

25th Edition

Comparative Performance Monitoring Report 25 /

Work Health and
Safety Compliance
and Enforcement

Disclaimer

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Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

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Contact information

Safe Work Australia | <mailto:info@swa.gov.au> | www.swa.gov.au

Comparative Performance Monitoring (CPM) 25th edition indicators

The CPM comprises of 5 sections that measure Work Health and Safety and Workers' Compensation performance. The bolded indicators are included in this section.

Work Health and Safety Performance

- Incidence rates of serious injury and disease claims by jurisdiction
- Frequency rates of serious injury claims by jurisdiction
- Incidence rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction
- Frequency rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction
- Self-insured claims: number and proportion of serious claims by jurisdiction
- Serious claims: Percentage involving selected periods of compensation
- Traumatic injury worker fatalities: number and rate of incidents not on a public road, by state of death
- Compensated fatalities involving occupational diseases by jurisdiction
- Proportion of serious claims by mechanism of incident
- Incidence rates of serious claims by industry

Work Health and Safety Compliance and Enforcement Activities

- **Work health and safety intervention activity by jurisdiction**
- **Work health and safety inspectorate activity by jurisdiction**
- **Work health and safety notices and enforceable undertakings by jurisdiction**
- **Work health and safety legal proceedings and fines by jurisdiction**

Workers' Compensation Premiums

- Standardised average premium rates (including insured and self-insured sectors) by jurisdiction
- Australian average premium rates by industry

Workers' Compensation Funding Ratios

- Standardised ratio of assets to net outstanding claim liabilities for centrally funded schemes
- Standardised ratio of assets to net outstanding claim liabilities for privately underwritten schemes

Workers' Compensation Disputes

- Proportion of claims with dispute
- Percentage of disputes resolved within selected time periods (cumulative)

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Foreword

This is the 25th edition of the Comparative Performance Monitoring (CPM) report which provides trend analyses about work health and safety (WHS) and workers' compensation schemes operating in Australia and New Zealand.

This report has been compiled and coordinated by Safe Work Australia with assistance from representatives of all WHS and workers' compensation authorities in Australia and New Zealand. Through a partnership of governments, employers and employees, Safe Work Australia leads the development of national policy to improve WHS and workers' compensation arrangements across Australia.

The report is presented in the following sections:

- *Work health and safety performance* – provides an overview of WHS performance across Australia and New Zealand through analysing trends in serious claim rates and work-related fatalities across jurisdictions.
- *Work health and safety compliance and enforcement activities* – includes a jurisdictional comparison of workplace interventions, inspectorate activity, safety notices, enforceable undertakings, legal proceedings and fines (this section).
- *Workers' compensation premiums* - includes a national and jurisdictional overview of the standardised average premium rates by industry in the past 5 years.
- *Workers' compensation funding ratios* – compares the differences in scheme funding arrangements.
- *Workers' compensation disputes* – includes information about disputes against an insurer's decision or decisions relating to compensation.

Previous editions of the CPM report also included data on Workers' Compensation expenditure (under the *Workers' compensation funding – assets, liabilities and expenditure* section) and scenarios that illustrated the differences in entitlement levels across jurisdictions (under the *Entitlements under workers' compensation* section). This information will be moved to the *Comparison of workers' compensation arrangements in Australia and New Zealand* which provides information biennially about workers' compensation arrangements and the differences between schemes in Australia and New Zealand.

About the data

Comparisons of CPM measures/outcomes across the jurisdictions workers' compensation schemes should be made with caution due to the differences in design, coverage, definitions and processes. Readers may find the *Comparison of workers' compensation arrangements in Australia and New Zealand* useful in comparing the differences in key aspects of each scheme. Additionally, data in this publication may differ from jurisdictional annual reports due to the use of different definitions and the application of adjustment factors to aid in the comparability of data.

The CPM does not currently include information or data from other industry-specific regulators that have responsibilities with respect to WHS and workers' compensation. These include national industry-based regulators with compliance and enforcement roles such as the National Heavy Vehicle Regulator, the National Rail Safety Regulator and the National Offshore Petroleum Safety and Environmental Management Authority, and other agencies with responsibility for industry-specific compensation claims. Further information on these regulators can be found on their respective websites.

The CPM report does not include any information on compliance and enforcement activities relating to the mining industry, including the offshore petroleum industry. This is to ensure jurisdictional data are comparable, as not all jurisdictions' WHS authorities conduct these activities. Rather they are in some cases conducted by separate specific agencies.

In this report 'Australian Government' is used for indicators relating to WHS and workers' compensation matters under the Australian Government jurisdiction, while 'Comcare' is used for the indicators relating to premium rates and disputes.

When reviewing Seacare compliance and enforcement data, it should be noted that the Australian Maritime Safety Authority (AMSA/Seacare) does not collect data/perform inspections in the same way as other WHS regulators. The OHS(MI) activities are incorporated as part of AMSA's wider functions, hence they do not solely focus on WHS and include other operational safety related components, so interpretation of data should be done with caution.

Introduction

Work Health and Safety Compliance and Enforcement activities can be measured in a range of ways. This section of the CPM aims to provide a jurisdictional comparison of workplace interventions, inspectorate activity, safety notices, enforceable undertakings, legal proceedings and fines.

1.1 Work Health and Safety Intervention activities

Proactive workplace visits

Proactive workplace visits are visits that have not resulted from a complaint or workplace incident.

Unless otherwise stated, repeat visits to the same workplace have been counted separately and if more than one officer attends the workplace, the attendances have been counted separately.

Proactive WHS workshops, presentations and seminars

Proactive WHS workshops, presentations and seminars are activities that have been conducted at a workplace or a non-workplace that were undertaken with the purpose of delivering educational advice or information.

Unless otherwise stated, activities are counted separately irrespective of the number of businesses attended or officers present.

Reactive workplace visits

Reactive workplace visits are visits that have been undertaken in the resolution of a workplace incident or complaint.

Unless otherwise stated, repeat visits to the same workplace have been counted separately and if more than one officer attends the workplace, the attendances are counted separately.

Other reactive interventions

Other reactive interventions are activities (excluding workplace visits) that have been undertaken in the resolution of a workplace incident or complaint. This might include desk-based audits, meetings, telephone advice or written correspondence that are directly involved in the resolution of an incident or complaint (where applicable).

Unless otherwise stated, if there are multiple activities associated with an incident or complaint, these should be counted separately.

Work health and safety intervention activity by jurisdiction (previously indicator 12a)

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT ^(a)	Aus Gov	Seacare	Total Aus ^(b)	NZ
Number of workplace visits: Proactive	2017-18	22,765	25,854 ^(c)	16,063	4,270 ^(d)	5,680	1,913	872	2,424	2,981	71 ^(e)	82,893	14,270 ^(f)
	2018-19	19,809	25,745 ^(c)	19,845	4,861 ^(d)	3,282	1,137	486	1,207	3,326	73 ^(e)	79,771	14,005 ^(f)
	2019-20	22,629	23,862 ^(c)	23,683	4,475 ^(d)	2,071	2,137	556	1,480	3,053	102 ^(e)	84,048	13,074 ^(f)
	2020-21	27,202	17,628 ^(c)	18,972	6,027 ^(d)	2,016	3,444	848	1,531	2,696	110 ^(e)	80,474	14,172 ^(f)
	2021-22	37,172	16,304 ^(c)	13,165	4,208 ^(d)	2,102	4,198	1 908	2,477	1,943	82 ^(e)	83,559	12,012 ^(f)
Number of workshops/ presentations / seminars: Proactive	2017-18	818	u/a	2,092	264 ^(g)	329	351	240	176	1,521	n/a	5,791	u/a ^(f)
	2018-19	1,421	u/a	2,175	236 ^(g)	269	125	272	261	1,471	n/a	6,230	u/a ^(f)
	2019-20	837	u/a	2,276	206 ^(g)	145	83	351	20	1,119	0	5,037	u/a ^(f)
	2020-21	579	u/a	1,286	157 ^(g)	119	55	243	9	1,238	0	3,686	u/a ^(f)
	2021-22	874	u/a	984	143 ^(g)	146	70	100	26	923	0	3,266	u/a ^(f)
Number of workplace visits: Reactive	2017-18	12,739	25,089 ^(c)	10,610	3,180 ^(d)	8,261	1,533	4,299	1,710 ^(h)	1,566	u/a ^(e)	68,987	u/a ^(f)
	2018-19	12,669	26,028 ^(c)	11,742	3,184 ^(d)	7,465	1,109	3,343	815 ^(h)	1,602	u/a ^(e)	67,957	u/a ^(f)
	2019-20	11,821	24,017 ^(c)	13,273	2,556 ^(d)	4,445	784	3,072	724 ^(h)	1,480	u/a ^(e)	62,172	u/a ^(f)
	2020-21	12,300	22,061 ^(c)	13,028	2,687 ^(d)	4,618	795	2,466	979 ^(h)	1,632	u/a ^(e)	60,566	u/a ^(f)
	2021-22	9,674	21,894 ^(c)	13,130	2,981 ^(d)	3,222	779	3,034	858 ^(h)	1,430	u/a ^(e)	57,002	u/a ^(f)
Other reactive interventions	2017-18	7,651	u/a	44,051	16,658	4,538	0	n/a	u/a ^(h)	2,198	0	75,096	242
	2018-19	9,302	u/a	48,551	13,281	4,092	0	n/a	u/a ^(h)	2,038	0	77,264	212
	2019-20	9,636	u/a	52,172	16,610	5,028	0	n/a	u/a ^(h)	2,126	0	85,572	130
	2020-21	12,451	u/a	65,420	20,707	4,747	0	n/a	u/a ^(h)	2,922	0	106,247	185
	2021-22	12,167	u/a	74,660	21,109	11,355 ⁽ⁱ⁾	297	n/a	u/a ^(h)	2,054	0	121,642	187

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

1.2 Inspectorate activity

Inspectors

Field active inspectors are gazetted inspectors whose role is to spend the majority of their time ensuring compliance with the provisions of WHS legislation. Duties of field active inspectors may include worksite visits, investigations, conducting audits or other activities to improve the WHS capability of businesses and workplaces.

Vacant positions, staff on extended leave, managers of the inspectorate and auditors are included in the data for field active inspectors. Staff involved in giving advice and information packs from the office, and business advisory officers and community education officers, are excluded.

In the following table, inspectors have been provided as a number and as a rate. The rate shows the number of active field inspectors per 10,000 employees by jurisdiction for the past 5 years.

Non-inspector staff undertaking other WHS activities

Non-inspector staff undertaking other WHS activities include staff who assist in securing compliance with WHS legislation through advice and education. This may include giving advice and information packs from the office, and business advisory officers and community education officers.

Work health and safety inspectorate activity by jurisdiction (previously indicator 12a)

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT ^(a)	Aus Gov	Seacare	Total Aus ^(b)	NZ
Number of field active inspectors	2017-18	315	278	227	93	96	26	32	28	52	2 ^(l)	1,149	183 ^(k)
	2018-19	330	263	244	99	96	38	32	29	52	2 ^(l)	1,186	187 ^(k)
	2019-20	330	267	249	122	94	44	32	29	52	2 ^(l)	1,220	185 ^(k)
	2020-21	370	293	240	120	97	49	29	34	58	2 ^(l)	1,292	171 ^(k)
	2021-22	370	312	245	132	97	49	31	40	64	2 ^(l)	1,342	187 ^(k)
Number of field active inspectors per 10 000 Employees	2017-18	0.9	0.9	1.0	0.8	1.3	1.2	2.4	1.6	1.3	3.7	1.0	0.8
	2018-19	0.9	0.9	1.1	0.9	1.2	1.7	2.4	1.7	1.2	4.1	1.0	0.8
	2019-20	0.9	0.8	1.1	1.1	1.2	1.8	2.5	1.6	1.2	4.9	1.0	0.8
	2020-21	1.0	0.9	1.0	1.0	1.2	2.0	2.3	1.8	1.3	5.1	1.1	n/a
	2021-22	1.0	1.0	1.0	1.1	1.2	2.0	2.5	2.2	1.4	5.2	1.1	n/a
Number of other staff undertaking non-inspectorate activities	2017-18	0	u/a	82	4	11	9	2	7	22	2	139	0
	2018-19	0	u/a	82	4	11	8	2	7	22	1	137	0
	2019-20	0	u/a	80	4	5	8	2	7	12	1	119	0
	2020-21	0	u/a	83	3	4	6	2	4	14	1	117	0
	2021-22	0	u/a	83	2	4	6	8 ^(l)	23	12	1	139	0

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

1.3 Notices

In line with the requirements under the model WHS laws, some jurisdictions have created infringement notice schemes for certain offences. Where inspectors identify a breach under their WHS legislation, a notice may be issued. This measure also collects information on improvement notices and prohibition notices issued.

It is important to note that data on notices cannot be compared directly across jurisdictions as notices are defined and issued differently in each jurisdiction.

1.4 Enforceable undertakings

An enforceable undertaking is a legally binding agreement made in response to the contravention of a WHS law, which is entered into as an alternative to legal proceedings. An enforceable undertaking provides an opportunity for significant WHS remediation to be undertaken, while avoiding the costs and time burden associated with court actions. Typically, the activities associated with an undertaking are substantial with the aim of delivering tangible benefits to the workplace, industry, or the broader community.

Enforceable undertakings are an important compliance tool under the model WHS legislation. An enforceable undertaking will generally not be accepted where the offence relates to reckless conduct or where an infringement notice has been issued for the contravention.

Work health and safety notices and enforceable undertakings by jurisdiction (previously indicator 12b)

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT ^(a)	Aus Gov	Seacare	Total Aus ^(b)	NZ
Number of infringement notices issued	2017-18	324	n/a ^(m)	221	n/a ^(m)	0	20	2	37	n/a ^(m)	n/a ^(m)	604	10
	2018-19	636	n/a ^(m)	812	n/a ^(m)	1	26	4	24	n/a ^(m)	n/a ^(m)	1,503	6
	2019-20	561	n/a ^(m)	1,083	n/a ^(m)	6	52	4	76	n/a ^(m)	n/a ^(m)	1,782	6
	2020-21	520	n/a ^(m)	1,135	n/a ^(m)	9	12	21	96	n/a ^(m)	n/a ^(m)	1,793	7
	2021-22	538	n/a ^(m)	922	n/a ^(m)	9	6	33	38	n/a ^(m)	n/a ^(m)	1,546	2
Number of improvement notices issued	2017-18	9,210	15,147	4,899	8,525	2,468	251	208	205	24	0	40,937	3,595
	2018-19	10,157	13,853	11,398	9,046	2,441	460	116	669	20	0	48,160	5,385
	2019-20	9,303	12,703	14,016	7,022	2,406	565	127	922	7	1	47,072	3,955
	2020-21	9,984	9,489	13,988	10,554	2,221	626	302	1,840	24	1	49,029	4,493
	2021-22	8,077	9,121	11,451	6,819	1,829	414	412	2,331	8	3	40,465	1,913
Number of prohibition notices issued	2017-18	1,810	555	1,249	233	791	79	80	95	17	3	4,912	1,194
	2018-19	1,905	477	2,218	256	703	94	66	151	14	0	5,884	1,614
	2019-20	2,154	518	2,171	177	584	103	64	373	1	0	6,145	1,308
	2020-21	2,363	467	2,300	271	614	102	126	459	10	1	6,713	1,172
	2021-22	2,211	413	1,765	180	433	136	152	405	4	1	5,700	573
Number of enforceable undertakings	2017-18	7	5	3	0	2	0	3	2	0	n/a ⁽ⁿ⁾	22	15
	2018-19	5	7	1	0	2	0	4	4	0	n/a ⁽ⁿ⁾	23	8
	2019-20	17	8	2	0	0	0	3	2	0	n/a ⁽ⁿ⁾	32	7
	2020-21	9	6	1	0	2	1	1	4	1	n/a ⁽ⁿ⁾	25	2
	2021-22	7	6	5	0	7	1	0	0	0	n/a ⁽ⁿ⁾	26	7

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

1.5 Legal proceedings

Legal proceedings are any investigation activity where a complaint has been laid or a summons issued against a company or individual under the relevant WHS laws. Data collected on legal proceedings in the following table focuses on:

- legal proceedings finalised
- finalised legal proceedings that have resulted in a conviction, order or agreement, and
- total amount of fines ordered by the court (see 1.6 Fines).

All legal proceedings finalised in the reference year are counted regardless of when the initial legal action commenced.

1.6 Fines

Fines data only includes fines known publicly and not amounts that have been ordered to remain confidential by a court. Fines are recorded in the year the court makes an order and not when the proceedings commenced.

Work health and safety legal proceedings and fines by jurisdiction (previously indicator 12c)

Activity	Financial year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT ^(a)	Aus Gov	Seacare	Total Aus ^(b)	NZ
Number of legal proceedings finalised	2017-18	61 ^(o)	129 ^(o)	65	11	16	4	3	2 ^(o)	0	0	291	71 ^(p)
	2018-19	60 ^(o)	166 ^(o)	64	10	9	2	4	2 ^(o)	2	0	319	82 ^(p)
	2019-20	95 ^(o)	117 ^(o)	45	4	5	5	7	2 ^(o)	2	0	282	75 ^(p)
	2020-21	104 ^(o)	83 ^(o)	81	17	7	5	6	1 ^(o)	2	0	306	60 ^(p)
	2021-22	116 ^(o)	137 ^(o)	75	16	7	5	7	1 ^(o)	1	0	365	55 ^(p)
Number of legal proceedings resulting in a conviction, order or agreement	2017-18	59	117	56	11 ^(q)	15	4	3	2	0	0	267	49 ^(r)
	2018-19	59	143	53	9 ^(q)	5	2	3	2	1	0	277	69 ^(r)
	2019-20	153	89	42	4 ^(q)	5	5	4	2	2	0	306	59 ^(r)
	2020-21	101	66	77	16 ^(q)	7	4	4	1	1	0	277	54 ^(r)
	2021-22	80	113	71	16 ^(q)	7	4	6	3	1	0	301	46 ^(r)
Total amount of fines ordered by the courts (\$'000)	2017-18	\$4,112	\$9,158	\$2,569	\$ 788	\$1,395	\$ 335	\$ 196	\$ 61	\$ 0	\$ 0	\$18,614	\$4,348
	2018-19	\$3,570	\$6,460	\$6,043	\$ 382	\$ 996	\$ 135	\$ 366	\$ 32	\$ 200	\$ 0	\$18,184	\$ 0
	2019-20	\$8,800	\$6,518	\$5,501	\$ 257	\$ 234	\$ 321	\$ 229	\$ 180	\$ 375	\$ 0	\$22,415	\$5,609
	2020-21	\$12,657	\$3,471	\$8,126	\$1,331	\$1,337	\$ 247	\$ 154	\$ 8	\$ 350	\$ 0	\$27,681	\$6,614
	2021-22	\$7,738	\$8,902	\$3,545	\$3,975	\$883	\$ 721	\$ 155	\$ 131	\$ 0	\$ 0	\$26,050	\$7,739

u/a – Data is unavailable or not collected. n/a – Data is not applicable. Refer to Appendix 1 for further explanatory notes.

Appendix 1 — Explanatory notes (footnotes)

- n/a Data is not applicable, indicating that the measure/activity is not relevant (e.g. the activity is not performed by the jurisdiction)
- u/a Data is unavailable, indicating that while the measure/activity is relevant, this information is cannot be reported (e.g. due to systems builds information about this measure cannot be extracted).
- 0 Data is applicable and available, however there have been no items recorded against the relevant financial year.
- (a) ACT: includes workers' compensation scheme data from the ACT government sector and ACT private sector.
- (b) Totals only include jurisdictions that supplied the relevant data.

Work health and safety intervention activity by jurisdiction (previously indicator 12a)

- (c) VIC: Victoria also conducts 'virtual enquiries' (non-physical workplace inspections). These have not been included in the number of visits.
- (d) WA: Workplace visits have been counted as number of workplaces visited, irrespective of how many inspectors attended.
- (e) Seacare: Inspections (investigations) are not identified as proactive or reactive.
- (f) NZ: The numbers provided were the number of total workplace assessments undertaken.
- (g) WA: Figures may be inflated when inspectors and community education officers, on occasions, present or attend the same event. It is not possible to identify and separate such events from these figures.
- (h) ACT: Data for this enforcement activity is not collected separately; it is included within the case file with the workplace visit and all accompanying regulatory activities required to determine and enforce compliance.
- (i) SA: 2021-22 figures include phone calls relating to the resolution of an incident or complaint (which were previously unable to be separated from general phone calls).

Work health and safety inspectorate activity by jurisdiction (previously indicator 12b)

- (j) Seacare: The figure is an approximation on the number of hours spent on OHS related issues during ship inspections as appointed AMSA surveyors are not employed full time in an inspectorate role.
- (k) NZ: The number of field active inspectors for New Zealand excludes field active inspectors operating in Maritime, Aviation and High Hazard areas.
- (l) NT: 2021-22 there was a restructure that resulted in the team undertaking non-inspectorate duties to expand.

Work health and safety notices and enforceable undertakings by jurisdiction (previously indicator 12c)

- (m) Multiple: There is no legislative requirement for infringement notices in Western Australia, Victoria, and the Australian Government. There is no provision under the OHS(MI) Act for issuing of infringement notices in the Seacare scheme.
- (n) Seacare: There is no provision under the OHS(MI) Act for Enforceable Undertakings in the Seacare Scheme.

Work health and safety legal proceedings and fines by jurisdiction (previously indicator 12d)

- (o) Multiple: Data for Victoria, New South Wales and the Australian Capital Territory is limited to the number of successful prosecutions.
- (p) NZ: This figure represents the number of defendants for which a case was disposed of during that financial year. It includes convictions, withdrawn and dismissed prosecution cases.

- (q) WA: A prosecution is counted as a conviction if at least one charge is successful. A conviction that is subsequently appealed but remains unresolved is recorded as a conviction.
- (r) NZ: This figure represents the number of defendants that were convicted.