 4) which includes a need for reasonable medical treatment for that impairment</li> <li>▪ Death</li> </ul>
<b>3</b>	<p><b>Arise out of or in the course of employment?</b></p> <p>To determination liability for a compensable injury under Section 14 of the SRC Act.</p> <p>Section 14 is the gateway provision for establishing liability for a compensable injury.</p> <p>The nature and amount of the compensation is to be determined by other Sections of the SRC Act.</p> <p>Once a Section 14 determination is made, liability under that Section cannot be considered again unless it is claimed that the original decision was made in error and there was never a compensable injury.</p>
<b>4</b>	<p><b>'Injury' or 'Disease'?</b></p> <p>The definition of '<b>Injury</b>' in Section 5A includes a physical or mental injury or an aggravation of a physical or mental injury (other than a disease) 'arising out of, or in the course of, the employee's employment'.</p> <p>The definition of '<b>Disease</b>' in Section 5B (1) refers to an 'ailment' or an aggravation of an ailment that was 'contributed to, to a significant degree, by the employee's employment'.</p> <ul style="list-style-type: none"> <li>▪ Ailment means any physical or mental ailment, disorder, defect, or morbid condition (whether of sudden onset or gradual development).</li> <li>▪ Aggravation includes acceleration or recurrence (Section 4(1)).</li> </ul> <p>'Significant Degree' in relation to a disease is defined as meaning 'a degree that is substantially more than material' (S58(3)).</p> <p>The following factors may be taken into account under S58(2):</p> <ol style="list-style-type: none"> <li>a) Duration of employment</li> <li>b) The nature of, and particular tasks involved in, the employment</li> <li>c) Any predisposition of the Employee to the ailment or aggravation</li> <li>d) Any activities of the Employee not related to the employment</li> <li>e) Any other matters affecting the employee's health</li> </ol>

<b>5</b>	<b>Excluded Provision?</b>  An exclusion from payment of compensation for the employment related 'injury', 'disease' or aggravation must not apply (Sections 4, 4A, 5B, 6 and 7)  <i>As per CDC_SA_P014 No Present Liability</i>
<b>6</b>	<b>Is there medical evidence &amp; other facts support the claim?</b>
<b>7</b>	<b>Compliant Claim</b>  The employee must have completed an approved claim form. The claim form must also be accompanied by an approved medical certificate issued by a legally qualified medical practitioner.  A medical certificate is not required where the claim is for medical expenses only or death benefits for a dependent of a deceased employee.

## How to Navigate PRACSYS

Function	Action
<b>View Initial Liability Assessment (VILA)</b>	<p>In the PRACSYS home screen double-click the <b>View Initial Liability Assessment (VILA)</b> function from the system directory.</p> <p>A search step screen will display a list of claims, double-click the <b>Initial Liability Assessment</b> required.</p>  <p>A view step screen will display, click each tab and quick link button as required.</p> 
<b>Manage Initial Liability Tasks (MILT)</b>	<p>The <b>Manage Initial Liability Tasks</b> function allows a user to view the <b>Manage Initial Liability Assessment (MILA)</b> screen for all current undetermined claims.</p> <p>The MILT function will ensure that in the case of an absent Case Manager, the claims determination process can continue, and KPI can still be met.</p> <p>The MILT function works similarly to the <b>View Initial Liability Assessment (VILA)</b> function but allows anyone to make changes to determination tasks.</p> <p> Due dates on the MILA are often wrong. The correct dates are manually tracked on the Friday ready for the liability meeting on Monday.</p>
<b>View Claims Determination Review (VDETR)</b>	<p>The <b>View Claim Determination Review (VDETR)</b> function allows a user to view any claims that they have processed in create claim determination review or amend claim determination review without the ability to make any amendments</p>
<b>View Claim Determination (ADET)</b>	<p>Open the claim in the <b>View Claim Determination (VDET)</b> function. This function screen mirrors the <b>Create Claim Determination (CDETR)</b> and <b>Amend Claim Determination (ADET)</b> functions.</p> <p>A view step screen will display. Click the <b>Quick Links</b> tabs to view information. Select the determined condition and click the <b>View</b> button to the right of the screen.</p> <p>A viewing claim determination pop-up window will open. Review the claim determination details.</p>
<b>Manage Initial Liability</b>	<p>In Pracsys the <b>Manage Initial Liability Assessment (MILA)</b> function is used to manage undetermined claims.</p>



**Assessment  
(MILA)**

When the MILA is opened, the search step screen appears, also known as **MILA Dashboard**.

This screen lists all undetermined and non-compliant claims in a Case Manager's name.

This screen provides basic claim information and assists Case Managers to priorities their work by displaying the age of the claim against the associated Key Performance Indicator (KPI).




## Managing A New Claim from Service Provider Process

### Trigger






A new claim for compensation is submitted by a Worker

**i** A claim for *Workers Compensation Form* (the claim) can be submitted by the Worker without the Employer section (Part B) completed, either:



- Directly to Comcare via:
  - Online claim portal
  - Post
- Directly to the human resources area of Services Australia.

Step	Role	Action
1.	EML CM	<p><b>Claim Registration</b></p> <p>Register claim as per <a href="#">CDC_SA_P001 Claim Registration</a></p>
2.	EML CM	<p><b>Initial Contact</b></p> <p> Within 1 business day (for Worker) and 1 business days (for Rehabilitation Case Manager and Comcare/ Delegate) of receipt of claim</p> <p>Commence initial contact to discuss the claim as per <a href="#">CDC_SA_P007 Initial Contact</a></p>
3.	EML CM	<p><b>Initial Triage</b></p> <p> Within 2 business days of receipt of claim</p> <p>Review claim information and update the <b>Triage Template</b> as per <a href="#">CDC_SA_P006 Initial Triage</a></p>
4.	EML CM	<p><b>Compliant Claim?</b></p> <p>Review if the claim information is compliant as per <a href="#">Determine Claim Compliance</a> (below, Steps 1 - 21)</p> <p> Do not finalise <a href="#">Determine Claim Compliance</a></p> <p>Is claim compliant?</p> <p>No, Go to Step 5</p> <p>Yes, Go to Step 8</p>
5.	EML CM	<p><b>Non- Compliant Claim</b></p> <p>Contact the Worker to notify them of the non-compliance reason</p>
6.	EML CM	<p><b>Review</b></p> <p>Review for receipt of additional information</p>
7.	EML CM	<p><b>Update Registration</b></p>

		<p>In PRACSYS update claim registration as per <a href="#">CDC_SA_P001 Claim Registration (Amend Claim Registration (ACLM) Process)</a></p> <p>Go to Step 8</p>
8.	EML CM	<p><b>Section 71 – Employer Statement</b></p> <p> Within 1 business day</p> <p>Request the delegation instrument in writing as per <a href="#">CDC_SA_P055 Section 71 Issuing a Determination to Obtain Information From Employer</a></p> <p>Enter a stop clock as per <a href="#">Determination Stop Clock Requests Process</a> (below)</p>
9.	EML CM	<p><b>Clinical Notes</b></p> <p>Request Workers treating medical practitioner/s as per <a href="#">CDC_SA_P058 Clinical Records</a></p> <p>Enter a stop clock as per <a href="#">Determination Stop Clock Requests Process</a> (below)</p>
10.	EML CM	<p><b>Additional Statement?</b></p> <p>Contact Worker to determine if they will be providing an additional statement to support their claim.</p> <p>Section 58 as per <a href="#">Issuing A Determination To Obtain Information From A Claimant</a></p>
11.	EML CM	<p><b>Update MILA</b></p> <p>In PRACSYS navigate to MILA update <b>Determination Task</b> with the outcome of the conversation with the Worker re: Additional Statement</p> <p>Is the Worker providing an additional statement?</p> <p>Yes, Go to Step 12</p> <p>No, Go to Step 15</p>
12.	EML CM	<p><b>Enter a Stop Clock</b></p> <p>Enter a stop clock as per <a href="#">Determination Stop Clock Requests Process</a> (below)</p>
13.	Worker	<p><b>Provide Additional Statement</b></p> <p>Provide <a href="#">Additional Statement</a> to EML CM</p>
14.	EML CM	<p><b>Claim Comment</b></p> <p>Receive the <a href="#">Additional Statement</a> update stop clock as per <a href="#">Determination Stop Clock Requests Process</a> (below)</p> <p>Review the <a href="#">Additional Statement</a></p> <p>In PRACSYS enter a claim comment with the date the Additional Statement was received.</p>

		Make note to communicate that the <b>Additional Statement</b> was received at next liability review
15.	EML CM	<p><b>IME Letter</b></p> <p>If identified in the <b>Triage Template</b> Prepare IME as per <b>CDC P012 Independent Medical Examination</b></p> <p>Enter a stop clock as per <b>Determination Stop Clock Requests Process</b> (below)</p> <p>In PRACSYS upload IME appointment letter and referral documents</p> <p> If a Section 57 delegation (Issuing A Determination For Refusal Or Failure To Undergo An Examination By A Legally Qualified Medical Practitioner) has been provided by the delegate action accordingly.</p> <p>Section 57 as per <b>Issuing A Determination For Refusal Or Failure To Undergo An Examination By A Legally Qualified Medical Practitioner</b></p>
16.	EML CM	<p><b>Receive IME Report</b></p> <p>Receive IME Report as per <b>CDC P012 Independent Medical Examination</b></p> <p>Update stop clock as per <b>Determination Stop Clock Requests Process</b> (below)</p>
17.	EML CM	<p><b>Prepare Recommendations</b></p> <p>Prepare the <b>Section 14 Recommendation Letter</b></p> <p>Where the recommendation is the claim be accepted, provide:</p> <ul style="list-style-type: none"> <li>▪ A paragraph about the naming of the condition</li> <li>▪ Include the ICD Code that specifies what is the injury or disease the determination pertains to.</li> <li>▪ A paragraph about the date of injury</li> <li>▪ The MILA <b>Determine Claim Compliance</b> screen is up to date and ready for review.</li> </ul>
18.	EML CM	<p><b>Seek Internal QA</b></p> <p> Injury claims 5 business days prior the legislative due date, best practice</p> <p> Disease claims 7 business days prior the legislative due date, best practice</p> <p>Seek internal QA for the <b>Section 14 Recommendation Letter</b></p>
19.	Internal QA	<p><b>Internal QA</b></p> <p>Conduct internal QA for the <b>Section 14 Recommendation Letter</b>, provide feedback to EML Case Manager.</p>
20.	EML CM	<p><b>Review Feedback</b></p> <p> Injury claims 3 business days prior the legislative due date, contractual KPI</p> <p> Disease claims 5 business days prior the legislative due date, contractual KPI</p>

		<p>Review feedback from Internal QA on the <b>Section 14 Recommendation Letter</b></p> <p>Update the <b>Section 14 Recommendation Letter</b> based on feedback from QA.</p>
21.	EML CM	<p><b>Send Recommendations</b></p> <p>Email the Delegate at <a href="mailto:injury.management@servicesaustralia.gov.au">injury.management@servicesaustralia.gov.au</a>.</p> <p> <b>Attach</b> drafted <b>Section 14 Recommendation Letter</b></p> <p> Refer to the <b>Delegated Claims Guidelines</b> for issuing a determination for compensation for injury/disease Section 14.</p>
22.	Delegate	<p><b>Mark up Letter</b></p> <p>Review recommendations and <b>Section 14 Recommendation Letter</b></p> <p>Mark up letter with proposed changes</p> <p>Send to EML CM</p>
23.	EML CM	<p><b>Complete Manage Initial Liability Assessment (MILA) screen</b></p> <p>In PRACSYS navigate to the <b>Manage Initial Liability Assessment (MILA)</b> screen, complete the</p> <ul style="list-style-type: none"> <li>▪ <b>Determine Claim Compliance</b> (below)</li> <li>▪ <b>Determine Medical Condition</b> (below)</li> <li>▪ <b>Determine Employment Circumstances</b> (below)</li> </ul>
24.	EML CM	<p><b>Untick Review Request</b></p> <p> If the Status of the claim doesn't match the reviewed details of the claim, <b>Untick Review Request</b>, click <b>Amend</b>. This will send a notification trigger to the Delegate to advise them to update the status.</p> <div style="border: 1px solid #ccc; padding: 5px; margin-top: 10px;"> <p>Date of Last Change <input type="text" value="27/11/2023"/></p> <p>Primary Section of Act <input type="text"/></p> <p>Secondary Section of Act <input type="text"/></p> <p>Review Requested <input type="checkbox"/> Yes</p> </div>
25.	EML CM	<p><b>Review Feedback</b></p> <p>Accept all marked up feedback</p> <p>Send updated <b>Section 14 Recommendation Letter</b> to Delegate advise that MILA has been updated</p>
26.	Delegate	<p><b>Prepare PDF</b></p> <p>Review update <b>Section 14 Recommendation Letter</b></p> <p>Prepare PDF</p> <p>Send EML CM final PDF of the <b>Section 14 Recommendation Letter</b></p>

27.	EML CM	<p><b>Prepare for Distribution</b></p> <p>Prepare for Distribution of the notice as per <a href="#">CDC_SA_P013 Determination Delivery Support</a></p> <p> <b>Attach:</b></p> <ul style="list-style-type: none"> <li>▪ <b>Section 14 Recommendation Letter</b> PDF</li> <li>▪ Notice of rights</li> </ul>
28.	EML CM	<p><b>Claim Accepted?</b></p> <p>Is the claim accepted?</p> <p>No, Go to Step 29</p> <p>Yes, Go to Step 34</p>
29.	EML CM	<p><b>Physical Injury?</b></p> <p>Is the claim for a physical injury?</p> <p>No, Go to Step 30</p> <p>Yes, Go to Step 34</p>
30.	EML CM	<p><b>Book Medical Appointment</b></p> <p>Book case a medical appointment with Doctor as per <a href="#">CDC_SA_P059 Communicating Decisions</a></p> <p> Declinatures cannot be issued on Fridays, thus the case conference must be on any day other than Friday</p>
31.	EML CM	<p><b>Distribute Determination as per Delivery Plan</b></p> <p>Distribute the delivery plan and claim letter to Doctors surgery</p> <p>CC the Rehabilitation Case Manager</p> <p>As per <a href="#">CDC_SA_P059 Communicating Decisions</a></p>
32.	Doctor / Worker	<p><b>Medical Appointment to Deliver Determination</b></p> <p>Communicate the liability decision as per the <a href="#">CDC_SA_P059 Communicating Decisions</a></p>
33.	EML CM	<p><b>Worker Provided Documents</b></p> <p>Instruct the Doctor to provide the Worker the claim letter as per <a href="#">CDC_SA_P059 Communicating Decisions</a></p> <p>Go to Step 36</p>

34.	EML CM	<b>Communicate - Verbal</b>  Call the Worker and communicate the liability decision  As per <a href="#">CDC_SA_P059 Communicating Decisions</a>
35.	EML CM	<b>Communicate - Written</b>  Call the Worker and communicate the liability decision  CC RCM
36.	<b>End Process</b>	

## Determine Claim Compliance

### Trigger

Claim requires liability determination.

Step	Role	Action
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**1. CM Select A Claim For Assessment**

In PRACSYS navigate to **Manage Initial Liability Assessment (MILA)** screen, in the search step screen, highlight the relevant claim and click **Next**. To display the **Amend** step screen

Claim	Employee Name	Registered	Claim Manager	Compliant	Prov Det	Reviewed	Type	KPI	Age	Trigs & Contact	Info requested	IME	Info received	Decision/QA	Follow-ups	CM Tasks
ecting New Claim	est. John	06/07/2022		06/07/2022	Undetermin	No Prov Det	MJ	26	139							
		06/10/2022		06/10/2022	Undetermin	No Prov Det	PSY	60	47							

Due dates on the MILA are often wrong. The correct dates are manually tracked on the Friday ready for the liability meeting on Monday.

**2. CM Determination Tasks Tab**

The **Tasks** tab shows tasks for management and information-gathering activities.

Tag a box in the **Include** column and click **View** to view any existing task details.

To create a task that is not listed, select **New**.

To manage a task, tag a box in the include column, and then select **Amend – Go to Step 3**

Include	Task	Due	Follow-up	Follow-up Actioned	Notes	Task Done
<input checked="" type="checkbox"/>	First contact with employee	07/10/2022				
<input checked="" type="checkbox"/>	First contact with employer	07/10/2022				
<input checked="" type="checkbox"/>	Triage	10/10/2022				
<input checked="" type="checkbox"/>	Information requested from employer	12/10/2022				
<input checked="" type="checkbox"/>	Information requested from medical pr	12/10/2022				
<input checked="" type="checkbox"/>	Information received from employer	28/11/2022	16/11/2022			
<input checked="" type="checkbox"/>	Information received from medical pro	28/11/2022	16/11/2022			
<input checked="" type="checkbox"/>	Decision sent for QA	30/11/2022				
<input checked="" type="checkbox"/>	Final QA completed	02/12/2022				
<input checked="" type="checkbox"/>	Phone call to employer and employee	02/12/2022				
<input type="checkbox"/>	Request information for non-compliant	07/10/2022				
<input type="checkbox"/>	Request legal advice	11/10/2022				
<input type="checkbox"/>	Information requested from employer	12/10/2022				
<input type="checkbox"/>	IME booking requested	12/10/2022				
<input type="checkbox"/>	IME report received	28/11/2022	16/11/2022			
<input type="checkbox"/>	Legal advice received	28/11/2022				
<input type="checkbox"/>	Information received from employer	28/11/2022	16/11/2022			

The **Determination Tasks** tab appear like this once, notes are completed.

Determination Tasks						
Initial Liability Investigations		Liability Decision				
Include	Task	Due	Follow-up	Follow-up Actioned	Notes	Task Done
<input checked="" type="checkbox"/>	First contact with employee	07/10/2022			Type in relevant comments here	06/10/2022
<input checked="" type="checkbox"/>	First contact with employer	07/10/2022			Type in relevant comments here	07/10/2022
<input checked="" type="checkbox"/>	Triage	10/10/2022			Type in relevant comments here	10/10/2022
<input checked="" type="checkbox"/>	Information requested from employer	12/10/2022			Type in relevant comments here	12/10/2022
<input checked="" type="checkbox"/>	Information requested from medical pr.	12/10/2022			Type in relevant comments here	18/10/2022
<input checked="" type="checkbox"/>	Information received from employer	28/11/2022	15/11/2022		Type in relevant comments here	16/11/2022
<input checked="" type="checkbox"/>	Information received from medical pro.	28/11/2022	16/11/2022			

When all the necessary information for liability determine has been reviewed, Go to Step 4

**3. CM Amend Task**

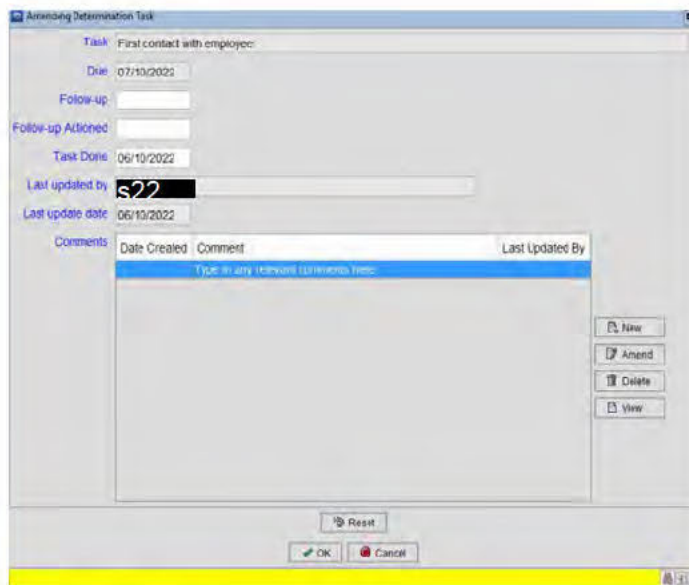
This will open an amending determination task screen, enter data in the relevant fields.

The following rules apply to the date fields:

- **Due** – Can be any valid date
- **Follow-up** – Must be before the due date
- **Actioned** – Cannot be for a date in the future
- **Final** – Cannot be before the follow-up date
- **Task done** – Cannot be after the actioned date and cannot be in the future.

Use the tabs to the right of the screen to **create, amend, delete, or view** comments.

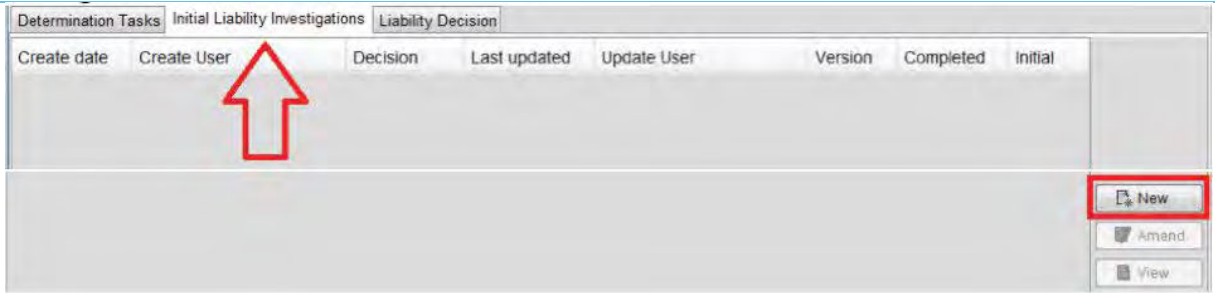
Click **OK** to save changes.



Go to Step 2

**4. CM Initial Liability Investigations Tab**

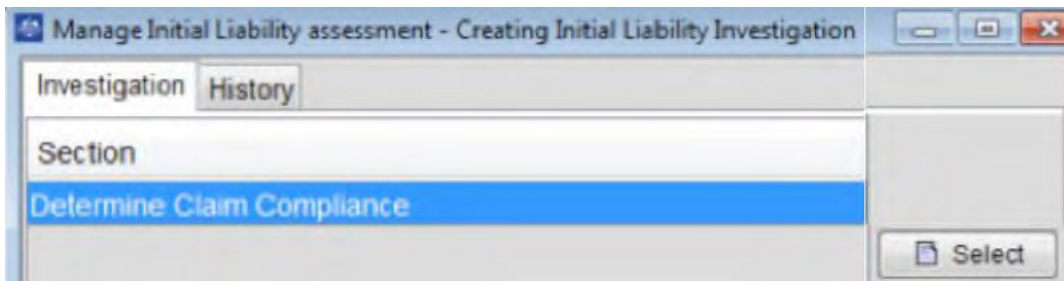
In PRACSYS navigate to the **Initial Liability Investigations** tab and click **New**.



**i** There are various versions of initial liability investigations, to cater for legislative changes over the years. The example version is based on an injury claim. The questions asked may differ from the examples shown below.

**5. CM Determine Claim Compliance.**

In Pracsys in the **Investigation** tab, select **Determine Claim Compliance** and click **Select**, a pop up window will open.



**6. CM Determine Claim Compliance - Employee Details**


In Pracsys review the **Employee Details**.

Are the Employee Details correct?

No, Go to Step 7

Yes, Go to Step 8



7.	CM	<p><b>Incorrect Employee Details</b></p> <p>In the pop up window select <b>No</b></p> <p> Update details in claim registration as per <a href="#">CDC_SA_P001 Claim Registration (Amend Claim Registration (ACLM) Process)</a>.</p>
8.	CM	<p><b>Determine Claim Compliance - Claim Details</b></p> <p>In PRACSYS review <b>Claim Details</b></p> <p>Are the Claim Details correct?</p> <p>No, Go to Step 9</p> <p>Yes, Go to Step 10</p>



**9. CM Incorrect Claim Details**

In the pop up window select **No**



 Update details in claim registration as per [CDC\\_SA\\_P001 Claim Registration \(Amend Claim Registration \(ACLM\) Process\)](#).

**10. CM Determine Claim Compliance - Third Party / Common Law Indicator?**

Review the information gathered on the claim, for indication of third party or common law.

Manage Initial Liability assessment - Determine Claim Compliance

**S48, Third Party/Common Law Indicator**

40. Is there a third party/common law indicator present?

Answer  Yes  No

Back Forward

**Rule 40 - Third Party Common Law Indicator**

- [Question](#)
- [Relevance of this question](#)
- [Question has defaulted to 'yes'](#)
  - [Identifying possible third party common law matters](#)
- [Question has defaulted to 'no'](#)
- [Disagree with default](#)
- [Definitions](#)
  - [No fault](#)
  - [Common law](#)
  - [Third party](#)
  - [Damages](#)
  - [Costs](#)
- [Help](#)

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**Question**

Is there a third party/common law indicator present?

**Relevance of this question**

To let the [employee](#) know that because of the circumstances, he or she has an obligation under the [SRC Act](#) to advise Comcare if he or she seeks damages for that [injury](#) through a common law or third party action. The default response to this question has been collected at the claims registration stage.

**Question has defaulted to 'yes'**

The [claims registrar](#) considers that the [injury](#) the employee sustained occurred in circumstances that may make it possible for him or her to seek damages from the other party involved in the incident.

**Identifying possible third party common law matters**

From when a claim is first lodged claims registrars and [customer service officers](#) are responsible for identifying the potential for a third party/common law action. It is a critical part of the process of recovery. Where the following circumstances are given in a claim the default to this question should be YES or amended to YES:

- motor vehicle accidents where the other party may be at fault (e.g. an [employee](#) is on the way to work and collides with another vehicle as a result of the other vehicle running a red light);
- occupier's liability (e.g.. An employee slips on a supermarket floor during an ordinary recess);
- [injuries](#) caused by animals (e.g.. An [employee](#) is badly mauled by a

Back Next Skip Done

Indicate if a third party is involved in the claim by selecting **Yes** or **No**.  
Click **Next**

<b>11.</b>	CM	<p><b>Determine Claim Compliance - An Employee</b></p> <p>Review the information gathered on the claim, for evidence the Claimant is considered 'an employee' for the purposes of the SRC Act.</p>
------------	----	--



Based on the information on file, select the relevant option.

Is the Worker an 'employee'

No, Go to Step 12

Yes, Go to Step 13

12.	EML CM	<p><b>Subsection 5(6) or 5 (15)?</b></p> <p>Review the claim information,</p> <p>Consider if the person is taken to be employed by the Commonwealth or the Australian Capital Territory by notice of declaration under subsection 5(6) or 5 (15) of the SRC Act.</p>
-----	-----------	--

Is the person is taken to be employed by the Commonwealth or the Australian Capital Territory by notice of declaration under subsection 5(6) or 5 (15) of the SRC Act?

No, Go to Step 13

Yes, Go to Step 14

<p>13.</p>	<p>EML CM</p>	<p><b>Not an Employee</b></p> <p>The person is not an employee under the SRC Action and the claim will need to be declined under subsection 14(1) of the Act.</p> <p>Issue declinature as per <i>Initial Liability Decline Process</i> (below)</p>
<p>14.</p>	<p>EML CM</p>	<p><b>Determine Claim Compliance - Claim For Compensation</b></p> <p>Review the information gathered on the claim, for a medical certificate (or certificate of capacity by a legally qualified medical practitioner).</p>

Manage Initial Liability assessment - Determine Claim Compliance

**S54, Claims for Compensation**

220. Has a medical certificate been submitted from a legally qualified medical practitioner?

**Rule 220 - s54, Claims for Compensation**

- [Question](#)
- [Relevance of this question](#)
- [If you answer yes](#)
  - [Legally qualified medical practitioner](#)
- [If you answer no](#)
  - [Next screen will say:](#)
- [If you answer uncertain](#)
  - [Next screen will say:](#)
- [No medical certificate](#)
- [Useful Links](#)
- [Useful link for stress claims](#)
- [Help](#)

**Question**

Has a medical certificate been submitted from a legally qualified medical practitioner?

**Relevance of this question**

s54 of the SRC Act provides that an employee's claim for compensation must include a [medical certificate](#) from a legally qualified medical practitioner. This certificate is used to establish whether the [employee](#) suffers from an [injury](#) as defined in [s4](#) of the Act (which is taken to include [disease](#) or [aggravation of injury](#) or [disease](#)).

**If you answer yes**

The [medical certificate](#) lodged with the employees claim for compensation is from a legally qualified medical practitioner (LQMP) and therefore meets the compliance provisions of the SRC Act, even if the condition details and causation factors provided are not specific. Condition details and causation factors will be considered in the medical and employment relationship screens in [iClaim](#).

**Legally qualified medical practitioner**

LQMP has been taken to mean:

'a person registered and licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners.'

**If you answer no**

Answer  Yes  No

Back Next Skip Done

Has a medical certificate or certificate of capacity been provided by a legally qualified medical practitioner?

No, Go to Step 15

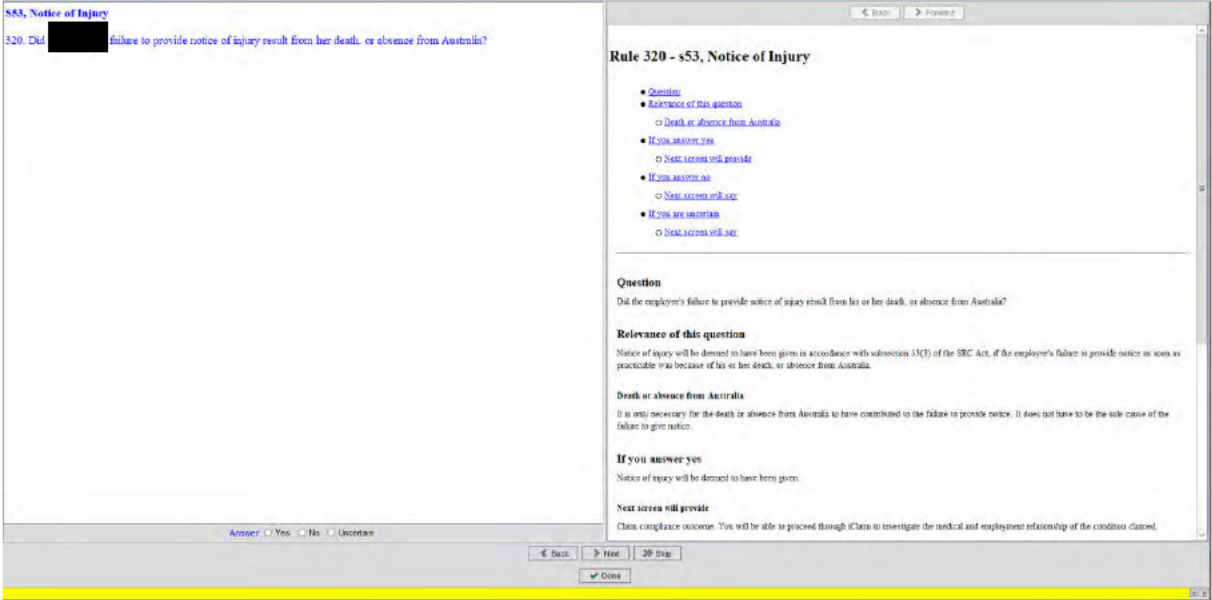
Yes, Go to Step 16

15.	EML CM	<p><b>Further Information Required</b></p> <p>The claim will require a medical certificate to be issued by a legally qualified medical practitioner in order to determine liability of the claim.</p>
16.	EML CM	<p><b>Determine Claim Compliance - Fraud?</b></p> <p>Review the information on file for any evidence of fraud</p>

Based on the information on file select, **Yes** or **No**

If there is evidence of Fraud action as per **Comcare's Fraud Control and Investigations Team** as per **CDC\_SA\_P043 Fraud**

17.	EML CM	<p><b>Determine Claim Compliance - Notice Of Injury As Soon As Practicably Possible?</b></p> <p>Did the employee provide their Employer with a notice of injury as soon as practicably possible. Enter <b>No</b>, <b>Uncertain</b> or <b>Yes</b>,</p> <p>Did the employee provide their Employer with a notice of injury as soon as practicably possible?</p> <p>No, Go to Step 18</p>
-----	-----------	--

		<p>Uncertain, Go to Step 18</p> <p>Yes, Go to Step 21</p>
18.	EML CM	<p><b>S53 Notice of Injury</b></p> <p>Review the claim information and consider did the employee's failure to provide notice of injury result from his or her death, or absence from Australia.</p>  <p>Did the Employee's failure to provide notice of injury result from his or her death, or absence from Australia?</p> <p>Yes, Go to Step 19</p> <p>No, Go to Step 20</p>
19.	EML CM	<p><b>Death, Or Absence From Australia</b></p> <p>If the Workers failure to provide notice of injury result from his or her death, or absence from Australia, the claim compliance is considered uncertain, and the notice of injury will be deemed to have been given.</p> <p>Go to Step 21</p>
20.	EML CM	<p><b>Delay Notice of Injury</b></p> <p>The Workers failure to provide notice of injury without death or absence from Australia renders claim compliance uncertain</p>
21.	CM	<p><b>Managing a New Claim Process from Service Provider</b></p> <p>Click <b>Done</b></p> <p>Does the Determine Claim Compliance require finalisation?</p> <p>No, Go to Step 22</p>

Yes, Go to Step 23

**22. EML CM Complete Managing a New Claim from Service Provider Process**

Go to [Managing a New Claim from Service Provider Process](#) Step 4.

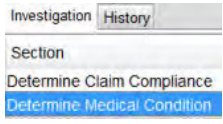



**23. CM Complete Managing a New Claim from Service Provider Process**

The final page of the determine claim compliance investigation stage will advise if the claim compliance has been met.

Click the **Done** button at the bottom of the screen

**24. Go To Determine Medical Condition**

## Determine Medical Condition

<p>1.</p>	<p>CM</p>	<p><b>Primary Medical Condition</b></p> <p>In PRACSYS in the <b>Investigation</b> tab, click <b>Determine Medical Condition</b></p>  <p>Enter the primary claimed medical condition.</p> <p> Where more than one condition is claimed, the initial or the more severe injury or disease is classified as the primary condition.</p>  <p>Click <b>Next</b></p>
<p>2.</p>	<p>CM</p>	<p><b>ICD Code - Condition</b></p> <p> Claimed conditions must be entered using an internationally accepted medical standard for classifying injuries - the <i>International Classification of Diseases and Injuries</i>. This means the wording of the condition may differ from the wording provided on claim form.</p> <p>In PRACSYS on the <b>Condition ICD Code screen</b> at the bottom left of the window, click the <b>binocular</b> icon,</p>

Manage Initial Liability assessment - Determine Medical Condition

Condition ICD Code

1020. What is the ICD Code for the claimed condition?

Claimed Condition: Fractured left ankle

ICD Code:

Rule 1020 - ICD Code and Descriptor

- Question
- ICD code
- Example
- ICD Descriptor
- How the condition descriptor is used
- Example
- Important Links
- Blog

**Question**

What is the ICD Code for the claimed condition?

**ICD code**

The ICD code is a number assigned to a particular kind of injury or disease. They are used to provide a consistent method of labeling conditions and are internationally recognized and applied. The codes are taken from the [International Classification of Diseases](#).

Codes are categorized into logical major groups, with each group then providing more detailed codes for specific conditions.

**Example**

Group 840 - sprain and strain of shoulder and upper arm  
Sub-group 840.4 - rotator cuff (trapezius) sprain  
Key ICD codes are supported by 840.4

**ICD Descriptor**

A condition descriptor, also known as an ICD descriptor, is the name assigned to an ICD code to describe the condition the code relates to. The descriptor, along with the code, has been adapted from the [International Classification of Diseases](#). It will identify the type of injury or disease for which liability is being determined.

**How the condition descriptor is used**

Once an ICD code is selected for a claim, its corresponding ICD descriptor is assigned to the determined condition.

**Example**

Select ICD code 905

Enter a keyword into the **Description** search field, locate the correct ICD code for the primary condition, highlight and click **OK**

Manage Initial Liability assessment - Prompting for ICD Code

ICD Code:

Description: ankle and

Select Allowed:  Yes  No

ICD Code	Description
715.37	osteoarthritis - localised - ankle or foot
718.47	contracture of joint - ankle/foot
718.57	ankylosis of joint - ankle/foot
718.97	unspecified joint derangement - ankle/foot
719.97	unspecified disorder of joint - ankle/foot
726.7	enthesopathy of ankle & tarsus
726.70	ENTHESOPATHY OF ANKLE AND TARSUS
727.06	tenosynovitis of foot and ankle
736.7	acquired deformities of ankle & foot
<b>824</b>	<b>FRACTURE OF ANKLE</b>
824.8	UNSPECIFIED FRACTURE OF ANKLE, CLOSED
824.9	UNSPECIFIED FRACTURE OF ANKLE, OPEN
837	DISLOCATION OF ANKLE
837.0	CLOSED DISLOCATION OF ANKLE
837.1	OPEN DISLOCATION OF ANKLE
845.0	ANKLE SPRAIN
891	OPEN WOUND OF KNEE, LEG [EXCEPT THIGH], & ANKLE
891.0	OPEN WOUND OF KNEE, LEG [EXCEPT THIGH], & ANKLE
891.1	OPEN WOUND OF KNEE, LEG [EXCEPT THIGH], & ANKLE
891.2	OPEN WOUND OF KNEE/LEG & ANKLE /TENDON INVOLVEMENT
916.0	ABRASION OR FRICTION BURN OF HIP/THIGH/LEG/ANKLE
916.1	ABRASION OR FRICTION BURN OF HIP/THIGH/LEG & ANKLE
916.2	blister of hip, thigh, leg, & ankle
916.3	blister of hip, thigh, leg, & ankle, infected
916.4	insect bite, nonvenomous, of hip/thigh/leg/ankle
916.5	insect bite of hip, thigh, leg, & ankle, infected
916.6	foreign body (splinter) of hip/thigh/leg/ ankle,
916.7	foreign body (splinter) of hip, thigh, leg/ankle
916.8	superficial injury of hip, thigh, leg, & ankle
916.9	superficial injury of hip, thigh, leg, & ankle
924.2	CONTUSION OF ANKLE & FOOT, EXCLUDING TOE(S)
924.21	BRUISE - ANKLE
928.2	crushing injury of ankle & foot
928.21	crushing injury - ankle
945.03	BURNS - ANKLE
959.7	INJURY TO KNEE, LEG, ANKLE, & FOOT

Search successful, 36 row(s) retrieved

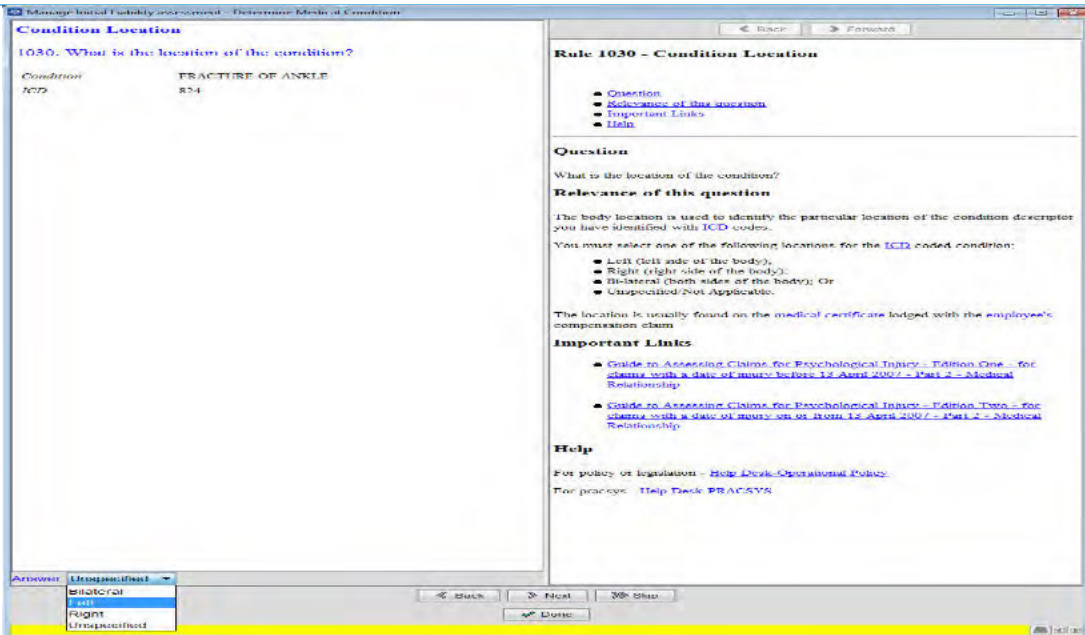
The ICD code will display at the bottom of the **Condition ICD Code** screen

Click **Next**

**3. CM ICD Code - Condition Location**

In PRACSYS in the **Condition Location** screen, select the condition location using the dropdown menu at the bottom of the page.

Click **Next**



**4. CM Condition Type**

From the bottom of the window, select the condition type from the dropdown menu, click **Next**



**5. CM Confirmation of Primary Conditions**

Review the claim information, against Section of the SRC Act 14 (1).

Does the Worker satisfy the means test for **Injury** as specified under the relevant provision of the SRC Act? Answer **Yes** or **No** and click **Next**.

Does the Worker satisfy the means test for **Injury** as specified under the relevant provision of the SRC Act?

No, Go to Step 6

Yes, Go to Step 7



6. EML  
CM **Does Not Meet The Medical Relationship**  
The claim does not meet the medical relationship to be an accepted claim, fill in the reasoning and click **Done**

Sufficient Medical Evidence for Causation

1320. Causation factors

A notification will advise that the Medical Relationship has failed.

Select Employment or Final Determination

1510. The claim has been rejected as the medical relationship has failed. - Do you wish to continue with the employment relationship?

Reason

Primary condition does not satisfy the Causation rules

Answer  Yes  No

7. CM

Go to **Determine Employment Circumstances**  
**Sufficient Medical Information for Causation**

Review the medical evidence for causation.

Does the medical evidence support the claimed cause of the injury?

Answer **Yes** or **No**.

Click **Next**



8. EML  
 CM **Does Not Meet Claimed Cause Of The Injury?**  
 The medical evidence does not support the claimed cause of the injury? to be an accepted claim, fill in the reasoning and click **Done**

**Sufficient Medical Evidence for Causation**

1320. Causation factors

← Back   Forward →

**Rule 1320 - Supporting Medical Evidence - Section 4**

- Question
- Relevance of this question

---

**Question**  
 What are the causation factors?

**Relevance of this question**  
 Complete the blank text box by briefly outlining any of the causation factors considered in reaching your decision to disallow the medical condition.

← Back   Next →   Stop

Done

A notification will advise that the Medical Relationship has failed.

**Select Employment or Final Determination**

1510. The claim has been rejected as the medical relationship has failed. - Do you wish to continue with the employment relationship?

Reason: Primary condition does not satisfy the Causation rules

← Back   Forward →

**Rule 1510 - Medical Relationship Has Failed**

- Question
- Relevance of this Question
- If you answer yes
- If you answer no

---

**Question**  
 The claim has been disallowed as the medical relationship has failed. Do you wish to continue with the employment relationship?

**Relevance of this question**  
 The claimed condition does not meet the meaning of injury and therefore will be disallowed. This question provides you with the opportunity to consider the employment relationship as there may be further reasons that support the disallowed outcome.

**If you answer yes**  
 Claim will continue to employment relationship.

**If you answer no**  
 Claim will continue to final determination.

Answer:  Yes  No

← Back   Next →   Stop

Done

Go to [Determine Employment Circumstances](#)

**9. CM Summary of Information**

This page summarises if the medical relationship for the Worker's claimed injury has been met.

Click **Done**



## Determine Employment Circumstances

**1. CM Determine Employment Circumstances**

Based on the claim information select from the dropdown the circumstances in which the condition occurred, click **Done**.

**i** The subsequent questions will differ depending on selection, complete the remaining questions and Go to Step 2

**2. CM Final Determination**

In PRACSYS from the **Investigation** tab select **Final Determination**

Manage Initial Liability assessment - Creating Initial Liability Investigation

Investigation History

Section

Determine Claim Compliance

Determine Medical Condition

Determine Employment Circumstances

**Final Determination**

Review the iclaim initial liability recommendation

Manage Initial Liability assessment - Final Determination

After Consulting With a Supervisor You May Override the Status

4010. Do you agree with iClaim's initial liability determination recommendation of accepted?

Initial Liability Recommendation Accepted

Rule 4010 - Override iClaim ACCEPT Recommendation

- [Accept claim](#)
- [Agree](#)
- [Not agree](#)
  - [Amend claim investigation](#)
  - [Override](#)
  - [Next screen says:](#)
- [Help](#)

**Accept claim**

The [iClaim](#) recommendation is to accept this claim for compensation. This conclusion has been derived because you have met the legislative requirements for:

- claim compliance;
- medical relationship (recommendations are provided for both primary and secondary conditions where applicable); and
- employment relationship.

**Agree**

If you agree with the recommendation you do not need to do anything further on this screen, as the decision override button automatically defaults to 'no'. You will go to standard letters to generate draft accept [employee](#) and accept employer letters. And commit your decision in [PRACSYS](#), pending [QA officers](#) review of the decision and determination letters.

**Not agree**

You can amend the claim investigation by accessing [iClaim](#) history and amending your responses; or You can use the override button and provide your reasons for doing so.

**Amend claim investigation**

If you do not agree with the recommendation you should check your responses to claim compliance, medical and employment relationships through your [iClaim](#) history. You can amend the responses to reflect your decision to reject, rather than override final determination recommendation. It is preferable to amend your responses to the legislative questions as these questions are autopopulated to your [employee](#) accept or reject letter, statement of reasons attachment. If you choose to override from this screen you will need to provide your reasons in the next screen and to amend or insert free text into your [employee](#) accept or reject letter, statement of reasons attachment.

Answer  Yes  No

Back Next Skip Done

Based on the information available, is the initial liability recommendation shown, this page correct?

Answer **Yes** or **No**, click **Next**

**3. CM Medical Payments**

Identify the date to which liability is accepted for medical expenses under Section 16 of the SRC Act and enter in the field click **Next**.

**Medical Payments**

4040. What is the date to which liability is accepted for medical expenses?

Answer: 23112016

**Rule 4040 - Medical Expenses Date**

- [Medical expenses date](#)
- [Reason](#)
- [Setting review date](#)
- [Help](#)

**Medical expenses date**

You have accepted this claim for compensation. A [treatment plan](#) will be generated based on the [NDS](#) codes ([injury](#) profile) entered at claims registration. The duration of the [medical treatments](#) allowed will be from date of [injury](#) to the date that you enter here.

**Reason**

All claims for compensation are allocated a date by which it is expected the effects and symptoms of the condition will cease. This process ensures claims are proactively managed and [employees](#) have a reasonable expectation about compensation entitlements.

The [employee](#) is advised about this date when the claim is accepted. Claims for [medical treatment](#) made by the [employee](#) must fall between the date the [employee](#) was [injured](#) and the claim's medical expenses review date. If claims are received after this date further medical evidence will need to be considered.

**Setting review date**

The review date should allow reasonable medical costs over a period of time for the effects of the condition to cease. The period and treatments allowed at initial liability should be based on medical prognosis and like claim experience.

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

Navigation: Back, Next, Skip, Done

**4. CM Work Payments**

Enter the accepted date of injury as the date to which liability is accepted for time off work under Section 19 or other relevant Section of the SRC Act.

Click **Next**

Manage Initial Liability assessment - Final Determination

Work Payments
Back Forward

4050. What is the date to which liability is accepted for time off work?

**Rule 4050 - Liability End Date**

- [Time off work date](#)
- [Reason](#)
- [Setting review date](#)
- [Help](#)

---

**Time off work date**

You have accepted this claim for compensation. A [treatment plan](#) will be generated based on the [NDS](#) codes ([injury](#) profile) entered at claims registration. The duration of the [incapacity](#) or time off work allowed will be from date of [injury](#) to the date that you enter here.

**Reason**

All claims for compensation are allocated a date by which it is expected the effects and symptoms of the condition will cease. This process ensures claims are proactively managed and [employees](#) have a reasonable expectation about time off work entitlements.

The [employee](#) is advised about this date when the claim is accepted. Claims for time off work made by the [employee](#) must fall between the date the [employee](#) was [injured](#) and the claim's time off work review date. If claims are received after this date further medical evidence will need to be considered.

**Setting review date**

The review date should allow a reasonable period of time for [incapacity](#) claims, resulting from the compensable condition to be allowed. The end date given at initial liability should be based on the medical evidence, medical prognosis and like claim experience.

If no time off work is claimed at date of [injury](#) and the condition accepted does not normally require time off work the review date can be the same as the date of [injury](#). This means that no time off work will be paid until further medical evidence is considered as the [employer](#) usually pays sick leave for date of [injury](#).

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

Answer

Back
Next
Skip

Done

**5.** CM **Additional Comments**  
 Enter an additional comment if required.

Manage Initial Liability assessment - Final Determination

**Letter Comments**

4060. Would you like to Insert additional comments to include in the letter?

---

**Rule 4060 - Letter free text insert**

Complete the blank text box with final comments of note relating to finalisation of investigation of initial liability.  
 This text may be used as part of reasons for decision or in letters to the [employee](#) and [employer](#) so:

- use full words rather than abbreviations; and
- enter a grammatically correct description.

Answer  Yes  No

◀ Back   ▶ Next   ⏭ Skip

✔ Done

6.	CM	<p><b>Secondary Condition?</b></p> <p>Based on the medical information on file, identify if the Workers is claiming for more than one medical condition.</p> <p>Is the Worker is claiming for more than one medical condition?</p> <p>Yes, Go to Step 7</p> <p>No, Go to Step 9</p>
7.	CM	<p><b>Secondary Conditions</b></p> <p>Click <b>Yes</b></p>



Click **New** to enter a secondary condition.

Type the name of the secondary condition in the text box and click **Next**.

Manage Initial Liability assessment - Creating Secondary Condition

**Secondary Condition Name**

7010. What is the Secondary Condition?

Torn medial meniscus (left knee)

**Rule 7010 - Secondary Condition Name**

- [Relevance of this question](#)
- [Example](#)
- [Help](#)

**Relevance of this question**

To identify secondary condition(s) claimed. The condition(s) claimed will be on the first certificate.  
 The primary condition is the most [incapacitating injury](#). If there is more than one secondary condition claimed consider them in the same way, from the most serious to the least serious.  
 If the primary condition is rejected, secondary conditions will be rejected also. If the primary condition is accepted each secondary condition will be considered separately. [iClaim](#) provides a conclusion for each condition claimed.  
 The employment relationship provisions of the [SRC Act](#) will be considered against the primary condition. If secondary conditions are rejected there is no entitlement under the [SRC Act](#) for losses resulting from those conditions, even if compensation is payable on the primary condition claimed.

**Example**

If an [employee](#) is claiming for a fractured ankle, bruised toe and cut heel.  
 Condition claimed = fractured ankle;  
 Secondary condition claimed = cut heel; and  
 Secondary condition claimed = bruised toe.

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

Back Next Skip OK Cancel

Select the applicable ICD code by searching via the binocular icon.

Manage Initial Liability assessment - Creating Secondary Condition

---

### Secondary Condition ICD code

7020. What is the ICD Code for the claimed condition?

*Claimed Condition*      Torn medial meniscus (left knee)

#### Rule 7020 - Secondary ICD Code and Descriptor

- [ICD code](#)
  - [Example](#)
- [ICD Descriptor](#)
- [How the condition descriptor is used](#)
  - [Example](#)
- [Help](#)

---

The **ICD** code is a number assigned to a particular kind of [injury](#) or [disease](#). They are used to provide a consistent method of labelling conditions and are internationally recognised and applied. The codes are taken from the [International Classification of Diseases](#).

Codes are categorised into logical major groups, with each group then providing more detailed codes for specific conditions.

**Example**

**Group 840** - sprains and strains of shoulder and upper arm.  
**Sub-group 840.4** - rotator cuff (capsule) sprain  
 Key [ICD](#) codes are supported by the Statement of Principles ([SoPs](#)).

**ICD Descriptor**

A condition descriptor, also known as an [ICD](#) descriptor, is the name assigned to an [ICD](#) code to describe the condition the code relates to. The descriptor, along with the code, has been adapted from the [International Classification of Diseases](#). It will identify the type of [injury](#) or [disease](#) for which liability is being determined.

**How the condition descriptor is used**

Once an [ICD](#) code is selected for a claim, its corresponding [ICD](#) descriptor is assigned as the determined condition.

**Example**

Select [ICD](#) code: 995  
 The corresponding condition descriptor is assigned as 'wrist strain'

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

---

ICD Code 836.0 TEAR OF MEDIAL CARTILAGE OR MENISCUS OF KNI

Select the location of the secondary condition using the dropdown menu, click **Next**.

Manage Initial Liability assessment - Creating Secondary Condition

**Secondary Condition Location**

7030. What is the location of the condition?

Description	TEAR OF MEDIAL CARTILAGE OR MENISCUS OF KNEE
ICD	836.0

Answer:

---

**Rule 7030 - Secondary Location**

- [Relevance of this question](#)
- [Help](#)

---

**Relevance of this question**

The body location is used to identify the particular location of the condition descriptor you have identified with [ICD](#) codes. You must select one of the following locations for the [ICD](#) coded condition;

- Left (left side of the body);
- Right (right side of the body);
- Bi-lateral (both sides of the body); Or
- Unspecified/Not Applicable.

The location is usually found on the [medical certificate](#) lodged with the [employee's](#) compensation claim

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

Navigation: << Back, >> Next, >>> Skip, OK, Cancel

Click **Next**.

Select the condition type using the dropdown menu.

Manage Initial Liability assessment - Creating Secondary Condition

---

**Condition Type**

7040. What is the type of Condition?

<i>Description</i>	TEAR OF MEDIAL CARTILAGE OR MENISCUS OF KNEE
<i>ICD</i>	836.0

← Back      Forward →

**Rule 7040 - Condition Type**

- [Relevance of this question](#)
  - [Injury](#)
  - [Examples of injury types](#)
- [Disease](#)
  - [Examples of disease types](#)
- [Help](#)

---

**Relevance of this question**

To classify type of secondary condition and apply the [aggravation](#) streaming rules if applicable. Select whether the secondary condition claimed is an:

- [injury](#);
- [disease](#);
- [aggravation of an disease](#); or
- [aggravation of disease](#).

**Injury**

If you select [injury](#) (or [aggravation](#) of) you have a cause or a contention, in the main, which is a single or identifiable incident, [causing](#) or [worsening](#) [injury](#). These categories incorporate all damage occasioned to the body.

- external damage will include situations where there has been trauma to the body;
- internal damage includes tearing, twisting or breaking of the muscle tissues, organs etc; or
- mental [injuries](#) can also be included in this category.

**Examples of injury types**

- sprains and strains;
- fractures;
- open wounds; and
- crush [injuries](#).

**Disease**

If you select [disease](#) (or [aggravation](#) of) you have a cause or contention that the condition manifested over a period of time with no single, identifiable incident. A [disease](#) may be:

- initiated by some external cause (workplace stressors);
- be idiopathic (of unknown cause); or
- [or autogenous \(self-generated\)](#).

Answer: Injury

← Back    Next →    ⏏ Skip  
OK    Cancel

Click **Next**.

Does the secondary condition meet the criteria for an 'injury' as defined in s14(1) of the SRC Act?



Answer **Yes** or **No**

Click **Next**

Does the medical evidence support that the secondary medical condition was caused by either the employment circumstances or the primary injury?



Answer **Yes** or **No**

Click **Next**

**8. CM Secondary Condition Summary**



This page summarises if liability for the secondary condition should be accepted.

Click **Ok**

Add any additional new conditions or amend, delete, and view existing conditions as required  
 When all the secondary conditions are entered, click **Done**.

9.	CM	<p><b>Final Determination Summary Screen</b></p> <p>Review the final determination summary screen and the liability recommendation.                  Click <b>Done</b>.</p>
----	----	---

Manage Initial Liability assessment - Final Determination

**Completed - Accepted**

*4999. The investigation is complete. The claim is accepted.*

---

**Rule 4999 - Initial Liability ACCEPT**

- [Accept claim](#)
- [Determination letters](#)
- [Help](#)

---

**Accept claim**

Initial liability has been accepted because the claim meets the the legislative requirements for the following:

- claim compliance;
- medical relationship; and
- employment relationship.

**Determination letters**


The accept determination letters can be generated for the [employee](#) and [employer](#) and saved as drafts. You will be able to print the determination letters from [PRACSYS](#) following a successful review of this claim decision.

**Help**

For policy or legislation - [Help Desk-Operational Policy](#)  
 For pracsys - [Help Desk-PRACSYS](#)

Navigation: < Back, Forward >

Bottom navigation: < Back, Next, Skip, Done

<p>10.</p>	<p>CM</p>	<p><b>Liability Decision Tab</b></p> <p>PRACSYS will open the <b>Liability Decision</b> tab, listing the claimed conditions ready to be accepted.</p> <p>Check that the information is correct</p> <p> For disease claims, enter the relevant secondary Section of the Act. For type 3 and 4 (pre-premium), death, takeover, and Section 15 (property) claims, the status will be set at undetermined select either <b>Accept</b> or <b>Reject</b> after clicking the <b>Amend</b> button to the right of the table.</p> <p>Is the information correct and the liability ready to be determined?</p> <p>No, Go to Step 11</p>
------------	-----------	--

Yes, Go to Step 13

**11. CM Liability Decision Finalisation Issues**

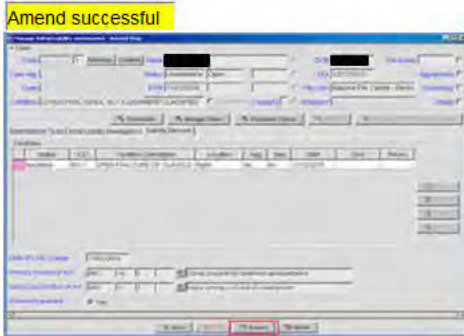
If a liability decision cannot be finalised, click the **Initial Liability Investigations** tab.

**i** If it is not displayed as per the below example, this indicates that one of the questions in the provisional initial liability determination has been missed, the completed column shown below will be unticked if this is the case. To rectify, use the **Amend** button located in the right-hand column of the screen and follow the prompts

Determination Tasks: Initial Liability Investigations   Liability Decision							
Create date	Create User	Decision	Last updated	Update User	Version	Completed	Initial
29/10/2015	[Redacted]	Accepted	29/10/2015	[Redacted]	4.1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**12. CM Amend**

In PRACSYS at the bottom of the page click **Amend**



**i** The **Amend Successful** icon will appear at the bottom of the screen if the initial liability assessment has been successfully finalised.

**13. CM Review Requested?**

Consider if a quality assurance review is required.

If required tick **Review Requested** button

Date of Last Change	29/10/2015		
Primary Section of Act	88C	14	1
Secondary Section of Act	88C	6	1
Review Requested	<input checked="" type="checkbox"/> Yes		
<input type="button" value="Back"/> <input type="button" value="Next"/> <input type="button" value="Amend"/> <input type="button" value="Reset"/>			

Click **Amend**

Go to [Managing a New Claim from Service Provider Process](#) Step 24.

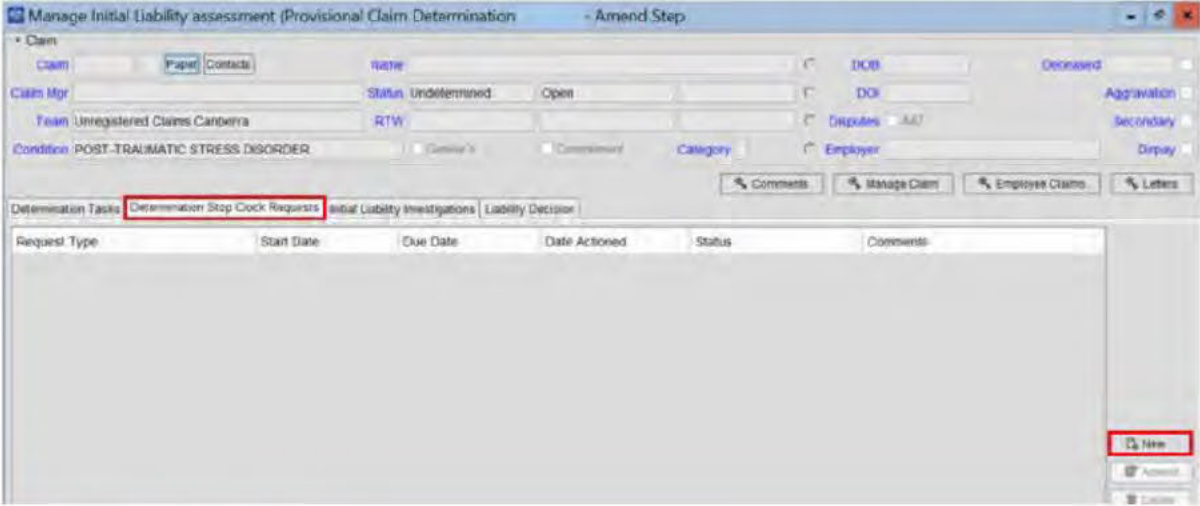
**14. End Process**

## Determination Stop Clock Requests Process

### Trigger

Stop clock required on claim due to

- S57 Medical exam for employee
- S58 Request for employee to provide information
- S71 Request for employer to provide information
- Employee supplying additional information
- Medical report required

Step	Role	Action
1.	EML CM	<p><b>Review</b></p> <p>Review information received in the context of the claim information, understand under what section/s the stop clock needs to be applied, such as:</p> <ul style="list-style-type: none"> <li>▪ S57 Medical exam for employee</li> <li>▪ S58 Request for employee to provide information</li> <li>▪ S71 Request for employer to provide information</li> <li>▪ Employee supplying additional information</li> <li>▪ Medical report required</li> </ul>
2.	EML CM	<p><b>Open PRACSYS</b></p> <p>In PRACSYS open <b>Manage Initial Liability Assessment (MILA)</b>, navigate to <b>Determination Stop Clock Requests</b> tab, click <b>New</b>.</p> 
3.	EML CM	<p><b>Create Stop Clock Request</b></p> <p>A Create Stop Clock Request window will open.</p> <p><b>Request Type</b> Use the dropdown menu to select the relevant reason for the stop clock, either:</p> <ul style="list-style-type: none"> <li>▪ S57 Medical exam for employee</li> <li>▪ S58 Request for employee to provide information</li> <li>▪ S71 Request for employer to provide information</li> <li>▪ Employee supplying additional information</li> <li>▪ Medical report required</li> </ul>

If the claim has multiple situations that requires information to be received a separate stop clock entry must be entered in PRACSYS for each instance.

**Status** Will default as **Active**

**Start Date** Enter the date of the stop clock

**Due Date** Depending on the type of request, the due date will populate, update if necessary

**Last Updated By** Auto filled

**Last Update Date** Auto filled

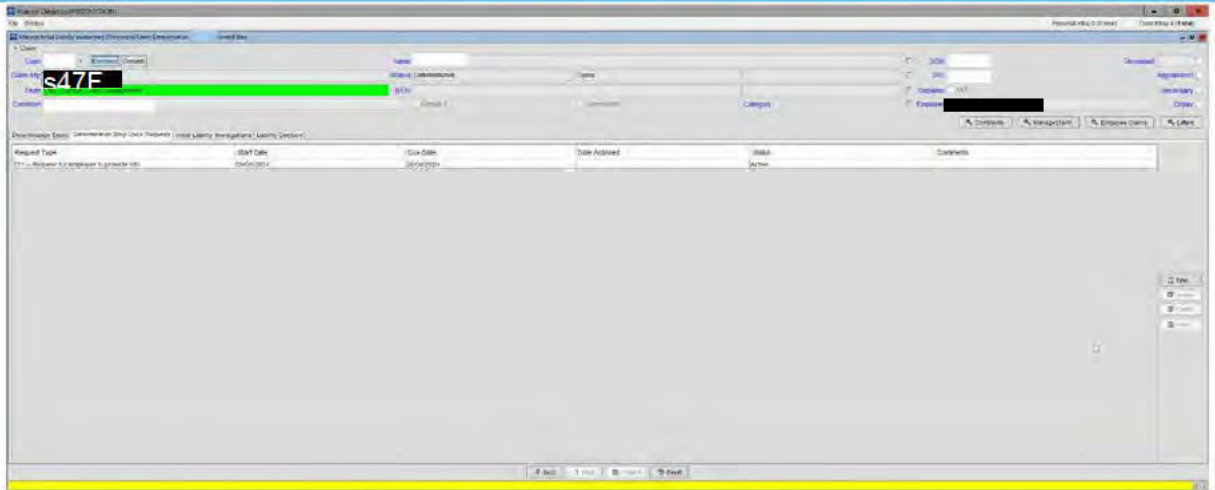
**Comments** Enter a comment to detail the reason for request, click **New** to save the comment


Comments are visible within **Manage Claim Comments (MCOM)** or **View Claim Comments (VCOM)**.

Comments can only be generated within each individual stop clock requests. If a comment is generated incorrectly, click **Delete** to remove it from the individual stop clock request, in the **MCOM** mark the claim comment **Inactive**


At the bottom of the screen, click **OK** to save the request

**4.** EML CM **Save**  
 Click **OK** again, then **Amend** to save the request on main tab.



 Prior to progressing through iClaim, ensure all stop clock requests have been actioned. iClaim cannot be finalised if there are active determination stop clock request.

**5. EML CM Additional Stop Clock Required?**

 If the claim has multiple situations that requires information to be received a separate stop clock entry must be entered in PRACSYS for each instance.

Does another stop clock need to be applied to the claim?

Yes, Go to Step 1

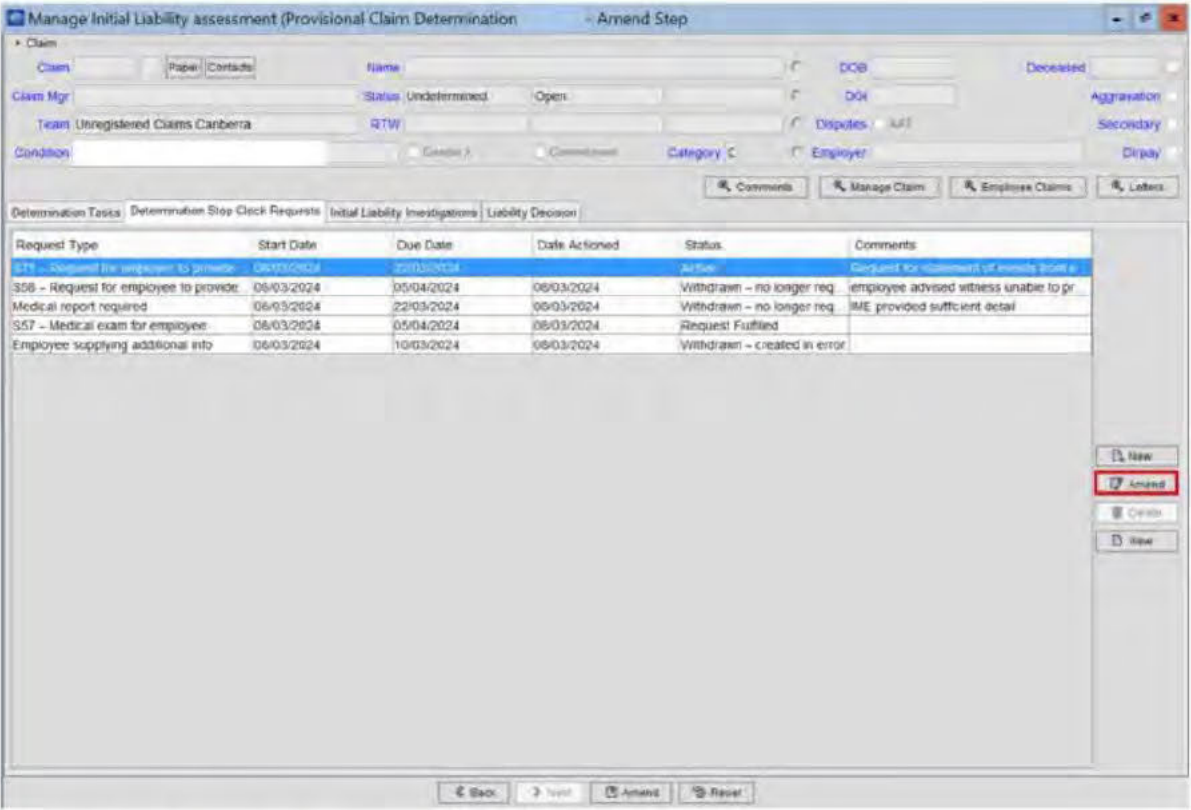

No, Go to Step 6

**6. End Process**

## Amend / Finalise A Stop Clock Request Process

### Trigger

A stop clock entered requires amendment or finalisation.

Step	Role	Action
1.	EML CM	<p><b>Open MILA</b></p> <p>In PRACSYS open MILA and navigate to <b>Determination Stop Clock Requests</b> tab.</p> <p>Select the relevant line and click <b>Amend</b>.</p> 
2.	EML CM	<p><b>Edit Stop Clock Request Record</b></p> <p>A Stop Clock Request window will open.</p> <p><b>Status</b> Use the dropdown menu to select the new status</p> <ul style="list-style-type: none"> <li>▪ Active</li> <li>▪ Request fulfilled</li> <li>▪ Withdrawn – no longer required</li> <li>▪ Withdrawn – created in error</li> </ul> <p><b>Date Actioned</b> Enter date that pending information is received to restart the clock</p> <p>Click <b>New</b> to enter <b>Comment</b>, a pop up window will open, enter details for the update of the request.</p> <p> Comments are visible within <b>Manage Claim Comments (MCOM)</b> or <b>View Claim Comments (VCOM)</b>.</p>

**i** Comments can only be generated within each individual stop clock requests. If a comment is generated incorrectly, click **Delete** to remove it from the individual stop clock request, in the **MCOM** mark the claim comment **Inactive**

Click **OK** to save comment

Click **OK** to save Stop Clock Requests

Click **Amend** to save the request on the main tab.

Date Created	Comment	Last Updated By
06/03/2024	Request for statement of events from employer and incident	s22

3.

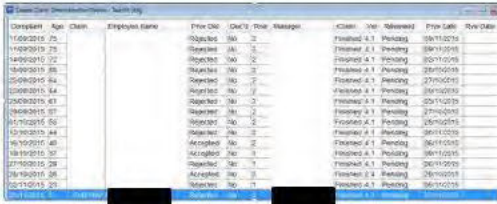

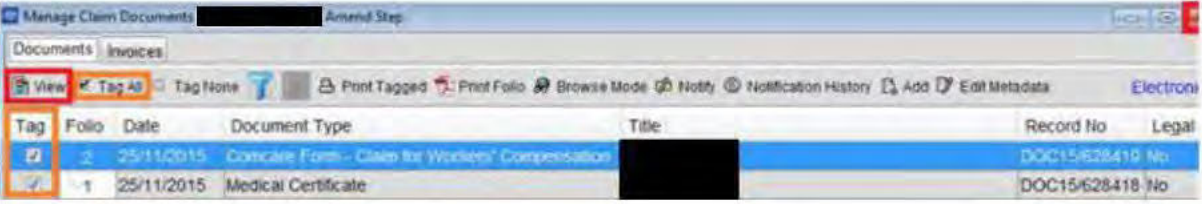
End Process

## Quality Assurance Review For Initial Determination Of Liability

### Trigger

Quality Assurance review **Create Claim Determination Review (CDETR)** required

**i** When an initial liability assessment is complete, it can be reviewed for quality assurance purposes prior to finalisation of a liability determination for the claimed medical condition(s). This process is performed using the **Claim Determination Review (CDETR)** function in PRACSYS. Only a user who did not create the provisional determination can review the claim determination. A Case Manager cannot conduct an initial liability assessment and review the provisional determination. For this reason, the Case Manager will be unable to view or select any claims they have done the initial liability assessment on in the create claim determination review function screen.

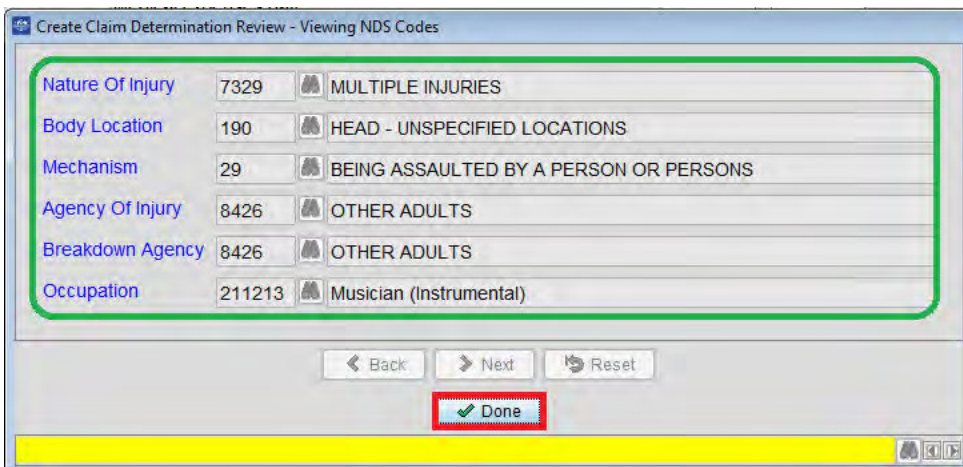
Step	Role	Action
1.	Delegate	<p><b>Select Claim</b></p> <p>In PRACSYS, open <b>Create Claim Determination Review (CDETR)</b> function</p> <p>Select claim from the search list and click <b>Next</b>.</p> 
2.	Delegate	<p><b>View All Claim Documentation</b></p> <p>The create claim determination review page will open, in the claim header click the <b>Electronic</b> button to view all claim documentation.</p>  <p>Select the relevant documents or tag all and then click <b>View</b>.</p> <p>Keep the claim documentation open for cross-referencing between the claim documents and the data stored in PRACSYS.</p> 
3.	Delegate	<p><b>Review Coding</b></p> <p>In PRACSYS on the create claim determination review page, click <b>NDS Codes</b> button</p>



View the codes in the comments section of the claim determination, review the coding entered is correct.

If the NDS coding is incorrect, select the appropriate code.

Click **Done**



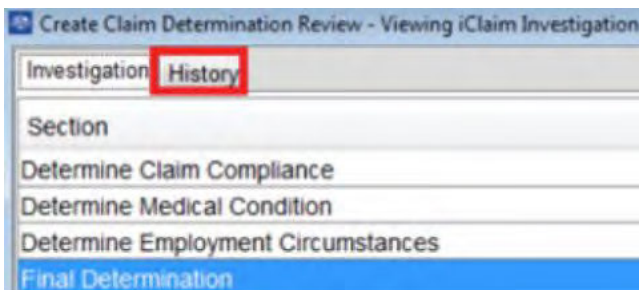
4. Delegate

**Review Initial Liability Assessment**

In PRACSYS click the **Investigation** button



Navigate to the **Create Claim Determination Review** page, click the **History** tab.

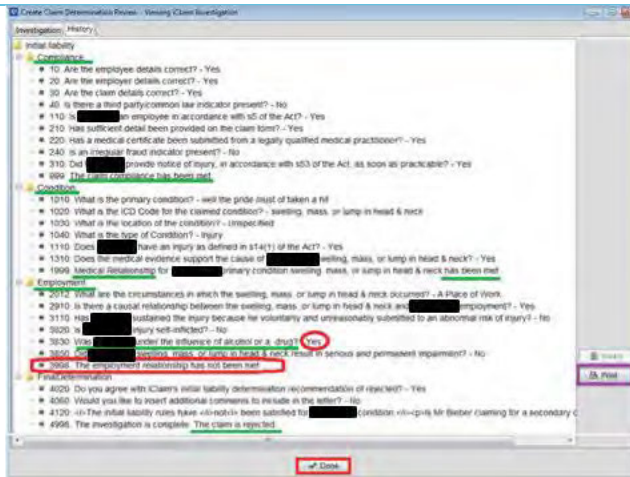


Review the summary of the provisional determination outcome and an alternative method of initial liability assessment review.

Highlight a line so the select button will become available

Click **Select** to open iClaim at the page of the initial liability assessment.

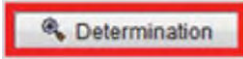
Take note of any third party or common law indicators.



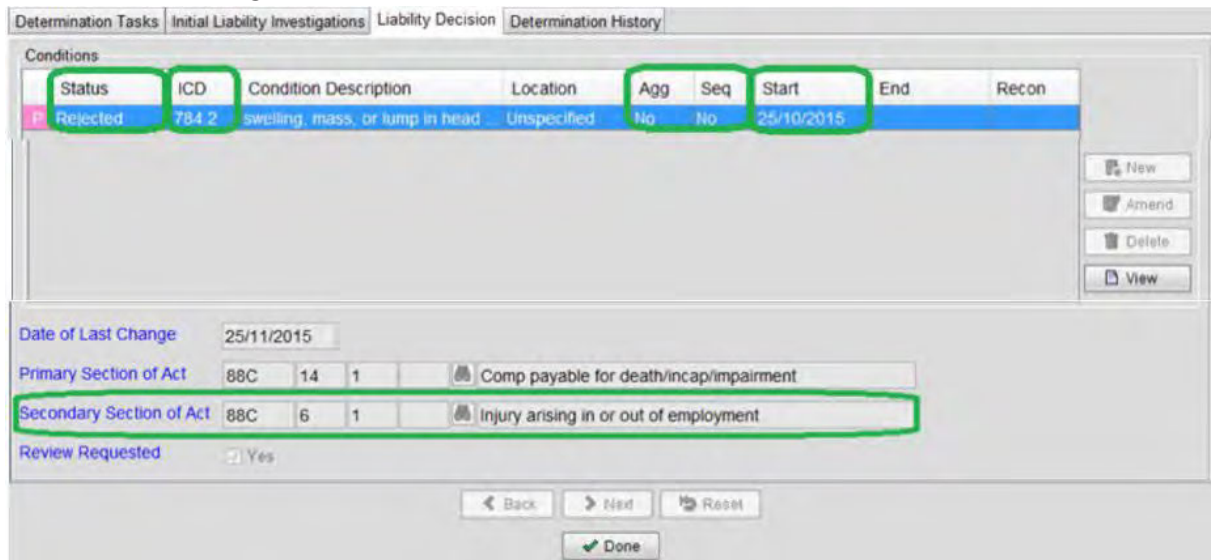
**5. Delegate Review Provisional Claim Determination**

Delegate

In PRACSYS on the create claim determination review page, click the **Determination** button



Click the **Liability Decision** tab to review the claim status, ICD code(s), if the claimed injury is the result of an aggravation or sequela, the date of injury, and the secondary Section of the SRC Act.

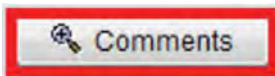


Compare ICD codes using the **View ICD Code (VICD)** function, to ensure that the correct ICD code for the claim medical condition has been selected.

**6. Delegate Review Claim Comments**

Delegate

Click the **Comments** button on the create claim determination review page.



Review claim comments to ensure that all relevant information has been covered and procedural steps have been followed.

Comment

Category: <unspecified>

Comment Code: <unspecified>

Comment Code	Date Created	Comment
Uncategorised general info	24/11/2015	24/11/2015 - initial liability
Uncategorised general info	25/11/2015	05/11/2015 - ER statement
Report info requiring note	25/11/2015	04/11/2015 - GP report fro
Request Employer Statement	25/11/2015	29/10/2015 @ 10:40AM - E
Request GP Report	25/11/2015	28/10/2015 @ 2:00PM - G
First update to parties	25/11/2015	27/10/2015 @ 11:10AM - F
Uncategorised general info	25/11/2015	27/10/2015 @ 11:00AM - F

Category: General (other not covered)

Updated by: [redacted]

24/11/2015 - initial liability assessment recommendation: deny liability - LP

**7. Delegate Finalise Claim Determination Review**

Dele  
gate

Complete the checklist based on the outcome of the review

Select the outcome of the review.

Place comments for the agency delegate's action.

Click **Create** to finalise.

Review

Director

Item	Reviewed
Deposition status	<input type="checkbox"/>
Primary ACO code	<input type="checkbox"/>
Secondary ACO code	<input type="checkbox"/>
Select secondary provider of SMC ACP	<input type="checkbox"/>
Date of injury	<input type="checkbox"/>
Date of next date	<input type="checkbox"/>
Medical expenses date	<input type="checkbox"/>
Aggravation	<input type="checkbox"/>
Deposition orders	<input type="checkbox"/>
1st party or common law liability	<input type="checkbox"/>
Order of rights	<input type="checkbox"/>
NDS codes	<input type="checkbox"/>
Rehabilitation intervention	<input type="checkbox"/>

Comments: [redacted] please wait the determination order and create a determination order template to the employee

Buttons:


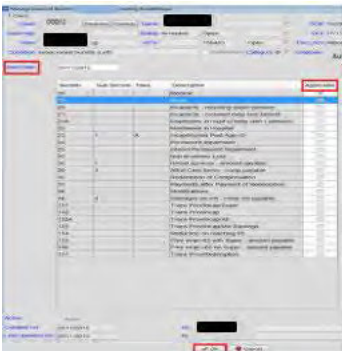
**8. End Process**

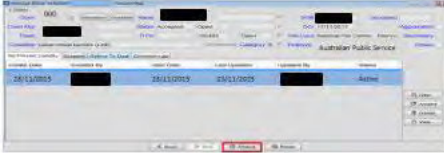



## Initial Liability Decline Process


### Trigger

During the review for the initial liability determination, the Case Manager considers the claim information (medical and factual) in the context of the Claim Liability Criteria and identifies the claim should be rejected under Section 14 of the Safety, Rehabilitation and Compensation Act due to the injury / disease not being compensable.

Step	Role	Action																				
1.	EML CM	<p><b>Review</b></p> <p>Consider the claim information (medical and factual) in the context of the <i>Injury / Disease Compensation Exclusions (above)</i></p>																				
2.	EML CM	<p><b>Call Delegate</b></p> <p>Discuss the claim circumstance of the claim situation and liability recommendation.</p>																				
3.	EML CM	<p><b>Draft Recommendation</b></p> <p>In Sharepoint draft the rejection letter to the Worker using the <i>CC019 Initial Liability Deny (injury or disease)</i></p> <p>Email the Technical Specialist a copy of the drafted <i>CC019 Initial Liability Deny (injury or disease)</i> letter to QA.</p>																				
4.	EML Tech nical Spec ialist	<p><b>QA Letter</b></p> <p>Receive the <i>CC019 Initial Liability Deny (injury or disease)</i> letter</p> <p>Review the information available and recommendation made by the Case Manager, make any required edits to the <i>CC019 Initial Liability Deny (injury or disease)</i> letter</p> <p>Email the Case Manager to review feedback.</p>																				
5.	EML CM	<p><b>Update Letter</b></p> <p>Receive the <i>CC019 Initial Liability Deny (injury or disease)</i> letter with feedback from Technical Specialist</p> <p>Make recommended updates</p>																				
6.	EML CM	<p><b>Update MILA</b></p> <p>In PRACSYS update the <b>Initial Liability Investigations</b> tab.</p> <div style="border: 1px solid #ccc; padding: 5px; margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Determination Tasks</th> <th>Determination Stop Clock Requests</th> <th>Initial Liability Investigations</th> <th>Liability Decisions</th> </tr> </thead> <tbody> <tr> <td>Create date 2006/2024</td> <td>Create User</td> <td>Decision Rejected</td> <td>Last updated 2006/2024</td> </tr> <tr> <td></td> <td>Update User</td> <td></td> <td>Version 4.1</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Completed <input checked="" type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td></td> <td>Initial <input checked="" type="checkbox"/></td> </tr> </tbody> </table> </div>	Determination Tasks	Determination Stop Clock Requests	Initial Liability Investigations	Liability Decisions	Create date 2006/2024	Create User	Decision Rejected	Last updated 2006/2024		Update User		Version 4.1				Completed <input checked="" type="checkbox"/>				Initial <input checked="" type="checkbox"/>
Determination Tasks	Determination Stop Clock Requests	Initial Liability Investigations	Liability Decisions																			
Create date 2006/2024	Create User	Decision Rejected	Last updated 2006/2024																			
	Update User		Version 4.1																			
			Completed <input checked="" type="checkbox"/>																			
			Initial <input checked="" type="checkbox"/>																			
7.	EML CM	<p><b>Send to Delegate</b></p> <p>Email the Delegate with the recommendation</p> <p> <b>Attach</b>  <i>CC019 Initial Liability Deny (injury or disease)</i> letter</p> <p>Advise the MILA screen has been updated.</p>																				
8.	Dele gate	<p><b>Review Letter</b></p> <p>Review <i>CC019 Initial Liability Deny (injury or disease)</i> letter,</p>																				

		Propose any recommended changes. Send to EML CM
9.	EML CM	<b>Review Edits</b> Review edits from the Delegate Accept changes
10.	EML CM	<b>Send letter to Delegate</b> Send letter to Delegate advising that edits have been accepted
11.	EML CM	<b>Accepted For A Closed Period?</b> Is the claim accepted for a closed period? Yes, Go to Step 12 No, Go to Step 18
12.	EML CM	<b>Update Claim Liability</b> In PRACSYS update claim liability as per <a href="#">CDC_SA_P010 Initial Liability</a>
13.	Dele gate	<b>Update Claim Liability</b> Accept claim via <b>Claim Determination (CDETR) Process</b> Provide EML CM signed delegated authority.
14.	EML CM	<b>Enter NPL</b> In PRACSYS open the claim in the <b>Manage Denial Of Benefits (MDOB)</b> function, navigate to the amend step screen, select the <b>No Present Liability</b> tab and click <b>New</b> .  A creating benefit denial screen will display. <b>Enter the start date</b> (i.e., the date of the determination that there is no present liability under the claim). Select the sections of the SRC Act that apply to the determination of no present liability and click <b>Ok</b> . 

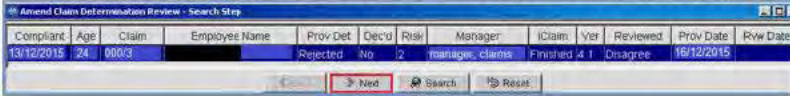
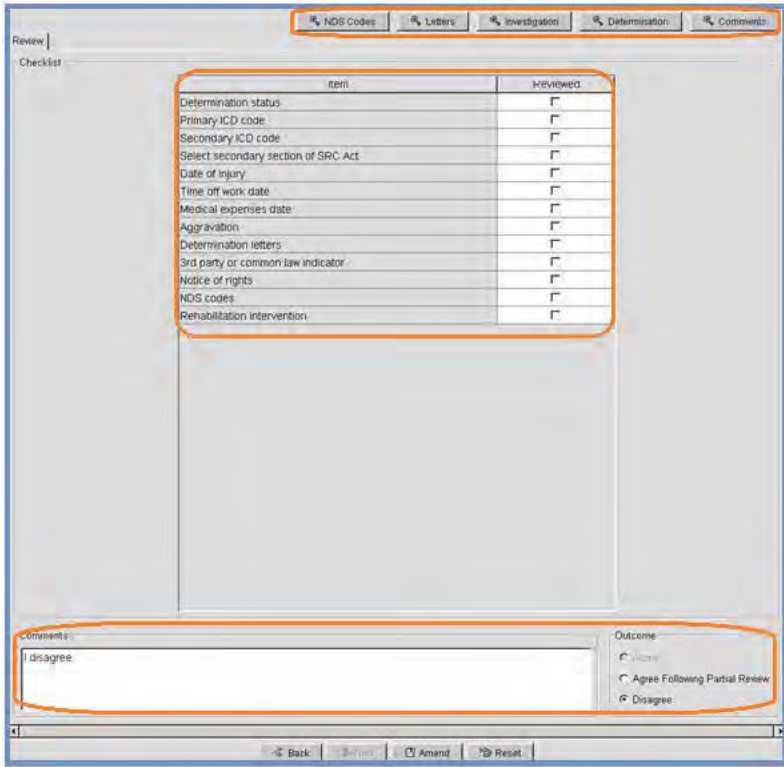
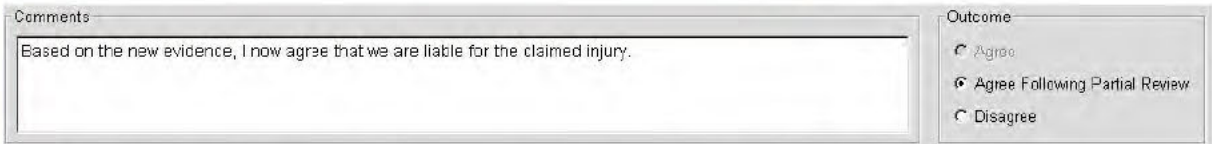
15.	EML CM	<p><b>Save</b></p> <p>PRACSYS will return to the amend step screen, where the data entered will display.</p> <p>Click <b>Amend</b> at the bottom of the screen to save the record.</p> <p>A message will appear at the bottom of the screen advising that the no present liability was successfully amended</p>  <p> The suspension must be approved in PRACSYS by the Delegate</p>
16.	EML CM	<p><b>Communicate</b></p> <p>Advise the Delegate that in PRACSYS the <b>MDOB</b> screen has been updated and the entry requires approval</p>
17.	Dele gate	<p><b>Authorise</b></p> <p>In PRACSYS navigate to the <b>MDOB</b> screen and authorise the entry.</p>
18.	EML CM	<p><b>Psych Claim?</b></p> <p>Is the claim for a psychological injury?</p> <p>Yes, Go to Step 19</p> <p>No, Go to Step 23</p>
19.	EML CM	<p><b>Identify Psychological Claim Communication Support</b></p> <p>To best support the messaging of the decision, book an appointment with the Workers Doctor to deliver the liability determination.</p> <p> Discuss with Doctor if they would like the EML CM to attend the appointment to deliver the determination or if they feel comfortable to deliver the information themselves</p> <p>Send the required pdf documents to the Worker CO the Doctors surgery</p> <p> Communicate decision as per <a href="#">CDC_SA_P059 Communicating Decisions</a></p>
20.	Dele gate	<p><b>Communicate to Employer</b></p> <p>Issue pdf version of letter and delegation instrument to the Employer</p>
21.	EML CM	<p><b>Medical Case Conference</b></p> <p>If required, conduct Medical Case Conference and deliver liability determination.</p>
22.	EML CM	<p><b>Claim Comment</b></p> <p>In PRACSYS enter a Claim Comment of the actions completed</p> <p>Go to Step 27</p>

23.	Dele gate	<p><b>Communicate to Employer</b></p> <p>Issue pdf version of letter and delegation instrument to the Employer</p>
24.	EML CM	<p><b>Communication of Decision - Verbal</b></p> <p>Notify the Worker via phone, followed by the written confirmation of the determination.</p> <p> Once the Worker is notified of the decision to reject the claim under Section 14, there is no entitlement to medical expenses (other than rehabilitation expenses for the period was undetermined) and no past or future entitlement to incapacity benefits (unless accepted for a closed period).</p>
25.	Dele gate	<p><b>Communicate to Worker - Written</b></p> <p>Issue pdf version of <i>CC019 Initial Liability Deny (injury or disease)</i> letter and delegation instrument to the Worker</p>
26.	EML CM	<p><b>Claim Comment</b></p> <p>In PRACSYS enter a Claim Comment</p>
27.	<b>End Process</b>	

## Amend Claim Determination Review (ADETR) Process

### Trigger

If the CDETR process has been finalised a mistake is identified, and a change is required.

Step	Role	Action
1.	Delegate	<p><b>Select Claim</b></p> <p>In PRACSYS navigate to the <b>Amend Claim Determination (ADETR)</b> function.</p> <p>A search step screen will display any claims that have been processed in CDETR.</p> <p>Select the claim that needs to be amended click <b>Next</b> button.</p> 
2.	Delegate	<p><b>Amend</b></p> <p>The finalise claim determination review screen will open, at the top of the screen click the <b>Quick Link</b> buttons, and then review the checklist, the determination review comments and outcome.</p> <p>Correct any details that are incorrect</p>   <p>Click the <b>Amend</b> button at the bottom of this screen to save the changes.</p>

A claim determination can only be finalised after a claim has been assessed and processed through iClaim. Following iClaim, use the claim determination functions to finalise an initial liability determination; make changes to a liability determination; and view the liability determination made under a claim.





Follow the initial liability assessment and claim determination review procedures before accessing the claim determination function. Pre-premium, death, takeover, and Section 15 (Property) claims are the exception to this rule as these claims can be formally determined through MILA.

**3.****End Process**

## Create Claim Determination (CDETR) Process

### Trigger

Liability decision required to be recorded

Step	Role	Action																		
1.	Delegate	<p><b>Open Claim</b></p> <p>In PRACSYS open the <b>Create Claim Determination (CDETR)</b> function.</p> <p>A search step screen will display.</p> <p> The CDETR function records the liability decision (i.e., accept or reject), when the decision was made, and by whom.</p>  <p>Select the relevant claim by double-clicking on it.</p>																		
2.	Delegate	<p><b>Review</b></p> <p>The <b>Create Step</b> screen will open, review the following information:</p> <table border="1"> <thead> <tr> <th>Tabs</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>Electronic</td> <td>Review the claim documentation scanned against the claim file.</td> </tr> <tr> <td>Contacts</td> <td>Ensure that the contact details are correct.</td> </tr> <tr> <td>Comments</td> <td>Review claim comments. Add a claim determination comment.</td> </tr> <tr> <td>Claim summary</td> <td>Review details to ensure they are correct.</td> </tr> <tr> <td>Employee claims</td> <td>Ensure there is no duplication of the claim.</td> </tr> <tr> <td>Liability decision</td> <td>Ensure that the information entered is correct.</td> </tr> <tr> <td>Initial liability investigations</td> <td>Review the initial liability investigation.</td> </tr> <tr> <td>Primary and secondary Sections of the SRC Act</td> <td>Ensure that the correct Sections of the SRC Act have been referenced.</td> </tr> </tbody> </table> <p>Is the information correct?</p> <p>No, Go to Step 3</p> <p>Yes, Go to Step 4</p>	Tabs	Description	Electronic	Review the claim documentation scanned against the claim file.	Contacts	Ensure that the contact details are correct.	Comments	Review claim comments. Add a claim determination comment.	Claim summary	Review details to ensure they are correct.	Employee claims	Ensure there is no duplication of the claim.	Liability decision	Ensure that the information entered is correct.	Initial liability investigations	Review the initial liability investigation.	Primary and secondary Sections of the SRC Act	Ensure that the correct Sections of the SRC Act have been referenced.
Tabs	Description																			
Electronic	Review the claim documentation scanned against the claim file.																			
Contacts	Ensure that the contact details are correct.																			
Comments	Review claim comments. Add a claim determination comment.																			
Claim summary	Review details to ensure they are correct.																			
Employee claims	Ensure there is no duplication of the claim.																			
Liability decision	Ensure that the information entered is correct.																			
Initial liability investigations	Review the initial liability investigation.																			
Primary and secondary Sections of the SRC Act	Ensure that the correct Sections of the SRC Act have been referenced.																			
3.	Delegate	<p><b>Edit</b></p> <p>Use the <b>Amend Claim Determination (ADET)</b> function to:</p> <ul style="list-style-type: none"> <li>▪ Create a new condition under an existing claim (i.e., to determine liability for a secondary condition).</li> <li>▪ Amend a liability determination (i.e., determined condition). This may occur because of a reconsideration reviewable decision or a reconsideration of own motion determination, or an Administrative Appeals Tribunal or Court decision.</li> <li>▪ Apply a liability end date to a determined condition (e.g., where the medical evidence states that liability for the condition was for a closed period or that the condition has resolved).</li> </ul>																		

Go to Step 1

4. Delegate

**Create**

In PRACSYS at the bottom of the screen, click the **Create** button



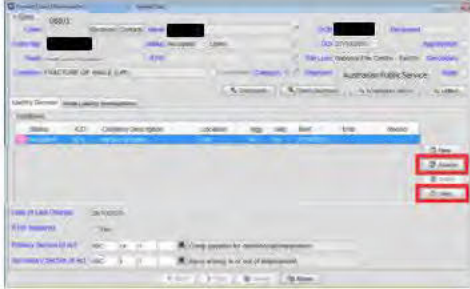


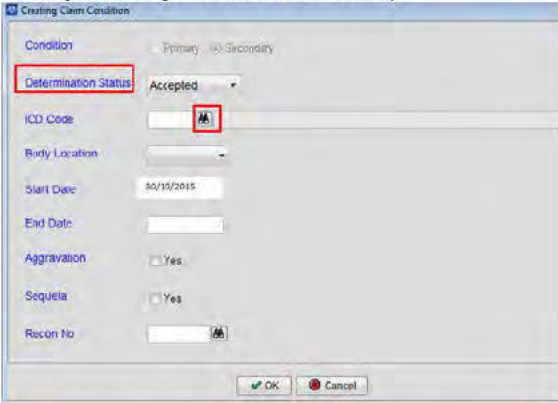
5.

End Process

## Determining Liability For A Secondary Condition Process

### Trigger

Liability determination is required for a secondary condition.

Step	Role	Action
1.	CM	<p><b>Select Claim</b></p> <p>In PRACSYS navigate to the <b>Amend Claim Determination (ADET)</b> function, open the relevant claim, the amend step screen will display.</p> <p>Select the relevant condition, to the right of the screen click <b>New</b> button, a creating claim condition pop-up window will open.</p>  <p> <b>Non-compliant</b> is a system-allocated status. It is applied when no medical certificate has been linked in claim registration.</p> <p> Deleted status is only ever used if the claim registration has been duplicated in error. A claim can only be deleted if there are no costs or determinations under it. It is very rarely used, and the claim information cannot be recovered once deleted from PRACSYS.</p>
2.	CM	<p><b>Creating Claim Condition</b></p> <p><b>Determination Status</b> Select the relevant determination (i.e., withdrawn, undetermined, accepted, rejected, or deleted).</p>  <p><b>ICD Code</b> Click the <b>Binoculars</b> icon next to the ICD Code field. Search the ICD codes by entering the diagnosis in the description field. Identify the closest and most appropriate match to the diagnosed condition and click <b>OK</b></p>

Creating Claim Condition - Prompting for ICD Code

ICD Code: [ ]

Description: meniscus and [ ]

Select Allowed:  Yes  No

ICD Code	Description
717.0	OLD BUCKET HANDLE TEAR OF MEDIAL MENISCUS
717.1	DERANGEMENT OF ANTERIOR HORN OF MEDIAL MENISCUS
717.2	DERANGEMENT OF POSTERIOR HORN OF MEDIAL MENISCUS
717.3	UNSPECIFIED DERANGEMENT OF MEDIAL MENISCUS
717.4	DERANGEMENT OF LATERAL MENISCUS
717.5	DERANGEMENT OF MENISCUS, NOT ELSEWHERE CLASSIFIED
836.0	TEAR OF MEDIAL CARTILAGE OR MENISCUS OF KNEE
836.1	TEAR OF LATERAL CARTILAGE OR MENISCUS OF KNEE
836.2	TEAR OF CARTILAGE OR MENISCUS OF KNEE

Buttons: Back, Next, Search, Reset, OK, Cancel

The coding of a condition is based on the medical evidence available at the time of the determination.

**3. CM Creating Claim Condition**

**Body Location** Select the relevant body location

**Start Date** The start date for **Injury** claims will be the date the injury occurred and for **Disease** claims it will be the date the Worker first sought medical treatment, became incapacitated or impaired, whichever happened first.

**End Date** is only completed if the medical evidence states the condition was for a closed period or has resolved.

Creating Claim Condition

Condition:  Primary  Secondary

Determination Status: Accepted

ICD Code: 836.0 TEAR OF MEDIAL CARTILAGE OR MENISCUS OF KNEE

Body Location: Left

Start Date: 30/10/2015

End Date: [ ]

Aggravation:  Yes

Sequela:  Yes

Recon No: [ ]

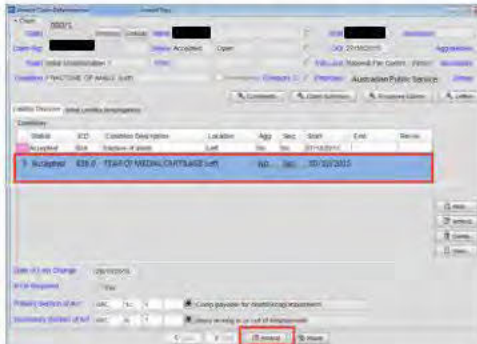
Buttons: OK, Cancel

**4. CM Creating Claim Condition**

Based on the injury circumstances select **Aggravation** or **Sequela** if the newly determined condition is an aggravation or sequela to the original injury or disease.

**!** **Sequela Conditions**, the start date must be after the claim injury date.

**i** To amend the determination as a result of a reconsideration or appeal, select the relevant reconsideration number using the **Binoculars** button to the right of the **Recon no** data entry field. Click **Ok**.

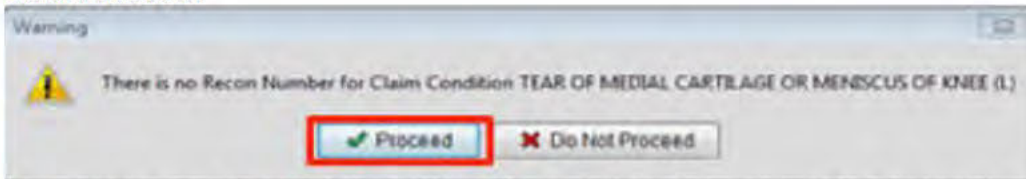


Click **Amend** at the bottom of the screen.

**5. CM Amend Successful**

A pop-up warning may appear that there is no reconsideration number for the condition.

Click **Proceed**.



A message will appear at the bottom of the screen advising that the secondary condition has been successfully amended.



**6. End Process**

## Troubleshooting

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### **Problem**

A claim that was withdrawn has been reinstated and changed to an undetermined status. However, this claim is not listed in the **Manage Initial Liability Assessment (MILA)** function for the Case Manager to get the determination drafted and finalised.

### **Resolution**

MILA requires a provisional determination entry to exist to display claims, hence why any claim that had a withdrawn status at the time of the system change will fail to appear in MILA when amended to an undetermined status. To rectify this issue, open the claim in the **Amend Claim Registration (ACLM)** function. In the **Employee Detail** step screen:

- Click the **Next** button at the bottom of the screen. This will open an amend step screen
- Click the **Injury / Illness** tab
- Click the **Remove Document** button, which is located about half-way down the screen
- Click the **Amend** button at the bottom of the screen. This will change the status of the claim to non-compliant
- While still in the amend step screen, link the initial medical certificate document to the claim registration function again by clicking on the **Folder Search** icon to the left of the remove document icon
- Enter the medical certificate date
- Click the **Amend** button at the bottom of the screen once more. The claim status will change to undetermined.

The claim should now appear in MILA.

***Changes will be lost; do you wish to continue?*** If the screen is exited before saving created changes, a warning message will appear advising that changes will be lost.

Click **Yes** to exit without saving the changes or **No** to return to the amend claim determination review screen and save the changes.

***A comment must be entered when the review outcome is 'Disagree'*** When the review disagrees with the original recommendation, a comment must be entered in the comments field. Enter a comment in the comments field and select **Create**.

## Controls

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- Comcare Authorisation Framework

## References & Related Documents

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### Reference

Clinical Framework for the Delivery of Health Services

### Procedure

Standard Communications

## Document & Record Control

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<b>VERSION: 1.0</b>				
Effective Date: JULY 24		Review Date Due: JULY 25		Approved By: s47F
Department Owner: FSI		Author: s47F		SME: s47F
<b>CHANGE HISTORY</b>				
Change Description	Requester	Date	Effect of Change +/- cost, time, other	Comments



## 005 Liability Determination PROCEDURE

**Topic:** **Liability Determination**

**Business Unit:** EML Federal Self Insurance (FSI)

The purpose of this procedure is to ensure:

- ▶ EML Case Managers only accepts liability to pay compensation for employment-related injuries in accordance with the SRC Act.
- ▶ There is no undue delay in determining liability to pay compensation on new claims or on existing claims where a liability determination is required for secondary injuries.
- ▶ New claims are determined as soon as practicably possible and within 20 days for injuries and 60 days for diseases (LKPI 6 – Timeliness – determination of new claims) and in line with section 11A, *Safety, Rehabilitation and Compensation Regulations 2019* by the unincorporated amendment *Safety, Rehabilitation and Compensation Amendment (Period for Decision-making) Regulations 2023 (the Regulations)*
- ▶ Recovery and return to work processes are not compromised when making a liability determination.

**Purpose:**

**Audience & Scope:** Claims Staff – EML Federal Self Insurance Team

**Responsibilities** The EML Case Manager is responsible for ensuring that all liability determinations are made in a timely manner and in accordance with the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) and any additional guidelines and instructions issued by Comcare to licensees.

**Procedure details**

### BACKGROUND

There are mandated periods for when a determination of liability to pay compensation for employment-related injuries must be made under section 14 of the SRC Act.

EML and Comcare KPIs require determination made under section 14 or 15 of the SRC Act to be made within 20 days for injuries and 60 days for diseases as per *LKPI 6 – Timeliness – determination of new claims*.

New amendments to the Regulations commenced from 1 April 2024, whereby section 11A allows for decision makers to stop the liability day count if there is a requirement to obtain or provide further information in accordance with section 61(1A) of the SRC Act.

EML, in line with Comcare KPIs and requirements for licensees will determine liability to pay compensation under **section 14** of the SRC Act as follows:

- ▶ 20 days for injuries, and
- ▶ 60 days for diseases.

If it appears that the determination will not be made within timeframes the Case Manager must escalate to the Team Leader and/or Group Manager prior to the timeframes being exceeded, who will inform the client.

## 005 Liability Determination Procedure

Additionally, EML may enter into client specific agreements that include and encourage early decisions, provided that the decision remains robust and with the provision of required information.

As soon as practicable after a determination is made, EML must serve on the employee a notice in writing setting out:

- ▶ the terms of the determination;
- ▶ the reasons for the determination; and
- ▶ a statement about the right to request a reconsideration of the determination.

### 61 Determinations to be notified in writing

- (1) *As soon as practicable after a determining authority makes a determination, it shall cause to be served on the claimant a notice in writing setting out:*
- (a) *the terms of the determination;*
  - (b) *the reasons for the determination; and*
  - (c) *a statement to the effect that the claimant may, if dissatisfied with the determination, request a reconsideration of the determination under subsection 62(2).*

The EML Case Manager should seek advice and guidance from the Technical Team or other suitably qualified person(s). The EML Case Manager could utilise the **Initial Liability Checklist – Safety Rehabilitation and Compensation Act 1988 (Liability Checklist)** to guide assessment of liability for the claim for compensation and record the steps taken to reach a sound and sustainable determination.

The EML Case Manager will store and manage all claim related documentation in line with **001 Collection, Use and Disclosure of Claim Information Procedure**.

#### Claim Notification

See **002 Claim Notification Procedure**.

Before assessing liability for a claim for compensation, the EML Case Manager must check that the claim meets minimum statutory requirements under the SRC Act.

The main requirements are that:

- ▶ the claim is made by an 'employee' as defined in the SRC Act (section 5)
- ▶ written notice of injury has been given as soon as practicable (section 53)
- ▶ the claim is in writing and the relevant Comcare approved claim form is used (section 54), e.g. Comcare and some licensees have a different form for injuries suffered whilst travelling for work, and
- ▶ the employee has completed the approved claim form or there is substantial compliance with form requirements (section 54), and
- ▶ the claim form is accompanied by a medical certificate from a 'legally qualified medical practitioner' (e.g. general practitioner, surgeon, psychiatrist, dentist) unless the claim is for medical treatment only or death and dependency benefits (section 54).

Is the claim compliant?

## 005 Liability Determination Procedure

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*NOTE: Comcare has recommended that a medical certificate meets SRC Act requirements. Its use is not mandatory and certificates from other State and Territory workers compensation jurisdictions are frequently used.*

### COMPLETE EARLY CONTACT WITH RELEVANT PARTIES TO OBTAIN INFORMATION TO ASSIST IN DETERMINING LIABILITY.

See **004 Early Contact Procedure**.

Early contact is made with the injured employee, employer, nominated treating doctor (if appropriate) and others where relevant to gather information to consider when determining:

- ▶ liability
  - using the Liability Checklist for guidance, determine what information might be relevant to the claim and the sources of that information
  - make a list detailing any previous treatment providers relevant to the claim
  - make a list of any other previous workers compensation claims for a similar injury or condition
  - consider other information sources relevant to determining the claim, e.g. employee nominated witnesses (statements must be signed and dated)
- ▶ if requested treatment is reasonably necessary, and
- ▶ the claims estimate.

**PERFORMED BY: Case Manager**

**The Case Manager will work through the following guidelines and instructions when determining liability for an employee's compensation claim under the SRC Act.**

### SRC Act Guiding Principles

EML Case Managers must have regard to the following principles of the SRC Act when considering an employee's claim for compensation:

▶ No fault legislation

In a no-fault scheme, injured employees do not have to demonstrate that their employer has done anything wrong in order for an injury to be eligible for compensation - the requirements for liability are set out by law.

Even if an employee has been negligent or behaved inappropriately in the workplace, and that behaviour has contributed to the onset or worsening of their injury, the injury may still be compensable.

▶ Natural justice

Natural justice principles establish two key rules:

- decision makers must provide opportunity to a person whose interests will be adversely affected by any decision to be heard, and

## 005 Liability Determination Procedure

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- decision makers must be disinterested or unbiased in any matter that has to be decided.

▶ Onus of proof

Under the SRC Act, injured employees have no legal onus of proof. This means there is no obligation on an employee to 'prove' their case. However, it is necessary for an employee to satisfy the criteria of the SRC Act.

The Comcare approved claim form and the SRC Act provide decision makers with the investigatory authority to obtain relevant information. The employee provides a signed acknowledgment and authorisation via the claim form for the collection, use and disclosure of information to and from a wide range of sources.

Under **section 57** of the SRC Act, employees can also be required to attend a medical examination. **Section 58** of the SRC Act permits the request by written notice of any information or document relevant to the claim from to be provided or obtained (if without unreasonable expense or inconvenience) by the claimant within 28 days or such period allowed. Failure to comply with these provisions without reasonable excuse can lead to EML refusal to deal with the claim or claim suspension until the non-compliance is rectified.

(See **003 Claim Investigation Procedure**).

▶ Standard of proof

Standard of proof means the degree of certainty with which contested facts must be established in order to be accepted as proven.

Under the SRC Act, the basis for decisions to be established is 'on the balance of probabilities', which is the civil law standard of proof. This means EML Case Managers must decide:

- that it is more likely than not, that the fact or the facts relied upon by them existed at the relevant time
- if they are satisfied, or reasonably satisfied, as to the existence of the facts alleged.

▶ Case law

Many cases have gone before the courts for interpretation of phrases or words in workers compensation legislation. These court decisions on questions of law are used as relevant legal precedents (known as case law) in decision making by EML Case Managers when assessing liability for compensation.

### LIABILITY

For compensation to be payable under the SRC Act, the EML Case Manager will determine if liability for a claim relating to an injury exists.

To find liability for a compensable injury under **section 14** SRC Act means the Case Manager must determine the following two factors:

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## 005 Liability Determination Procedure

- ▶ what the claimed medical condition is, and
- ▶ whether that claimed medical condition meets the test for an employment-related injury or disease, or aggravation of either.

Finding liability under **section 14 SRC Act** opens the compensation gateway for an injury or disease but does not automatically give injured employees access to all entitlement provisions under the SRC Act. Each claim for incapacity payments for time off work or incomes loss, medical expenses, or other entitlements, must pass a test of its own before it can be accepted and paid for.

### The liability threshold

**Section 14(1) SRC Act** provides that:

*'Comcare is liable to pay compensation in respect of an injury suffered by an employee if the injury results in death, incapacity for work, or impairment.'*

There are four tests to be considered when determining liability:

- ▶ a person must be an 'employee' for the purpose of the Act (**section 5**)
- ▶ there must be an employment-related 'injury' or 'disease' or an aggravation of same within the meaning of the Act (**sections 4, 5A, 5B, 6 and 7**),
- ▶ an exclusion from payment of compensation for the employment-related 'injury', 'disease' or aggravation must not apply (**sections 4, 5A, 5B, 6 and 7**)
- ▶ the 'injury', 'disease' or aggravation must result in:
  - incapacity for work
  - 'impairment' – the loss\*, loss of use, damage or malfunction or any part of the body, bodily system or function or part (**section 4**) which includes a need for reasonable medical treatment for that impairment, or
  - death.

To establish whether an employee is entitled to compensation under the SRC Act, the EML Case Manager must establish the following:

- ▶ Is the person claiming compensation an employee of the licensee (or Commonwealth department or agency)?
- ▶ Did the claimant suffer an 'injury' (or an aggravation of an injury) that arose out of, or in the course of their employment?
- ▶ Did the claimant develop a 'disease' (or an aggravation of a disease) that was contributed, to a significant degree, by their employment?

Is the  
Claimant  
an  
employee?

**The EML Case Manager must first determine if the claimant is an 'employee' under the SRC Act.**

**Section 5 SRC Act** outlines who is considered to be an employee for the purposes of the legislation. This list includes:

- ▶ Employees of the Commonwealth and Commonwealth authorities

## 005 Liability Determination Procedure

- ▶ Employees of the ACT Government
- ▶ Members of the Australian Federal Police
- ▶ Defence force (military) personnel (up to 30 June 2004)
- ▶ Employees of self-insured licensees
- ▶ People declared by the Minister.

To be an 'employee', the claimant must be employed:

- a) under a law of the Commonwealth or Territory or a contract of service of apprenticeship by the Commonwealth or a Commonwealth authority, or
- b) by a licensed corporation, and
  - i. perform work for that corporation under a law or a contract, and
  - ii. under that law or contract would (if the employer was not a licensed corporation) be entitled to compensation in respect of injury, loss, damage or death in connection with that work.

### Determining if an injury or disease (or aggravation) 'arose out of, or in the course of, employment' within the meaning of the SRC Act.

It is crucial under the SRC Act to determine whether an employee has suffered an 'injury' or a 'disease' as the criteria for compensability differs.

### Determining if an injury or disease (or aggravation) is compensable under the SRC Act.

- ▶ The definition of 'injury' in section 5A of the SRC Act includes a physical or mental injury or an aggravation of a physical or mental injury (other than a disease) 'arising out of or in the course of, the employee's employment' as well as a 'disease' (as defined in section 5B).
- ▶ The definition of 'disease' in section 5B(1) of the SRC Act refers to an 'ailment' or an aggravation of an ailment that was 'contributed to, a significant degree, by the employee's employment'
- ▶ 'Ailment' means any physical or mental ailment, disorder, defect or morbid condition (whether of sudden onset or gradual development). 'Aggravation' includes acceleration or recurrence. (section 4(1))

(This definition of 'disease' applies from 13/04/2007. For diseases prior to 13/04/2007 the test was whether the ailment or aggravation of an ailment was contributed to in a 'material degree' by the employee's employment, which required that the work nexus be more than 'de minimis' or more than minimal)

#### Relevant Case Law

*Welsford and Commonwealth Banking Corporation (1984)*

- ▶ Employment needs to be one of the contributing factors and doesn't have to be the sole contributing factor

*Canute v Comcare (2006)*

Is the claim for an injury or a disease?

## 005 Liability Determination Procedure

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- ▶ In essence, a disease must have a close connection to employment ('obiter' finding = persuasive part of the decision but not a part of the 'ratio' that must be followed as a legal precedent),

*Comcare v Sahu-Khan (2007)*

- ▶ Affirmed the decision in *Canute*.

The following factors may be taken into account in determining whether employment contributed to a significant degree under **section 5B(2)** of the SRC Act:

- (a) the duration of the employment;
- (b) the nature of, and particular tasks involved in, the employment;
- (c) any predisposition of the employee to the ailment or aggravation;
- (d) any activities of the employee not related to the employment;
- (e) any other matters affecting the employee's health.

This list is not exhaustive.

**Section 5B(2) of the SRC Act** states:

*'This subsection does not limit the matters that may be taken into account'.*

The requirement that the disease be '**contributed to**' by the employee's employment is a different and less stringent test than the test for injury, which requires that the injury arise 'out of, or in the course of, the employee's employment'.

It means that for diseases, all that needs to be shown is that the employment contributed to a significant degree to the injury and not that the employment was the real, effective or proximate cause of the injury.

### Relevant Case Law

*Favelle Mori Lid v Murray (1976) 133 CLR 580*

*Re AXA and Comcare [1999] AATA 917*

*Re Shephard and Comcare [2003] AATA 25*

*Dunstan v Comcare [2006] FCA 1655*

Despite the distinction between a 'mental injury' and a 'disease', effectively almost all psychological conditions are treated as diseases in under the SRC Act.

The way to ascertain whether a condition is an 'injury' or a 'disease', is to:

- (1) consider first, whether the condition is an 'injury simpliciter' or a primary injury; and
- (2) if not, to then go on to consider whether the condition meets the definition of a 'disease'.

An 'injury simpliciter' or primary injury can be defined as an injury of sudden or identifiable physiological onset (including to the internal organs) caused in some manner from the external environment, such including from personal exertion.

The focus for an injury simpliciter is on the suddenness of the onset of the condition and not on the speed of the progression of the condition after onset, e.g. sudden blindness, hearing loss from an acoustic trauma rather than extended exposure to

## 005 Liability Determination Procedure

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noise, or an impact to the spine that set off a progressive degeneration would all be classified as injuries.

For example, in *Zickar v MGH Plastic Industries Pty Limited* (1996) 186 CLR 310, the High Court found that a sudden rupture of blood vessels and consequent cerebral haemorrhage was an 'injury' and distinct from a defect, disorder or morbid condition which enabled the rupture to occur.

### Relevant Case Law

*Accident Compensation Commission v McIntosh* [1991] 2 VR 253

*Zickar v MGH Plastic Industries Pty Limited* (1996) 186 CLR 310

*Australian Postal Corporation v Burch* (1998a) 8 FCR 264

*Health Insurance Commission v Van Reesch* (1996) 45 ALD 302

*Kennedy Cleaning Services v Petkoska* (2000) 200 CLR 286

*Military Rehabilitation and Compensation Commission v May* [2016] HCA 19

*Wuth v Comcare* [2022] FCAFC 42

High Court case law (*MRCC v May*, 2016) sets out a step by step process for determining whether an employee is suffering a 'disease' in **section 5A(1)(a)** of the SRC Act or an 'injury (other than a disease)' in **section 5A(1)(b)** of the SRC Act that EML Case Managers must follow when assessing liability:

- 1) Does the evidence support that there is something that can be described as an 'ailment' being a physical or mental ailment, disorder, defect or morbid condition?
- 2) If "yes" to question 1), was that contributed to, [to a significant] degree by the employee's employment?
- 3) If the answer to questions 1) and 2) is "yes", there is a 'disease' within the meaning of **section 5A(1)(a)** of the SRC Act.
- 4) If the answer to question 1) or question 2) is "no", the next inquiry is whether there is an 'injury (other than a disease)' within **section 5A(1)(b)** of the SRC Act.

Does the evidence demonstrate the existence of a physical (or mental) 'injury' in the primary sense of the word?

Generally, this question can be answered by asking whether the employee has suffered something that can be described as a sudden and ascertainable or dramatic physiological change or disturbance of the normal physiological state. However, the High Court has confirmed that such a finding is not a necessary pre-condition for the existence of an injury under the SRC Act and this description is not part of the wording of the statute.

- 5) If there is an 'injury' in the primary sense of the word under question 4), the next question is – did that injury arise out of, or in the course of, the employee's employment by the employer?
- 6) If the answer to question 5) is "yes", there is an 'injury (other than a disease)' within **section 5A(1)(b)** of the SRC Act.
- 7) If the answer to question 5) is "no", then in some circumstances it might be:

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- a. necessary to ask whether the case is one involving an aggravation of an injury; or
- b. that the identification of a physiological change, a disturbance of the normal physiological state or a psychiatric disorder may satisfy the definition of "ailment" and therefore result in a "yes" to question 1), but a "no" to question 2).

If b. is the position on the evidence, there will not be any relevant overlap between the definition of 'injury' in **section 5A(1)** of the SRC Act of (a) a 'disease' and (b) of an 'injury'. Rather, it will reflect the fact that there are marked differences between arising 'out of, or in the course of,' employment in paragraph 5A(1)(b) and 'contributed to in a [significant] degree' for paragraph 5A(1)(a) in the definition of 'injury'.

Such a construction, the High Court has noted, does not "rob" the definition of 'disease' of utility - the 'disease' limb of the definition remains an additional basis of liability.

The SRC Act reflects the importance between the two types of 'injury' and recognises that each creates a different basis for liability under the Comcare statutory scheme.

### Determining if the injury arose out of, or in the course of, employment

Once an injury simpliciter or primary injury has been established, the 'injury' must either 'arise out of' employment (causal test) or be sustained 'in the course of' employment (temporal test) to be compensable.

The test can be difficult to apply on the facts, but a simple way to look at the concept is that injuries:

- ▶ **from working** = 'arise out of' employment
- ▶ **at work** = 'in the course of' employment; and
- ▶ **away from the workplace for work** can = 'in the course of' employment.

### Injuries 'arising out of' employment' under the SRC Act

Effectively, injuries 'arise out of' employment if they occur when the employee is doing something they are reasonably required, expected or authorised to do to carry out their actual duties. Something about the employment must have caused the injury, for example, the tasks, equipment or surroundings.

For injuries **arising out of** employment, there must be a causal connection (a relationship or link between two things in which one causes the other) between the employment activity and the injury, rather than a temporal relationship (things which occur at the same time).

**Once a causal link or connection is found this will satisfy the test without any qualifications conveyed by such terms as sole, dominant or proximate.**

#### Relevant Case Law

*Roncevich v Repatriation Commission* (2005) 222 CLR 115

Did the injury arise out of, or in the course of, employment?

## 005 Liability Determination Procedure

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### Injuries 'in the course of employment' under the SRC Act

Injuries sustained 'in the course of' employment can be compensable if they have a temporal (time) relationship with employment- that is, there is a connection between the employment and the injury, but employment activity has not caused the injury.

Examples include injuries not directly caused by an employee doing the duties for which they were employed or injuries happening at work by accident or from the employee undertaking a task or duty that the employee could reasonably be expected or authorised to do by the employer based on the circumstances of their employment.

To meet the temporal test, the injury must have must happened during work hours or in relation to an activity which the employer allowed or encouraged or was reasonably incidental to the employment (e.g. a butcher sharpening his knives at home on the weekend ready for work on Monday morning).

The injury also must not have occurred whilst the employee was doing something for their own purposes without the knowledge or consent of the employer.

High Court case law (*Comcare v PVYW*, 2013) sets out the questions for a decision maker, that is, an EML Case Manager, to ask in determining whether an injury occurred 'in the course of employment' as follows:

1. Did the employee suffer injury whilst not engaged in actual work?
2. What was the employee doing when they were injured?
3. Was the injury caused by the place (e.g. a wall collapsing on the employee) or by the employee's activity at the place?

4. If the injury occurred at and by reference to the place:

Did the employer induce or encourage the employee to be there?

If yes = an injury 'in the course of' employment.

*There must be some characteristics of that place that was the cause of the injury. It is not sufficient that the injury occurred at a place where the employee as at the employer's inducement unrelated to a characteristic of that place.*

5. If the injury occurred during an activity at the place:

Did the employer induce or encourage the employee to engage in that activity?

*(Hatzimanolis test now relevant – liability found where employee suffered injury during an employer encouraged the employee to attend a weekend sight-seeing trip away from a remote mining camp).*

If yes = an injury 'in the course of' employment.

*Injuries caused by activities unrelated to work are not compensated, irrespective of the location at which the injury occurred.*

#### Relevant Case Law

*Hatzimanolis v ANI Corporation Ltd (1992) 173 CLR 473*

*Comcare v PVYW [2013] HCA 41*

*Lee v Transpacific Industries Pty Ltd [2013] FCA 1322*

## 005 Liability Determination Procedure

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### Injuries deemed to arise 'out of, or in the course of' employment under the SRC Act

With some exceptions, under **section 6(1)** of the SRC Act, an '*injury*' is treated or deemed as 'arising out of, or in the course of, the employee's employment' if sustained:

- ▶ as a result of an **act of violence** that would not have occurred but for the employee's employment or the performance by the employee of their duties or functions of employment;
- ▶ while the employee was absent from the place of work during an **ordinary recess**;
- ▶ while the employee was **temporarily absent** from the place of work undertaking an activity associated with the employee's employment or at the direction or request of the employer;
- ▶ whilst **travelling** at the direction or request of the employer for the purposes of employment (but not to/from their usual place of work);
- ▶ whilst **at or travelling** between work **to a place of education** in accordance with a condition of the employee's employment, a request or direction of the employer or the approval of the employer (except while on leave without pay);
- ▶ whilst at or **travelling between work and another place** or whilst at a place to obtain a medical certificate under the SRC Act, receive medical treatment for an injury, undergo a rehabilitation program provided under the SRC Act receive a payment of compensation under the SRC Act, undergo a medical examination or rehabilitation assessment in accordance with a requirement made under the SRC Act or whilst at a place to receive money due to the employee under the terms of his/her employment reasonably expected to be available for collection at that place; or
- ▶ whilst **outside Australia** and the external territories at the direction or request of the employer (subject to legislative instruments applying to the place or the class of employees).

NOTE: Exceptions apply, see **Exclusionary provisions** below.

Under **section 4(3)** of the SRC Act, a physical or mental injury or ailment suffered by an employee as a result of **medical treatment of an injury**, will also be taken to be an injury if compensation is payable under the Act in respect of the injury, and it was reasonable for the employee to have obtained that medical treatment in the circumstances.

#### Relevant Case Law

*Courtis and Linfox Armaguard Pty Ltd* [2009] AATA 809

## 005 Liability Determination Procedure

Has employment contributed to the disease to a significant degree? (disease)

### Diseases

The test applied for disease claims is whether employment contributed in a 'significant degree' to the disease.

**Remember**, most mental health conditions are treated as 'diseases' under the SRC Act even if they have a sudden or traumatic cause (e.g. Post Traumatic Stress Disorder) unless they have a physiological cause (e.g. acquired brain injury).

**Section 5B(3) SRC Act** defines **significant degree** as:

*'...a degree that is substantially more than material'.*

In order to understand what 'significant degree' means, it is useful to understand the meaning of 'material'.

The ordinary dictionary meaning of 'materially' is 'substantially, considerably'. To a 'material degree' requires an evaluation of all relevant contributing factors for the purposes of asking whether the employee's employment did or did not contribute materially to the suffering of the ailment in question ("the threshold evaluation"). Whether there is a material contribution in a case is a matter of fact and degree.

In considering whether employment contributed to a disease to a '**significant degree**', the EML Case Manager must weigh up the available evidence and make a determination as to whether there is a **very strong connection** between the employee's condition (or aggravation of that condition) and their employment.

It is not necessary for an injured employee to show that there was a special, unusual or wrongful factor that contributed to their condition. Nor do they have to establish that their employer breached any duty of care. However, an employee must show that there is a very strong connection between employment and the development of a condition.

In cases where there are non-work related causes that contribute to the condition, the EML Case Manager will need to be satisfied that the employee's employment contributed to a **significant degree** to the cause of the condition.

### Perception

A mental health '**disease**' can be compensable as an '**injury**' under the SRC Act if the employee's perception of an actual incident or state of affairs from their employment has some basis in reality and has contributed to that mental health condition to a 'significant degree'.

The determining factor in perception cases is whether there has been an actual incident, or state of affairs in the course of employment that has led to an injured employee's condition. A distinction can be made where a person's perception is a distortion of reality. In other words, the claimed incident or state of affairs did or does not exist - this is not compensable. If, however, there is an incident or state of affairs in the workplace and an employee's perception of that incident or state of affairs has been established as contributing to a psychological injury, it is compensable unless exclusionary provisions apply (refer to Exclusionary Provisions below).

## 005 Liability Determination Procedure

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The key points to be considered by EML Case Managers are whether:

- an incident or state of affairs occurred in the course of employment
- that incident or state of affairs created a perception in the mind of an employee
- that perception contributed in a **significant degree** to the psychological injury.

A mere perception about something in the employment is unlikely to be sufficient to satisfy the test for a 'disease' that the employment contributed to a **'significant degree'**.

If an EML Case Manager finds all three criteria are met, then the requirements of the definition of disease are met and the condition is compensable unless an exception to liability for the payment of compensation applies (see below).

**An EML Case Manager is not required to make any value judgments about whether or not an incident or state of affairs was reasonable or not.**

### Date of Injury

Under **section 7(4)** SRC Act, an employee will be taken to have sustained a disease or an aggravation of a disease on the day when the employee **first sought medical treatment or the day the disease or aggravation first resulted in an incapacity for work or impairment- whichever happens first.**

### Specified Diseases

The SRC Act contains specific provisions that apply to 'diseases', however these do not apply to injuries:

- ▶ There are specified occupational diseases that are treated or deemed to arise from exposure in specified employments and those employments to have contributed to a significant degree to the contraction of the disease unless the contrary is established under **section 7(1)** of the SRC Act.

See Schedule of Specified Diseases (below) which sets out the specified diseases deemed to arise out of specified employment.

- ▶ Under **sections 7(8) & (9)** of the SRC Act employment will be presumed to have contributed to a significant degree to specific types of cancer for **fire fighters** who have performed firefighting duties for specified qualifying periods, e.g. primary site bladder cancer for 15 years, primary site brain cancer for five years.
- ▶ Section 7(11) introduces presumptive compensation for first responders, or a class of employees (certain employees who may in future be declared by the Minister) who are suffering, or who have suffered, from PTSD without having to prove that their PTSD is work-related.

For the presumption to apply the following requirements must be met:

- the employee has been diagnosed by a legally qualified medical practitioner (LQMP) or psychologist as suffering, or having suffered from, PTSD in accordance with the diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders, fifth edition text revision (DSM-5-TR) or a later edition of the Manual if specified by the Minister; and

## 005 Liability Determination Procedure

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- before the symptoms of PTSD became apparent, the employee was employed as a first responder or was a member of a class of employees as declared by the Minister; and
- the employee sustained PTSD, or suffered an aggravation of PTSD, on or after the commencement of the provisions on 15 December 2023.

There is no employment duration qualifying period.

If these circumstances are met the employee's employment as a first responder is taken to have contributed, to a significant degree, to the onset or aggravation of the PTSD, unless the contrary is established.

### Schedule of Specified Diseases

#### **Safety, Rehabilitation and Compensation (*Specified Diseases*) Notice 2007 (1)**

##### **Schedule – Specified Diseases**

<b>Column 1 Item</b>	<b>Column 2 Specified Diseases</b>	<b>Column 3 Specified Employment</b>
1	Occupational asthma caused by sensitising agents or irritants	Employment processes involving asthmagenic agents.
2	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor causing the resultant incapacity, impairment or death.	Employment involving exposure to sclerogenic mineral dust.
3	Bronchopulmonary diseases caused by hard-metal dust.	Employment involving exposure to hard-metal dust.
4	Bronchopulmonary diseases caused by cotton dust (byssinosis), or flax, hemp or sisal dust.	Employment involving exposure to cotton dust, or flax, hemp or sisal dust.
5	Extrinsic allergic alveolitis and its sequelae.	Employment involving exposure to the inhalation of organic dusts.
6	Diseases caused by beryllium or its toxic compounds.	Employment involving exposure to beryllium or its toxic compounds.
7	Diseases caused by cadmium or its toxic compounds.	Employment involving exposure to cadmium or its toxic compounds.
8	Diseases caused by phosphorus or its toxic compounds.	Employment involving exposure to phosphorus or its toxic compounds.
9	Diseases caused by chromium or its toxic compounds.	Employment involving exposure to chromium or its toxic compounds.

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10	Diseases caused by manganese or its toxic compounds.	Employment involving exposure to manganese or its toxic compounds.
11	Diseases caused by arsenic or its toxic compounds.	Employment involving exposure to arsenic or its toxic compounds.
12	Diseases caused by mercury or its toxic compounds.	Employment involving exposure to mercury or its toxic compounds.
13	Diseases caused by lead or its toxic compounds.	Employment involving exposure to lead or its toxic compounds.
14	Diseases caused by fluorine or its toxic compounds.	Employment involving exposure to fluorine or its toxic compounds.
15	Diseases caused by carbon disulphide.	Employment involving exposure to carbon disulphide.
16	Diseases caused by toxic halogen derivatives of aliphatic or aromatic hydrocarbons.	Employment involving exposure to toxic halogen derivatives of aliphatic or aromatic hydrocarbons.
17	Diseases caused by benzene or its toxic homologues.	Employment involving exposure to benzene or its toxic homologues.
18	Diseases caused by toxic nitro- and amino-derivatives of benzene or its homologues.	Employment involving exposure to toxic nitro- and amino- derivatives of benzene or its homologues.
19	Diseases caused by nitroglycerin or other nitric acid esters.	Employment involving exposure to nitroglycerin or other nitric acid esters.
20	Diseases caused by alcohols, glycols or ketones.	Employment involving exposure to alcohols, glycols or ketones.
21	Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide.	Employment involving exposure to carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide.
22	Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves).	Employment involving exposure to vibration.
23	Diseases caused by work in compressed air.	Employment involving exposure to compressed air.
24	Diseases caused by ionising radiation.	Employment involving exposure to the action of ionising radiation.
25	Skin diseases caused by physical, chemical or biological agents not included under other items.	Employment involving exposure to the risk concerned.

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26	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	Employment involving exposure to tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.
27	Lung cancer or mesotheliomas caused by asbestos.	Employment involving exposure to asbestos.
28	Occupational infectious or parasitic diseases.	Employment carrying a particular risk of contamination including: (a) Health or Laboratory work; (b) Veterinary work; (c) Work handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals, animal carcasses, or parts of such carcasses.

Do any  
exclusions to  
liability to pay  
compensation  
apply?

### The EML Case Manager must determine if any of the exclusionary provisions apply to disentitle the employee to compensation under the SRC Act.

The EML Case Manager obtains and considers evidence to ascertain whether each claimed condition is related to the stated employment cause and, on review of that medical evidence, determine the nature and extent of the claimed injury and if the condition claimed is compensable.

Once it has been established that an employee has a medical condition, and it meets the threshold tests for an employment-related 'injury' or 'disease' (or an aggravation), the EML Case Manager must then consider employment-related evidence to determine whether any of the exclusionary provisions apply under the SRC Act.

These exclusionary provisions prevent an employee from being eligible to obtain compensation despite meeting the threshold test for liability in specified circumstances.

If an employee sustains a condition as a result of multiple causes and any cause falls within the scope of an exclusionary provision, then it is necessary to assess the contribution of that cause on the claimed condition.

If one of the operative causes falls within the meaning of the exclusion, and this cause contributed to a significant degree to the claimed condition, then compensation might not be payable under the SRC Act.

EML Case Managers must consider the application of the exclusion carefully in such circumstances. If, but for the exclusionary event or state of affairs the employee's injury or disease would not have been contributed to, to a significant degree, by their employment, then the exclusion applies.

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### Section 5A – Reasonable Administrative Action (injuries and diseases)

#### **Reasonable administrative action taken in a reasonable manner**

If an injury or disease (or aggravation) was the result of ‘reasonable administrative action’ the definition of ‘injury’ is not satisfied and a compensable condition does not exist.

Compensation is not payable for an injury suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee’s employment.

Reasonable administrative action includes the specific actions identified in the definition in **section 5(A)(2)** of the SRC Act and is taken to encompass "legitimate human resource management actions". Hence, the definition covers the day-to-day administration of activities relating to the employment of an employee.

The matters for the EML Case Manager as the decision maker to determine are whether the:

- ▶ employee's condition was the result of the action;
- ▶ action taken was administrative action or an activity done in connection with that action;
- ▶ administrative action was reasonable; and
- ▶ administrative action was taken in a reasonable manner.

Reasonable administrative action means action that:

- ▶ was lawful
- ▶ was not irrational, absurd or ridiculous
- ▶ was ‘relative or related to the conduct or behaviour giving rise to that action’
- ▶ was taken pursuant to the regulatory rules applicable to the employee; and
- ▶ involves ‘circumstances of fairness’.

Whether a reasonable administrative action was taken in a reasonable manner:

- ▶ is an objective decision;
- ▶ depends upon the facts of the case; and
- ▶ is not established solely on the basis of the impact on the employee.

There may be more than one way of doing things ‘reasonably’. It does not matter that the thing could have been done more reasonably.

It was previously the position, following the decision of *Hart v Comcare* (2005) 145 FCR), that if only one cause of a condition satisfied the definition of ‘reasonable administrative action’ that the exclusion in **section 5A** of the SRC Act applied and the condition was not an ‘injury’. This was so, even if the condition had many separate causes.

This position is no longer good law since 9 November 2016 when the High Court in *Comcare v Martin* [2016] HCA 43. In that case, the High Court held that:

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- to have suffered a disease falling within section 5A(1)(a) of the SRC Act, the employee must have suffered an ailment or aggravation of an ailment that was contributed to, to a significant degree, by the employee's employment;
- in excluding from compensation a disease suffered by an employee 'as a result of' reasonable administrative action taken in a reasonable manner in respect of the employee's employment', **section 5A(1)** of the SRC Act is naturally read as referring to the contribution made to the suffering of the disease by an event in the course of the employee's employment which answers that description of reasonable administrative action;
- that administrative action must be a cause in fact of the disease suffered, though it need not be the sole cause:

*'What is necessary is that the taking of the administrative action is an event without which the employee's ailment or aggravation would not have been a disease: it would not have been contributed to, to a significant degree, by the employee's employment'.*

### Reasonable appraisals, counselling, suspension and disciplinary actions

Informal counselling, performance management and the steps taken in connection with those activities and also steps taken in connection with disciplinary action are all covered by the exclusionary provisions.

Disciplinary action means reasonable action, lawfully taken against an employee in the nature of, or to promote, discipline. EML Case Managers must have regard to the disciplinary provisions or guidelines in an injured employee's workplace.

Examples of actions that the Administrative Review Tribunal has considered within the reasonable action exclusion are:

- ▶ Counselling in relation to an employee's work duties. 'Counselling' constitutes 'advice offered or instructions given to the employee by the superior' following an 'inquiry or investigation'
- ▶ Termination of employment
- ▶ Suspension of employment
- ▶ Involuntary retirement, and
- ▶ Performance interview.

### Failure to obtain a promotion, reclassification or benefit or to retain a benefit

Compensation is not payable for a psychological injury suffered by an employee as a result of their failure to obtain (acquire) a promotion, reclassification, transfer or benefit, or to retain (keep) a benefit.

A promotion, reclassification, transfer or benefit relates to the terms and conditions of an employee's employment at the time of injury.

A failure to obtain a promotion is not limited to a failure to obtain a promotion to a specific position.

Examples are:

- ▶ obtaining a new position in a restructured workplace

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- ▶ transferring from full-time to part-time work
- ▶ obtaining a re-classification in light of annual performance reviews.

A benefit can be something to which an employee has as a work related entitlement, for example, leave without pay.

### Relevant Case Law

*Lim and Comcare [2015] ATA 189*

*Comcare v Martin (2016) HCA 43.*

### **Section 14 (injuries and diseases)**

#### **Serious and wilful misconduct**

An 'injury' is not compensable under the SRC Act if it is caused by an employee's serious and wilful misconduct (but is not intentionally self-inflicted), unless the injury results in death or serious and permanent impairment.

An employee under the influence of alcohol or a non-prescription drug will be taken to be guilty of serious and wilful misconduct (**section 4(13)** SRC Act).

Serious and wilful misconduct requires:

- ▶ deliberate, as opposed to merely thoughtless, conduct (*Comcare v Calipari [2001] FCA 1234*);
- ▶ conduct gives rise to an immediate risk of injury where the employee appreciates the risk of injury (*Adams and Australian Postal Corporation (1993) AATA 355*).

### Relevant Case Law

*Comcare v Calipari [2001] FCA 1234*

*Adams and Australian Postal Corporation [1993] AATA 355*

#### **Self-inflicted injuries**

An injury is not a compensable for the purposes of the SRC Act if it is intentionally self-inflicted.

Suicide and suicide attempts are generally compensated on the basis the employee's mind was so unhinged or overborne by their illness as to dethrone their power of volition or deprive the employee of conscious choice (e.g. *Innes and Commonwealth (1979) 1 CCD 1290*).

### Relevant Case Law

*Innes and Commonwealth (1979) 1 CCD 1290*

### **Section 6 (injuries only)**

There are exceptions to where an 'injury' treated or deemed to 'arise out of, or in the course of, the employee's employment' will not be compensable under **section 6** of the SRC Act.

#### **Voluntarily and unreasonably submitting to an abnormal risk of injury**

## 005 Liability Determination Procedure

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An injury is not compensable if treated or deemed as 'arising out of or in the course of employment' under **Section 6(1)** of the SRC Act if it results from the employee voluntarily and unreasonably submitting to an abnormal risk of injury whilst at a place or during an ordinary recess in their employment (**section 6(3)** SRC Act).

### Travelling to or from a place of education

Injuries whilst travelling to or from a place of education for employment are not compensable: **Section 6(2)** SRC Act.

### Travelling to or from a place for compensation or employee payment related purposes

Injuries whilst travelling to or from a place to receive treatment for an injury; obtain a medical certificate, undergo a rehabilitation program, medical examination or assessment or receive a payment of compensation under the SRC Act; or to receive or collect money due to the employee under the terms of their employment is not compensable: **section 6(2)** of the SRC Act.

### Travelling between the employee's place of residence and usual place of work

Injuries whilst travelling to or from an employee's **usual place of work** to their **place of residence** are **not compensable**: **section 6(1C)** of the SRC Act.

A journey to and from a place of residence is taken to start and end at the boundary of the land where the place of residence is situated: **section 6(1A)** of the SRC Act.

'**Place of residence**' means the place where the employee **normally** resides; **temporarily** resides as a matter of necessity or convenience for the purposes of their employment or **any other place where the employee stays or intends to stay overnight** (if the journey does not increase the risk of sustaining injury compared to travelling to their normal residence): **section 4(1)** of the SRC Act.

For farming property, the journey is taken to start and end at the external boundaries of all parcels of land if contiguous with the land on which the residence is situated under **section 6(1B)** of the SRC Act and a journey to such a place of residence is taken to end at that boundary.

'**Place of work**' means any place which the employee is required to attend for the purpose of carrying out the duties of his or her employment: **section 4(1)** of the SRC Act.

Dedicated work parking areas and associated passageways have been held to be part of an employee's '**place of work**'.

- ▶ the expression conveys in its ordinary meaning not only the direct and immediate physical location the person occupies whilst performing work activities, but also the general site occupied by the employer; and
- ▶ places of work such as those regularly used by employees with the employer's knowledge, for smoke breaks, lunches, parking and other activities of which the employer is aware would usually be considered as part of the '**place of work**'.

### Relevant Case Law

*Muthubalasuriyar and Comcare* (2013) AATA 147

*Ford and Comcare* (2018) AATA 648

## 005 Liability Determination Procedure

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### Section 7 (diseases only)

#### **Wilful and false representation**

A disease (or aggravation) is not a compensable 'injury' for the purposes of the SRC Act if the employee has at any time for purposes connected with their employment, made a wilful and false representation, that they did not suffer, or had not previously suffered, from that disease: **section 7(7)** of the SRC Act.

The exclusion does not extend to situations where an employee engaged in other misleading or deceptive conduct for purposes connected with employment or proposed employment such as omitting relevant information (*Drenth and Comcare* [2011] AATA 582);

The SRC Act does not ask whether the employee has failed to disclose previously suffering from a 'symptom' only from 'that disease' (*National Australia Bank Limited v Georgoulas* (2013) 137 ALD 545).

A false representation on a superannuation form, even if another body requested the completion of the form and *not* the employer, is still a false representation connected with employment given superannuation contributions are, by definition savings made by persons in employment (*Makin and Comcare* [2010] AATA 32).

#### Relevant case law principles:

- ▶ The section should be construed in a manner favourable to claimants and a wide reading would result in an unduly harsh operation of an exclusion provision (*Secretary, Department of Employment and Workplace Relations v Comcare* [2008] FCA 220).
- ▶ An incorrect statement may not be wilful and false (*Newham and Australian Telecommunications Corporation* (1990) 22 ALD 783).
- ▶ The representation must be objectively false and made without any belief that it is true (*Comcare v Porter* (1996) 70 FCR 139).
- ▶ False statements due to carelessness or mistake will not be seen as deliberate/wilful (*Wilson and Comcare* [1996] AATA 862).
- ▶ A false declaration that no previous employees compensation claims had been made does not attract the exclusion (*Comcare v Porter* above).

#### Relevant Case Law

*Drenth and Comcare* [2011] AATA 582

*National Australia Bank Limited v Georgoulas* (2013) 137 ALD 545

*Makin and Comcare* [2010] AATA 32

*Secretary, Department of Employment and Workplace Relations v Comcare* [2008] FCA 220

*Newham and Australian Telecommunications Corporation* (1990) 22 ALD 783

*Comcare v Porter* (1996) 70 FCR 139

*Wilson and Comcare* [1996] AATA 862

## 005 Liability Determination Procedure

The EML Case Manager must ensure they have fully considered ALL relevant:

- ▶ medical evidence, and
- ▶ facts

prior to making a liability determination to accept or reject the employee's claim for compensation.

### PERFORMED BY : CASE MANAGER

#### Additional information required to inform an Initial Liability decision- Stop clock provisions

Where a claim for workers compensation has been made in accordance with section 54 of the SRC Act and a Case Manager requires additional information to inform an initial liability decision under s14 of the SRC Act, the Case Manger may elect to apply the 'stop clock' in line with section 11A of the Regulations. Section 11A allows for decision makers to stop the liability count in the following circumstances:

1. Where a Case Manager requests an employee to undergo an examination in accordance with section 57 of the SRC Act.
2. Where a Case Manager requests information and/or documents from an employee in accordance with section 58 of the SRC Act.
3. Where a Case Manager requests information and/or documents from an Employer in accordance with section 71 of the SRC Act.
4. Where an employee has advised they will provide further information in relation to their claim.
5. Where a Case Manager requests information from a Legally Qualified Medical Practitioner (LQMP) in relation to an employee's claim for compensation.

The 'stop-clock' measures freeze the calendar day count while waiting for the additional evidence or information requested by the determining authority, or information the claimant has advised they will be providing in support of their section 14 claim.

The calendar day count stops on the day:

- ▶ information is requested by the determining authority;
- ▶ written notice is given to the claimant to undergo an examination by a LQMP; or
- ▶ the claimant advises they will be providing further information.

The calendar day count recommences on the day after (regardless if this day is a Saturday, Sunday or public holiday):

- ▶ the requested information is received;
- ▶ the claimant and/or the employer advises that the information cannot be provided; or
- ▶ the date the determining authority reasonably believes either

## 005 Liability Determination Procedure

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- the claimant will not provide any further evidence or the principal officer of an employer has failed to comply with a section 71 notice.

### PERFORMED BY: CASE MANAGER

#### Employee withdrawal of claim

At any point the employee may choose to withdraw their claim for compensation. If the EML Case Manager is notified by the employee at any time that they wish to withdraw their claim, the EML Case Manager must ensure they seek this notification in writing from the employee.

When written notification has been received, the EML Case Manager must provide confirmation of withdrawal in writing to the employee.

#### OTHER CONSIDERATIONS

Before making a decision on liability, the Case manager should consider the application of sections:

- ▶ 52 Compensation not payable both under Act and under award
- ▶ 55 Survival of claims
- ▶ 117 Compensation payable to locally engaged overseas employees
- ▶ 118 Double benefits
- ▶ 119 Compensation where State compensation payable
- ▶ 11A of the Regulations

For further advice and support, a Case Manager should seek assistance from a Technical Specialist, or other suitably qualified team member.

#### IS THE PROPOSED LIABILITY DETERMINATION SUPPORTED?

If the determination is adverse or complex, refer proposed liability determination for review by a Team Leader or member of the Technical Team before finalisation.

If the liability determination is not supported by the evidence, feedback is provided to the Case Manager regarding the decision.

If the liability determination is supported by the evidence, proceed to file note and finalise the determination notice either accepting or declining liability to pay compensation under **section 14** of the SRC Act.

### PERFORMED BY: CASE MANAGERS OR ABOVE

#### PROVIDE FEEDBACK TO THE CASE MANAGER REGARDING THE PROPOSED LIABILITY DETERMINATION

### PERFORMED BY: TEAM LEADER OR TECHNICAL TEAM

#### FILE NOTE AND ISSUE LIABILITY DETERMINATION NOTICE WITH COVERING LETTER

## 005 Liability Determination Procedure

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File note the liability determination, reasons for decision and action taken.

Refer to *010 Injuries Resulting in Death Procedure* for death and dependency claims.

All finalised **section 14** of the SRC Act liability determinations with the covering letter to the employee indicating an acceptance or rejection of the claim for compensation must be recorded in claims management system in accordance with the documentation policy.

The reasons for the **section 14** of the SRC Act liability determination must be clearly set out in the notice.

Review rights must also be set out in the notice as parts of the liability determination can be reviewed on a request for reconsideration, even where liability to pay compensation for an injury has been accepted. For example, an employee might seek review of the description of their injury or injuries or the deemed injury date for a 'disease'.

**PERFORMED BY: CASE MANAGER**

### ATTEMPT PHONE CONTACT TO COMMUNICATE DETERMINATION

Case Manager to attempt phone contact to the injured worker prior to sending the determination letter. If unsuccessful, send determination letter within one business day.

### SEND LIABILITY COVERING LETTER AND NOTICE TO THE EMPLOYEE AND CC EMPLOYER

Save a copy of the covering letter accepting or rejecting liability and the liability determination notice into the claim management system and send to all stakeholders.

**PERFORMED BY: CASE MANAGER**

### UPDATE LIABILITY STATUS

The liability status for the following compensation entitlements payable under the SRC Act must be indicated:

- ▶ Incapacity payments (**Sections 19-23**)
- ▶ Medical expenses (**Section 16**)
- ▶ Household services and attendant care services (**Section 29**)
- ▶ Aids, appliances, alterations and modifications (**Section 39**).

Request the employee's bank details so compensation payments can be made as required.

### IS THERE ANY TIME LOST DUE TO INJURY?

If "No" proceed to continue case management.

If "Yes" proceed to determine the employee's normal weekly hours and normal weekly earnings for the relevant period under **sections 8 and 9** SRC Act and the amount and period of incapacity payments to be paid and under **section 19** SRC Act and draft determination notice.

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See *007 Compensation for Injuries Resulting in Incapacity Procedure*.

**PERFORMED BY: CASE MANAGER**

### IS THERE ANY TREATMENT REQUIRED DUE TO INJURY?

If "No" proceed to continue case management.

If "Yes" proceed to determine the reasonable treatment required, the reasonable amount (where required) and the period of medical treatment to be paid under **section 16** of the SRC Act and draft determination notice.

See *006 Payment of Medical Expenses Procedure*.

**PERFORMED BY: CASE MANAGER**

### DETERMINE PERIOD FOR COMPENSATION TO BE PAID

**PERFORMED BY: CASE MANAGER**

### SET THE CLAIMS ESTIMATE

The claims estimate should be reviewed and revised as necessary

Refer to *017 Claim Estimation Procedure*.

**PERFORMED BY: CASE MANAGER**

### DOES AN INCAPACITY PAYMENT NEED TO BE MADE?

If "No" proceed to continue case management.

If "Yes" process the incapacity payment in accordance with **007 Compensation for Injuries Resulting in Incapacity Procedure** and the *Authorisation Framework*.

**PERFORMED BY: CASE MANAGER**

### CONTINUE TO MANAGE CLAIM IN ACCORDANCE WITH CASE MANAGEMENT MODEL

**PERFORMED BY: CASE MANAGER**

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#### *Conformance review and management*

#### **Non-conformance can occur in the following ways:**

- ▶ Non-conformance with the FSI Authorisation & Delegation Framework.
- ▶ Breach of contract or license timeframes.
- ▶ Incorrectly identifying an Injury vs Disease.
- ▶ Non-conformance with this procedure.

#### **Application of this procedure will be monitored by:**

- ▶ Team Leader / Group Manager, Technical Team, Group Performance Manager
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### Breaches of this procedure will be managed by:

- ▶ Team Leader and/or Group Manager with escalations to the Claims Operations Manager

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### References

*Licensee KPI's - LKPI 6 – Timeliness – determination of new claims*

*Licensee KPI's - LKPI 7 - LKPI 7 – Timeliness – decisions on requests for reconsideration*

*Safety, Rehabilitation and Compensation Act 1988 (SRC Act)*

*Safety, Rehabilitation and Compensation Regulations 2002*

*Safety, Rehabilitation and Compensation (Specified Diseases) Notice 2007 (1)*

*Authorisation Framework*

*Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 No. 79 2022*

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- ▶ *Favelle Mori Lid v Murray* (1976) 133 CLR 580
  - ▶ *Re AXA and Comcare* [1999] AATA 917;
  - ▶ *Re Shephard and Comcare* [2003] AATA 25;
  - ▶ *Dunstan v Comcare* [2006] FCA 1655
  - ▶ *Accident Compensation Commission v McIntosh* [1991] 2 VR 253
  - ▶ *Zickar v MGH Plastic Industries Pty Limited* (1996) 186 CLR 310
  - ▶ *Australian Postal Corporation v Burch* (1998a) 8 FCR 264
  - ▶ *Health Insurance Commission v Van Reesch* (1996) 45 ALD 302
  - ▶ *Kennedy Cleaning Services v Petkoska* (2000) 200 CLR 286
  - ▶ *Military Rehabilitation and Compensation Commission v May* [2016] HCA 19
  - ▶ *Wuth v Comcare* [2022] FCAFC 42
  - ▶ *Roncevich v Repatriation Commission* (2005) 222 CLR 115
  - ▶ *Hatzimanolis v ANI Corporation Ltd* (1992) 173 CLR 473
  - ▶ *Comcare v PVYW* [2013] HCA 41
  - ▶ *Lee v Transpacific Industries Pty Ltd* [2013] FCA 1322
  - ▶ *Courtis and Linfox Armaguard Pty Ltd* [2009] AATA 809
  - ▶ *Lim and Comcare* [2015] ATA 189
  - ▶ *Comcare v Calipari* [2001] FCA 1234
  - ▶ *Adams and Australian Postal Corporation* (1993) AATA 355
  - ▶ *Comcare v Martin* (2016) HCA 43
  - ▶ *Innes and Commonwealth* (1979) 1 CCD 1290
  - ▶ *Muthubalasuriyar and Comcare* (2013) AATA 147
  - ▶ *Drenth and Comcare* [2011] AATA 582
  - ▶ *National Australia Bank Limited v Georgoulas* (2013) 137 ALD 545
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- ▶ *Makin and Comcare* [2010] AATA 32
- ▶ *Secretary, Department of Employment and Workplace Relations v Comcare* [2008] FCA 220
- ▶ *Newham and Australian Telecommunications Corporation* (1990) 22 ALD 783
- ▶ *Comcare v Porter* (1996) 70 FCR 139
- ▶ *Wilson and Comcare* [1996] AATA 862

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### **Related procedures**

- ▶ *001 Collection use and Disclosure of Claim Information Procedure*
- ▶ *002 Claim Notification Procedure*
- ▶ *003 Claim Investigation Procedure*
- ▶ *004 Early Contacts Procedure*
- ▶ *006 Payment of Medical Expenses Procedure*
- ▶ *007 Compensation for Injuries Resulting in Incapacity Procedure*
- ▶ *010 Injuries Resulting in Death Procedure*
- ▶ *012 Reconsideration, Review and Appeals Procedure*
- ▶ *017 Claim Estimation Procedure*

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### **Other related Documents**

- ▶ *Initial Liability Checklist – Safety Rehabilitation and Compensation Act 1988*
  - ▶ *Comcare Self Insurance audit requirements*
  - ▶ FSI Authorisation & Delegation Framework
  - ▶ FSI Standard letters
  - ▶ Comcare Scheme Guidance – Post Traumatic Stress Disorder suffered by certain employees
  - ▶ Comcare Scheme Guidance – Definition of injury and disease
  - ▶ Comcare Scheme Guidance – Injury suffered as a result of reasonable administrative action
  - ▶ Comcare Scheme Guidance – Considerations when applying the ‘reasonable administrative action taken in a reasonable manner’ exclusion
  - ▶ Comcare Scheme Guidance – Disease provisions relating to firefighters
  - ▶ Comcare Scheme Guidance – Injury arising out of or in the course of employment
  - ▶ Comcare Scheme Guidance – Injury in an interval or interlude
  - ▶ Comcare Scheme Guidance – Relevant authority claim form approvals
  - ▶ Comcare Scheme Guidance – Power to request the provision of information
  - ▶ Comcare Scheme Guidance – Specified diseases and employment
  - ▶ Comcare Scheme Guidance – Travel and recess provisions
  - ▶ Comcare Scheme Guidance – Claims for injuries sustained at the boundary of a place of work
  - ▶ Comcare Scheme Guidance – Claim for injuries and diseases arising from home-based work
  - ▶ Comcare Scheme Guidance – Establishing whether there has been an aggravation to a pre-existing or underlying medical condition
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- ▶ Comcare Scheme Guidance – Statutory timeframes for decision-making under the SRC Act
  - ▶ *Safety, Rehabilitation and Compensation Regulations 2019* and the incorporated amendment, *Safety, Rehabilitation and Compensation Amendment (Period for Decision-making) Regulations 2023 (the Regulations)*
  - ▶ SRC Amendments April 2024 FAQ
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## 005 Liability Determination Procedure

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### Document & record control

This procedure is effective from: 1 July 2017.

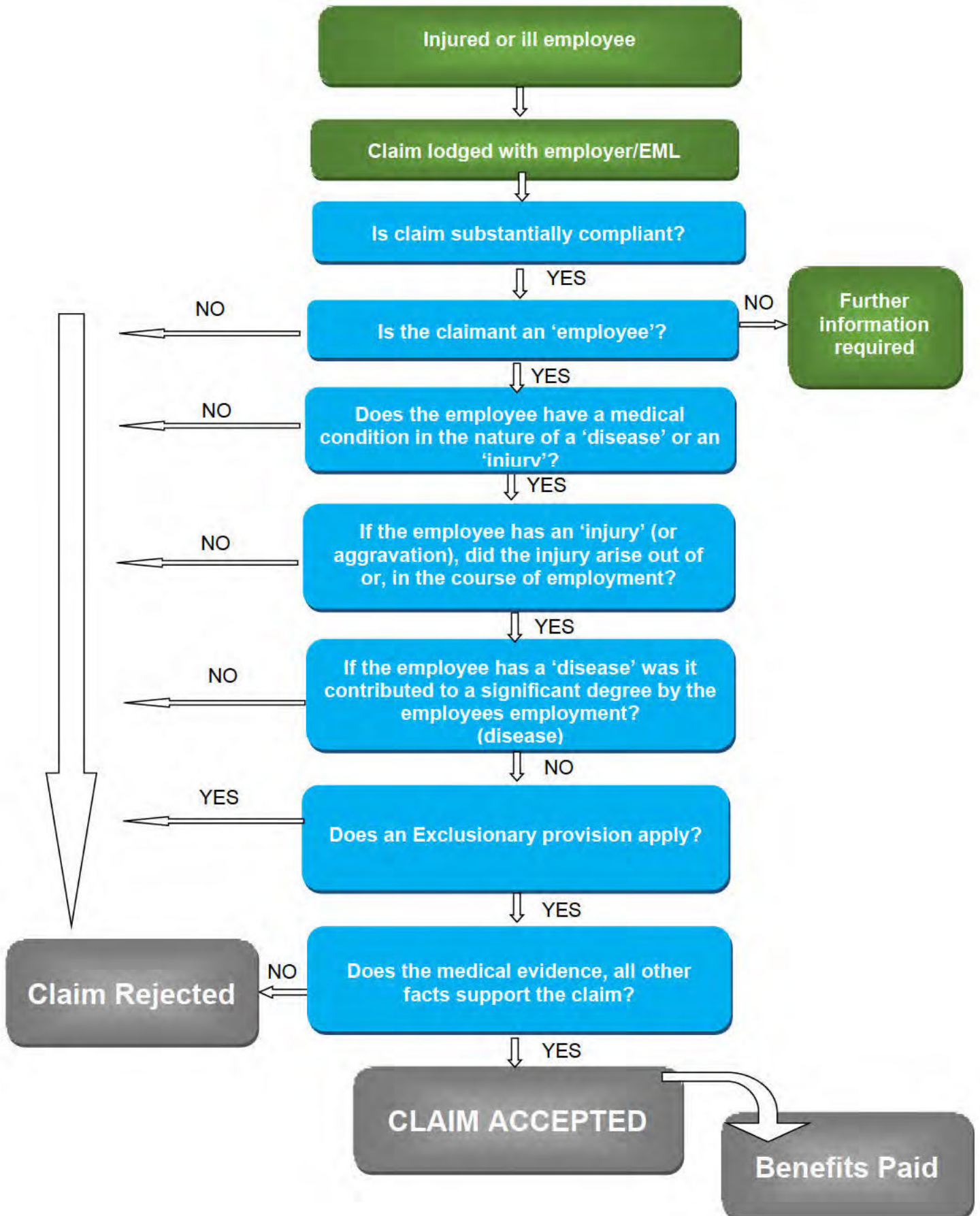
This procedure was approved by: s47F, Senior Legal Manager:

The review date for this procedure is: 1 July 2019 (with updates as required).

- ▶ Procedure updated 16/10/17 by s47F (inclusion of injured worker contact).
- ▶ Procedure updated 26/07/18 by s47F (Role title clarity following org changes),
- ▶ Renewal: This procedure was reviewed and renewed effective 01/07/2019 to 01/07/2021 inclusive by s47F, Group Legal and Technical Manager
- ▶ Update 12/12/2019 by s47F, Program Manager. Amendment to update the timeliness of determinations, and Sections 52, 55, 117, 118 and 119 of the SRC Act
- ▶ Updated: 31/07/2020 by s47F, Project Manager – increased definition to the *Conformance review and management* section.
- ▶ Renewal: This procedure was reviewed and renewed effective 01/07/2021 to 01/07/2022 inclusive by s47F, Group Performance Manager.
- ▶ Updated: 26/01/2022 by s47F, Group Performance Manager to include link to relevant scheme guidance.
- ▶ Renewal: This procedure was reviewed and renewed effective 01/07/2022 to 01/07/2023 inclusive by s47F, Program Manager.
- ▶ Renewal: This procedure was reviewed and renewed effective 08/03/2023 to 08/03/2024 inclusive by s47F, Technical Team Leader – Update to reference *Wuth and Comcare [2022] FCAFC 42*, and *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*
- ▶ Renewal: This procedure was reviewed and renewed effective 08/03/2023 to 08/03/2024 inclusive by s47F, Group Manager – Update to reference *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 and Safety, Rehabilitation and Compensation Amendment (Period for Decision Making) Regulations 2023*
- ▶ Updated: 11/04/2024 by s47F, Group Manager to include s11A Regulations
- ▶ Renewal: This procedure was reviewed and renewed effective 17/01/2025 to 17/01/2026 inclusive by s47F, Group Manager.

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Liability Determination Overview



## 005 Liability Determination Procedure

Initial Liability Checklist	
For guidance, there are three main tests under the SRC Act for a liability determination:	
<ol style="list-style-type: none"> <li>1. A person must be an 'employee' for the purpose of section 5.</li> <li>2. The 'employee' must suffer an injury (includes a condition/disease) within the meaning of the SRC Act and not be disentitled to compensation (e.g. injury is from reasonable management action, serious or wilful misconduct, etc.): sections 4-7 &amp; 14.</li> <li>3. To be compensable under section 14 of the SRC Act, the injury must result in death, incapacity for work or impairment.</li> </ol>	
<b>Claim compliance (Sections 5, 53, 54)</b>	<b>Yes/No</b>
Is the person an 'employee' of the employer? (section 5)	
Was the claim lodged as soon as practicable? (section 53)	
Has a claim for compensation been made using the approved Comcare claim form (or which substantially complies with the approved Comcare claim form)?(section 54)	
Is the claim for compensation complete, e.g. questions answered, employee's authority and declaration signed and dated, bank details provided?	
Is the claim for compensation accompanied by:	
<ul style="list-style-type: none"> <li>• a medical certificate for compensation form from a legally qualified medical practitioner if claiming for time off work? (section 54)</li> </ul>	
<ul style="list-style-type: none"> <li>• a separate journey form if the injury happened while travelling for work purposes? (Comcare requirement for claim assessment)</li> </ul>	
<ul style="list-style-type: none"> <li>• a certificate from a treating chiropractor, physiotherapist, dentist or osteopath if claiming for treatment and not for time off work? (Comcare requirement for claim assessment)</li> </ul>	
<ul style="list-style-type: none"> <li>• a statement outlining the events that contributed to the claimed psychological injury? (Comcare requirement for claim assessment)</li> </ul>	
<ul style="list-style-type: none"> <li>• other information the claimant believes is relevant to determining the claim, e.g. statements must be signed and dated? (Comcare requirement for claim assessment)</li> </ul>	
<ul style="list-style-type: none"> <li>• a list providing the details of treatment by other medical practitioners for the claimed injury? (Comcare requirement for claim assessment)</li> </ul>	
<ul style="list-style-type: none"> <li>• a list providing details of workers' compensation claims for any other similar injury or condition? (Comcare requirement for claim assessment)</li> </ul>	
<b>Employment information</b>	
Is an employer statement of facts appropriate given the injury circumstances?	
Is an independent factual investigation required to obtain all relevant employer documents and witness statements based on the claimed injury circumstances, e.g. work load stress, psychological claims, bullying, harassment, conflict with work colleagues, etc.?	
Has a copy of the claimant's personnel file been obtained?	
Does the personnel file indicate a past medical or leave history relevant to the claimed injury?	
Does the claimant's personnel file contain medical certificates to identify previous treating practitioners?	
For workload stress and psychological claims, do the following documents need to be provided:	
<ul style="list-style-type: none"> <li>• Security entry/exit records</li> </ul>	
<ul style="list-style-type: none"> <li>• I.T system usage records, e.g. log on/off computer records</li> </ul>	
<ul style="list-style-type: none"> <li>• Productivity records</li> </ul>	

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<ul style="list-style-type: none"> <li>• Proof of work records, e.g. documents or types of documents alleged to have been worked on such as spread sheets, data entry records, papers, briefs, correspondence etc.</li> </ul>	
Is there a pre-injury or other employment medical questionnaire on file?	
Is there a resume, CV or employment application on file that identifies past employment?	
Is further evidence required? Should employers and employees be requested in writing to provide any information or documents within specified timeframes? (S58)	
<b>Medical information</b>	
Does the medical certificate for compensation contain the following information:	
<ul style="list-style-type: none"> <li>• employee details?</li> </ul>	
<ul style="list-style-type: none"> <li>• precise (clear) diagnosis or description of the injury/condition and symptoms?</li> </ul>	
<ul style="list-style-type: none"> <li>• cause of the injury/condition?</li> </ul>	
<ul style="list-style-type: none"> <li>• date of injury/condition?</li> </ul>	
<ul style="list-style-type: none"> <li>• date the employee first sought treatment for the injury/condition?</li> </ul>	
<ul style="list-style-type: none"> <li>• details of any pre-existing or contributing factors?</li> </ul>	
<ul style="list-style-type: none"> <li>• recommended treatment?</li> </ul>	
<ul style="list-style-type: none"> <li>• fitness for work?</li> </ul>	
<ul style="list-style-type: none"> <li>• the legally qualified medical practitioner's signature and date?</li> </ul>	
Is there a description of how the injury/condition occurred?	
Is there a description of the period of time over which the illness/injury emerged from date of first symptoms?	
Is a full and complete medical history (e.g. treater, ambulance, hospital, radiology, pathology records and clinical notes, etc.) required? Consider the injury circumstances, the injured workers past history and any other information disclosed in the claim or HR personnel files information? (Medical authority or S59)	
Is further medical evidence required from the treating health practitioner(s)? (Medical authority or S59)	
Is an independent medical examination required? (S57)	
Where the following is required, should the stop clock provision be applied?	
<ul style="list-style-type: none"> <li>• Case Manager requests an employee to undergo an examination in accordance with section 57 of the SRC Act.</li> <li>• Case Manager requests information and/or documents from an employee in accordance with section 58 of the SRC Act.</li> <li>• Case Manager requests information and/or documents from an Employer in accordance with section 71 of the SRC Act.</li> <li>• Where an employee has advised they will provide further information in relation to their claim.</li> <li>• Where a Case Manager requests information from a Legally Qualified Medical Practitioner (LQMP) in relation to an employee's claim for compensation.</li> </ul>	
<b>Injury and compensation requirements (Sections 4, 5A, 5B, 6 and 7)</b>	
<b>Does the injury meet the criteria of the SRC Act? (Section 5A(1))</b>	<b>Yes/No</b>
Does the injury have a medical diagnosis (e.g. 'pain' is not a diagnosable medical condition)?	
Is the injury a 'disease' (e.g. includes most mental conditions)?	
Is the injury (other than a disease) a physical or mental injury arising out of, or in the course of employment?	
Is the injury an aggravation of a physical or mental injury (other than a disease) suffered by the employee (whether or not that injury arose out of, or in the course of employment) that arose out of, or in the course of, that employment?	

## 005 Liability Determination Procedure

<b>If a 'disease', has employment contributed in a significant degree to the disease or the aggravation of the disease? (Section 5B)</b>	<b>Yes/No</b>
<p>Has there been a significant contribution between employment and the development or aggravation of the disease?</p> <p>For 'diseases' consider:</p> <ul style="list-style-type: none"> <li>• the duration of employment;</li> <li>• the nature of, and particular tasks involved in the employment;</li> <li>• any predisposition the employee had to the disease or aggravation;</li> <li>• any activities not related to the employment which may have contributed to the development or aggravation of the disease;</li> <li>• any other matters affecting the claimant's health.</li> </ul>	
Did the alleged incident or state of affairs occur in the course of employment?	
Did the alleged incident or state of affairs create a perception in the mind of the employee?	
Did the alleged perception contribute in a significant degree to the injury?	
<b>Has the injury arisen out of, or in the course of, deemed employment? (Section 6)</b>	<b>Yes/No</b>
Did the injury occur at work or away from work during an ordinary work recess?	
Was the injury a result of a violent act that would not have occurred but for the employment?	
Did the injury occur whilst the worker was travelling to or from work such that compensation is not payable?	
Did the injury occur whilst travelling for work?	
Did the injury occur whilst at an approved educational course or while travelling between work and the course?	
<p>Did the injury occur while at a place, or travelling to or from work to that place, for the purpose of:</p> <ul style="list-style-type: none"> <li>• obtaining a medical certificate for the purposes of the SRC Act;</li> <li>• receiving medical treatment for an injury;</li> <li>• undergoing a rehabilitation program provided under the SRC Act;</li> <li>• receiving a payment of compensation under the SRC Act;</li> <li>• undergoing a medical examination or rehabilitation assessment in accordance with a requirement made under the SRC Act?</li> </ul>	
Did the injury occur at a place outside Australia where the employee was working?	
If the injury occurred at a place listed above or during an ordinary work recess, was the injury sustained because the employee voluntarily and unreasonably submitted to an abnormal risk of injury that disentitles them to compensation?	
<b>Do exclusionary provisions apply to the injury circumstances? (SS 5A, 6, 7(7), 14(2) and 14(3))</b>	
<b>Is the injury due to reasonable administrative action? (Section 5A)</b>	<b>Yes/No</b>
Was there a reasonable appraisal of the employee's performance?	
Was there a reasonable counselling action (formal or informal) taken in respect of the employee's employment?	
Was there a reasonable suspension action taken in respect of the employee's employment?	
Was a reasonable disciplinary action (formal or informal) taken in respect of the employee's employment?	
Was anything reasonable done in connection with the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit?	
<b>Other exclusionary provisions (Sections 7(7), 14(2) and 14(3))</b>	<b>Yes/No</b>
<p>If the injury is a 'disease' or an aggravation of a 'disease', has the employee at any time, for purposes connected with their employment or proposed employment, made a willful and false representation that he or she did not suffer, or had not previously suffered, from that disease? (S7(7))</p> <p>Note: review medical questionnaires, employment applications, superannuation forms, past medical history, etc.</p>	

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Did the employee's conduct cause that employee's injury?	
Was the injury intentionally self-inflicted? (S14(2))	
Was the injury caused by an employee's serious and willful misconduct, but not intentionally self- inflicted? (S14(3))	
Was the employee under the influence of alcohol or a drug? (S14(3))	
Has the injury caused by the employee's serious and willful misconduct resulted in serious and permanent impairment? (S14(3))	
<b>Presumptive Coverage (section 7)</b>	<b>Yes/No</b>
Is the employee engaged in one or more periods of employment of a kind specified by the deemed diseases list and contracted a disease on that list?	
Is the employee suffering from a prescribed cancer and been employed as a firefighter, exposed to the hazards of a fire scene, for the qualifying period.	
Is the employee employed as a 'first responder' with a diagnosis of PTSD from an LQMP or psychologist in line with the DSM-5?	