

**STOP PRESS**

# Comcare scheme

– new provisions announced 25 September 2009

By Patrick Coetsee

**O**n Monday 28 September 2009 Julia Gillard, Minister for Employment and Workplace Relations, informed the Workplace Relations Ministerial Council (WRMC) of a number of changes that will be introduced to the Comcare scheme at a time yet to be specified.

As we know, Comcare provides workers' compensation and occupational health and safety (OHS) arrangements for employees of the Australian government, and for some private sector companies that are licensed to self-insure their workers' compensation liabilities under the scheme.

The government has imposed a moratorium on private sector companies seeking to join the Comcare scheme, and announced a review to ensure that Comcare is a suitable OHS and workers' compensation system for self-insurers and their employees. Given the movement towards harmonised, national OHS laws and the proposed transfer of OHS coverage for Comcare self-insurers to the states and territories, the government intends to maintain the moratorium until 2011, when uniform OHS laws will have been implemented in all jurisdictions. It is stated that to do otherwise would cause unnecessary dislocation, in that companies would need to adapt to Comcare and then quickly change again to adapt to the new model laws. New laws will be introduced to give effect to the moratorium for this further period.

Julia Gillard goes on to note that the government has increased workers' compensation lump sum and weekly death benefits under the Comcare scheme, to align them more closely with death benefits payable under state and territory schemes.

The media release outlines the following, further changes to the Comcare scheme:

1. To encourage timely determination of workers' compensation claims, a statutory time limit will be introduced within which claims must be determined;
2. The government will reinstate workers' compensation coverage for off-site recess breaks. This will re-align the Comcare scheme with the majority of jurisdictions and remove the inequity in coverage for employees whose employers do not provide on-site facilities for meal breaks;
3. Medical and related costs will continue to be paid where a worker's weekly compensation benefits are suspended for refusing to participate in the rehabilitation process;
4. The Minister will direct Comcare to strengthen its enforcement of OHS; and

5. The Minister will write to Comcare and ask it to issue guidance material to assist employers in improving consultation with all employees on OHS matters. These changes, when introduced, will provide greater benefits to people who are injured at work.

Take, for example, the reinstatement of compensation coverage for off-site recess breaks. In the present situation, if a worker is injured off-site and during a recess break, they cannot recover compensation. This unfair element was introduced by the Howard government, fearful of opening a floodgate that plainly does not exist. A report into the Comcare scheme, commissioned by the government, recommended that this provision should remain (Recommendation 13). It cited the fact that this would keep Comcare in 'common with all jurisdictions in Australia and New Zealand' as its authority for keeping that provision.

However, in a move that will no doubt please the unions, which lobbied hard for the government to reject this aspect, the Minister has adopted the very opposite view. The media release states that the government 'will reinstate workers' compensation coverage for off-site recess breaks'. Unfortunately, the government is silent on the aspect of travel to and from work, probably because this will remain unchanged.

In considering these amendments to the Comcare scheme, the government took into account the recommendations in the *Report of the Review of Self-Insurance Arrangements under the Comcare Scheme*, prepared by the Department of Education, Employment and Workplace Relations (DEEWR), stakeholder consultations and 80 written submissions to the review. The department also drew on information from Taylor Fry Consulting Actuaries.

As yet, despite requests for further information, the media release is all we have on the government's proposed changes. However, these adjustments are certainly a win for injured workers.

The above reports are available at:

<http://www.deewr.gov.au/WorkplaceRelations/Policies/ComcareReview/Pages/ComcareReviewReport.aspx>

The Department's report is available at [www.deewr.gov.au/comcarereview](http://www.deewr.gov.au/comcarereview).

The media release is available at: [http://www.deewr.gov.au/Ministers/Gillard/Media/Releases/Pages/Article\\_090925\\_182334.aspx](http://www.deewr.gov.au/Ministers/Gillard/Media/Releases/Pages/Article_090925_182334.aspx)

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