



Office of Industrial Relations

## Additional Lump Sum Compensation for Particular Workers

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### Legislative basics

- On 17 September 2015, the Queensland Parliament passed the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2015*.
- Removal of common law threshold takes effect on and from 31 January 2015.
- New additional lump sum entitlement under s193A for particular workers impacted by the threshold.

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### Additional Lump Sum Compensation

- Worker entitled to additional lump sum if:
  - injured on or after 15 October 2013 and before 31 January 2015;
  - Has a DPI of 5% or less for their injury; and
  - has not accepted or rejected a statutory lump sum offer for that injury.
- The Regulation includes extra “qualifying condition” where insurer must be satisfied the employer is liable for negligence for the worker’s injury.

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### Administrative process

- Onus is on insurers to:
  1. Identify potentially eligible workers;
  2. Assess the "qualifying condition";
  3. Notify worker of decision in approved form
- Different iterations of form 193A – eligible, not eligible, more information needed or 0%DPI
- Total payment = statutory lump sum + additional lump sum (DPI and legal costs)

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### Administrative process – 0% DPI

- Workers with 0%DPI need to meet additional qualifying condition:
  - was not fit to return to work at the time workers' compensation benefits ceased and has not returned to work.
- All other criteria and assessment process is the same.
- Use the 0% DPI forms
- For accepted entitlement forward file to Regulator.

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### Points to remember

- Not meant to replicate common law process - liability assessment is balance of probabilities
- Regulatory process designed to achieve a seamless and timely resolution of claims – provide worker RFD with notice of ineligibility.
- Review panel is only appeal mechanism and is intended to only meet infrequently.
- Regulator's information note provides advice for insurers on how these claims can be fairly and efficiently processed.

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