



COMCARE

1. This policy sets out ways in which unions and Comcare should work together to maximise WHS and workers' compensation outcomes consistent with Comcare's statutory functions. Specifically, this policy sets out initiatives to ensure:
 - a) Comcare co-operatively and proactively interacts with unions and Health and Safety Representatives (HSRs) given their role enunciated in WHS law;
 - b) That unions are able and encouraged to perform their role in helping to ensure compliance of WHS laws;
 - c) Unions be able to have elected HSRs in workplaces and in turn support HSRs;
 - d) Unions be able to effectively represent injured workers before and during the workers' compensation process;
 - e) As far as is permissible by law, Comcare shares with unions data on claims, notifiable incidents, HSR engagement and other information relevant to hazards management and intervention programs.
2. Require Comcare, in consultation, to develop a stakeholder engagement policy which mandates regular consultation with stakeholders, including union stakeholders, on matters including but not limited to:
 - a) Regulatory approach
 - b) Campaigns
 - c) Resource allocation.
3. Given the SRC Act does not include objectives, insert objectives which address the interests of workers.
4. The Comcare scheme apply to workers:
 - a) Performing work as part of a Community Development Program;
 - b) Workers engaged by employers from the gig economy (e.g. Airtasker); and
 - c) Other similar schemes (amend s.631(c) of the Social Security Act 1991).

Comcare as a WHS Regulator

5. That Comcare shall ensure its WHS regulatory functions are adequately resourced and to this end, shall:
 - a) In state and territories where Comcare does not have staff permanently based, conclude shared resources agreements with the relevant state and territory regulator and appoint nominated state and territory Inspectors as Comcare Inspectors with dual appointment;
 - b) Regularly review the number, training requirements and placement of Inspectors in consultation with stakeholders.

6. Require Comcare to have a proactive approach in relation to unannounced workplace visits in substitute for their current regulatory model which is principally audit focused and reactive (incident based).
7. Require Comcare to maintain separation between compliance and business engagement activities.
8. Require Comcare to develop a Workforce Engagement Policy with the following features:
 - a) Regular and active engagement by Comcare with Health and Safety Representatives (HSRs), including but not limited to industry-specific campaigns and with an emphasis on HSR training;
 - b) Provision by Comcare of a dedicated HSR support officer and HSR resources including web-based resources;
 - c) Comcare undertaking industry-specific communications and consultations with HSRs;
 - d) The convening by Comcare of an annual one-day training conference for HSRs in each state and territory.
9. Create new statutory positions of Director of Work Health and Safety Prosecutions and an Inspector General, who shall be appointed by the Minister.
10. That sentencing guidelines be developed in consultation with stakeholders for adoption by the relevant courts.
11. Following consultation with the Safety, Rehabilitation and Compensation Commission, that the Minister issue written directions to Comcare regarding the funding formula to be applied to WHS enforcement activities.

Comcare as a workers' compensation scheme

12. Make such changes that are necessary to the Comcare scheme to implement the following:
 - a) Amend the SRC Act to provide for the provisional liability of claims;
 - b) Comcare's liability dispute resolution system in Comcare is bureaucratic and notoriously slow. Given the increased number of scheme participants in various non-public sector workplaces, the claims resolutions provisions of the SRC Act be amended as follows:
 - The claims process is based on a single decision about liability being made within 21 days of the claim being lodged and;
 - Disputes are determined by a dedicated compensation tribunal resourced to ensure early mediation and prompt dispute resolution;
 - Cost of legal representation met by the scheme unless vexatious litigant.
13. Early intervention initiatives under the Comcare scheme should be limited to those that are supported by medical advice, following a worker having made a claim and involve injured workers in meaningful work.

Safety, Rehabilitation and Compensation Commission (SRCC)

14. That the WHS jurisdiction of the SRCC be broadened to include the Australian Public Service (APS).
15. That when the SRCC makes licensing decisions, it is required to apply a test for the protection of workers, to demonstrate that no employee would be worse off as a result of the granting of a license application.
16. That the license compliance and performance model (LCPM) be externally reviewed.

17. With respect to Comcare licensees, that the SRCC be given sufficient powers of enforcement for use in situations where license conditions are not being complied with.
18. That the SRCC has the ability to grant an initial license or a license extension for a period up to, but no greater than four years.
19. That the licensing policy of the SRCC enable in practice, the revocation of the licenses of non-conforming licensees.
20. That the licensing policy (and other relevant policies) of the SRCC enable in practice, the inclusion of special conditions to a license of a licensee.
21. To ensure that licensees comply with their legal and license obligations, the SRCC shall implement a licensing policy which requires a comprehensive audit:
 - a) Prior to the granting of an initial license and the extensions of a license;
 - b) At least once during the life of each licensing period; and
 - c) At any time required by the SRCC.
22. That the licensing policy of the SRCC require licensees to report the details of any breach of a license condition and that such breaches trigger an obligation on the licensee to show cause why the license should not be terminated.
23. Broaden the scope of the powers and functions of the SRCC to enable itself to own its own motion, and to do any of the following:
 - a) Provide advice to the Minister on proposed legislative instruments, prosecution guidelines and any WHS and/or workers' compensation related matter;
 - b) Commission research;
 - c) Develop and approve Codes of Practice;
 - d) Review any aspect of the Comcare scheme;
 - e) Make submissions to Parliamentary inquiries.
24. Provide the Minister with the ability to appoint an SRCC member as Deputy Chairperson.
25. That policies of the SRCC be reviewed at least every two years.
26. Reform the Safety, Rehabilitation and Compensation Act 1988 (as amended) so it is able to effectively discharge functions as a tripartite consultative forum under the Work Health and Safety Act 2011.
27. A function of the SRCC shall be to monitor patterns and trends in Comcare prosecutions.
28. A function of the SRCC shall be to monitor the collection, use and disclosure by Comcare of data on investigations.