

SAPS Injury Management Practice Note

Compensability of Injuries

Objectives, Targets & Performance Indicators

Objective	Target	Performance Indicator
SAPS agencies apply relevant provisions of the RTW Act 2014 for the assessment of the compensability of injuries.	All SAPS agencies.	SAPS agency has a documented procedure for the assessment of compensability of injuries.

Purpose

To provide a guide for SAPS Agencies to ensure that the relevant provisions of the Return to Work Act 2014 (RTW Act) are applied in relation to the compensability of injuries.

Context

Definitions

disease includes—

- (a) any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development; and
- (b) any injury to which section 9 applies;

injury, in relation to a worker, means—

- (a) any physical or mental injury including—
 - (i) loss, deterioration or impairment of a limb, organ or part of the body, or of a physical, mental or sensory faculty; or
 - (ii) a disease; or
 - (iii) disfigurement; or
- (b) where the context admits—the death of the worker, and includes an injury that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury;

place of employment means a place where a worker is required to carry out duties of employment and, if the place is a building, includes land within the external boundaries of the land on which the building is situated;

premises means—

- (a) a building, structure or place (including an aircraft, ship or vehicle); or
- (b) a part of premises;

psychiatric injury means pure mental harm

residence in relation to a worker includes a place—

- (a) at which the worker resides in accordance with the terms of the worker's

- employment or at the request of the employer; or
 (b) at which it is necessary or convenient for the worker to reside temporarily for the purposes of employment;

trauma means an event, or series of events, out of which a work injury arises;

The relevant provisions are contained within Sections 7, 8 and 9 of the RTW Act 2014.

Subject to subsections 9(2) and 9(3), an injury is not compensable under this Act unless it is established on the balance of probabilities that it arises from employment	Section 9
In the case of an injury other than a psychiatric injury—the injury arises out of or in the course of employment and the employment was a significant contributing cause of the injury	Section 7 (2)(a)
In the case of a psychiatric injury—the psychiatric injury arises out of or in the course of employment and the employment was the significant contributing cause of the injury	Section 7 (2)(b)
Any injury that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury is only compensable to the extent of and for the duration of the relevant aggravation, acceleration, exacerbation, deterioration or recurrence	Section 7 (3)
Any psychiatric injury that arises from reasonable action taken in a reasonable manner by the employer is not compensable (see S.7(4) for greater detail)	Section 7 (4)
Any injury that arises from a social or sporting activity, except where the activity forms part of the worker's employment or is undertaken at the direction or request of the employer is not compensable	Section 7 (7)
Any injury that arises out of or in the course of a journey not undertaken in the course of carrying out duties of employment, such as from home to work or vice versa, where there is no real and substantial connection between the employment and the journey being undertaken at the time of the accident is not compensable (see s.7(8), (9) and (10) for greater detail)	Section 7 (8)
Any injury wholly or predominantly attributable to serious and wilful misconduct on the part of the worker or the influence of alcohol or a drug voluntarily consumed by the worker is not compensable, unless the injury results in death or serious and permanent injury	Section 8 (2)
If a worker suffers an injury referred to in the first column of Schedule 2 and has been employed in the work described in the second column of Schedule 2, the injury is presumed, in the absence of proof to the contrary, to have arisen from employment, subject to Schedule 3	Section 9 (2)

SAPS Practice

Upon receipt of claims for compensation the managing Agency will ensure that all necessary evidence, whether factual or medical, has been gathered prior to progressing to determine the claim.

The Compensability test

Physical Injury		
1	Did the injury arise out of or in the course of employment? (Test based on the balance of probabilities it arose from employment)	If yes, compensable subject to meeting criteria 2
2	Was employment a significant contributing cause of the injury? For gradually developing conditions or diseases the following should be considered in the decision making process: <ul style="list-style-type: none"> - Duration of worker's employments - Nature of the work performed - Particular tasks of the job - The probability of the injury or similar injury occurring at about the same time or at about the same stage of the worker's life, if the worker had not been at work or in employment - State of the worker's health before the injury - The lifestyle of the worker - Activities of the worker outside the workplace 	Compensable if yes to criteria 1 & 2, subject to below
	Is the injury an aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury? (NOTE: prior injury can relate to non-compensable injuries) If yes, is employment a significant contributing cause of the aggravation exacerbation, deterioration or recurrence?	If yes, compensable
	Did the injury arise from a social or sporting activity not related to employment and NOT at the direction of the employer?	If yes, NOT compensable
	Did the injury arise out of or in the course of a journey not undertaken in the course of employment, e.g. from home to work or vice versa, and there was no real and substantial connection between the employment and the journey?	If yes, NOT compensable
	Did the injury arise as result of serious and wilful misconduct on the part of the worker or as a result of drug or alcohol consumption?	If yes, NOT compensable

Psychiatric Injury		
1	Did the injury arise out of or in the course of employment? (Test based on the balance of probabilities that it arose from employment)	If yes, compensable subject to meeting criteria 2
2	Was employment the significant contributing cause of the injury? The following should be considered in the decision making process: <ul style="list-style-type: none"> - Duration of worker's employment - Nature of the work performed - Current employment history including any existing or pending industrial issues - State of the worker's health before the injury - The lifestyle of the worker - Activities of the worker outside the workplace 	If yes, compensable subject to criteria 3-6

3	Did the injury arise from reasonable action taken in a reasonable manner by the Agency to transfer, demote discipline, counsel, retrench or dismiss the worker or to not renew or extend a contract of service?	If yes, NOT compensable
4	Did the injury arise as a result of reasonable administrative action taken in reasonable manner by the Agency?	If yes, NOT compensable
5	Did the injury arise as result of a decision by the Agency not to award or provide a promotion transfer or benefit to the worker?	If yes, NOT compensable
6	Is the injury an aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury?	
	If yes, is employment <u>the significant</u> contributing cause of the aggravation, acceleration, determination or recurrence?	If yes, compensable

NOTE: Employment includes:

- attendance at place of work on a working day either before or after the day begins/ends in order to prepare/leave for work;
- attendance at the workplace during an authorized break from work;
- attendance at an educational institution or other legal obligation or at the Agencies request or approval;
- attendance at place to receive a medical service or return to work/recovery services or to apply or receive compensation for a work injury.