



# **Assessment of Premium Rates and Industry Classifications: Loading and Appeal Policy**

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# Table of Contents

Purpose .....	3
Roles .....	3
Legislative Requirements .....	4
Insurer Premiums and Quotes .....	4
Premium Loadings: WorkCover WA Requirements .....	5
Premium Loadings: WorkCover WA Assessment .....	6
Premium Appeals: WorkCover WA Requirements .....	8
Premium Rate Assessment Appeals: WorkCover WA Assessment .....	9
Premium Classification Appeals: WorkCover WA Assessment .....	9

## Purpose

1. This policy informs and guides insurers, employers and employer authorised representatives of the policies and processes WorkCover WA applies to approve or review workers' compensation insurance premiums.
2. It establishes a set of expectations and should be read in conjunction with the *Workers' Compensation and Injury Management Act 1981 (WA)* and the *Insurer and Self-insurer Principles and Standards of Practice (Principles and Standards)*.
3. All scenarios and practices may not be addressed, (e.g., labour hire entities have unique features, being assessed at a total policy level, not individual ANZSIC level), however they will be considered in accordance with the policy intent, operations and the *Principles and Standards*.

Labour hire refers to the practice of an employer supplying its employees to work for a host employer under a commercial arrangement for profit. Labour hire entities are required to take out workers' compensation insurance for workers supplied to host employers, and to provide accurate statements for premium assessment purposes. WorkCover WA's [Guidelines for Labour Hire Employers](#) set out the labour hire coding rules and include templates to assist with wage declarations and apportioning wages based on the premium rating classification(s) of host employers.

## Roles

4. WorkCover WA sets 'recommended premium rates' as a benchmark for insurers to establish insurance premiums for employers across a range of industries. Recommended premium rates for each industry vary from year to year and are published annually by WorkCover WA. The recommended premium rates are calculated on the weighted six-year claim experience of each industry class.
5. Workers' compensation insurance is underwritten by private insurance companies. WorkCover WA is not an insurer and does not collect insurance premiums or manage claims.
6. In most cases, WorkCover WA has no direct role in setting a premium charged by an insurer, unless through the premium appeal process (refer paragraph 31-33).
7. Employers may use an insurance broker to source workers' compensation quotes and insurance, although some employers liaise directly with an insurer. Other employer authorised representatives, aside from brokers, also assist employers. As most employer authorised representatives are brokers, the term 'broker' is used, acknowledging the term refers to a broader range of employer authorised representatives.
  - a. Brokers typically charge an employer a fee for their service, and/or receive a commission from an insurer.
  - b. Brokers have an important role in finding employers the most competitive rate by negotiating with insurers on a range of quantitative and qualitative factors. Workers' compensation can be included, or separate, to an insurance package placed with an insurer.
  - c. Brokers are not regulated by WorkCover WA.

## Legislative Requirements

8. In Western Australia, all employers are legally required to hold workers' compensation insurance with an approved insurer for which they pay an insurance premium.
9. While insurers determine premiums, the workers' compensation legislation and the *Principles and Standards* establish checks and balances in elements of the underwriting process for premium assessments and classifications.
  - a. These processes are linked to WorkCover WA's recommended premium rates.
  - b. Insurers are not required to use the recommended premium rates as the basis of the quotes they provide.
  - c. Insurers assign each employer to one or more industry classes using WorkCover WA guidelines which are based on the Australian Bureau of Statistics 2006 *Australian and New Zealand Standard Industrial Classification* (ANZSIC). WorkCover WA also publishes additional classifications specific to Western Australia.
10. While insurers can discount relative to the recommended premium rates by any amount, they may only charge a loading on a recommended premium rate of more than 75% of that rate with the approval of WorkCover WA. This is referred to as a 'loading.'
  - a. WorkCover WA's approval is required even where the employer has agreed to pay the proposed premium.
  - b. Employers have a legislative right to appeal premium rate assessments and industry classifications. Certain timeframes apply, refer paragraph 29(d).
11. Where a loading has been applied by an insurer, an employer/broker is expected to source the market for alternative quotes. Insurers are legislatively required to provide quotes, enabling a competitive market.
12. Premium loadings typically occur where an employer's claim frequency and/or claim costs are excessive. When WorkCover WA become aware of these situations, WorkSafe request these employer details be provided to them.

## Insurance Premiums and Quotes

13. Insurer premiums are typically assessed as a percentage of the total annual wages paid by an employer. This is known as a 'premium rate.'
14. Amongst other factors, an insurer's premium rate is based on the nature of an employer's business activity, risk profile, the actual and projected frequency, cost and loss ratio of insurance claims, and an employer's commitment to safety and risk management.
15. For an insurer to quote a premium, employers/brokers are required to provide an insurer with an estimate of their annual total wages. Additional information, including business activities, risk management controls, wage and claims history should be provided or may be requested to ensure the quotation request is complete.
16. Based on an employer's risk profile, an insurer may set a premium which is lower or higher than the recommended premium rate, that is, the premium is discounted or loaded.

17. Employers/brokers are able, and encouraged, to obtain premium quotes from multiple insurers and select an insurer based on the premium assessment, service delivery and other considerations. Once a quote has been accepted, a premium is paid by an employer.

## Premium Loadings: WorkCover WA Requirements

18. When insurers seek WorkCover WA's approval to apply a loading on a recommended premium rate of more than 75% of that rate, WorkCover WA's expectations of insurers and employers/brokers are outlined in the *Principles and Standards*.

- a. **Policy renewal process:**

Insurers will invite policy renewals at least 30 days prior to policy expiry, unless otherwise formally agreed. The renewal notice must request the required information for the insurer to underwrite the policy.

- b. **Full terms:**

Insurers must provide full terms within 14 days of receiving renewal documentation and prior to policy expiry.

- c. **Premium loadings:**

- i. When an insurer submits a loading application to WorkCover WA where full terms were not provided within 14 days of receiving renewal documentation, the loading can only be applied from 30 days of providing full terms.
- ii. WorkCover WA expects the insurer proposing the loading to maintain insurance coverage for the employer for up to 30 days from policy expiry.
- iii. Prior to WorkCover WA approval, insurers may only charge and/or collect a loading of up to 75% of the recommended premium rate.
- iv. Administrative records of all transactions must be maintained by the insurer.

- d. **Application timeframes:**

- i. WorkCover WA will not consider a premium loading application lodged after 90 days after policy expiry. This timeframe allows insurers, employers, and brokers to continue negotiations where policy and premium terms could not be agreed, and for documents to be finalised.
- ii. If an insurer experiences unreasonable delays in receiving a response to a proposed loading from an employer/broker, WorkCover WA must be advised. Loading applications and appeals are considered by WorkCover WA simultaneously. Timeframes relating to appeals are outlined in paragraph 29(d).

- e. **Premium payments:**

Employers must maintain a valid insurance policy. Although insurers may 'charge,' that is invoice or quote, a premium loading prior to WorkCover WA's approval, any premium in excess of the 75% loading must be transparently conveyed to an employer/broker. This must not be 'collected,' such as paid by the employer and received by the insurer, before WorkCover WA approval. If WorkCover WA approval is granted, an insurer may subsequently 'collect' payment of the remaining premium from the commencement date of the policy.

**f. *Consent of Terms and Conditions:***

When an employer/broker consents to a premium loading, an insurer is responsible for ensuring the employer/broker is aware, understands, and accepts the financial implication of a premium loading, with no intention to appeal. Insurers must provide confirmation via WorkCover WA Online. Insurers must keep records of employer/broker consent for audit purposes.

## **Premium Loadings: WorkCover WA Assessment**

**19. Premium loading consented to:**

Further to 18(f), WorkCover WA will approve premium loadings consented to by the employer, or by the broker on the authorised behalf of the employer. In instances where an appeal results, and an employer's consent is unable to be provided to WorkCover WA, the decision and date of WorkCover WA's approval to load a premium may be revised.

**20. Premium loading not consented to:**

Where an employer does not consent to the premium, and an insurer lodges a premium loading application, the employer is deemed to have appealed the loading. In these situations, a pre-assessment will be undertaken:

**a. *Claims review:***

- i.** WorkCover WA must be satisfied insurers and employers/brokers had reasonable opportunity to comment and agree on historical claims data and projected claim liabilities for unfinalised claims.
- ii.** Insurers and employers/brokers are responsible for confirming the accuracy of claims history data including outstanding claim estimates before a loading application is accepted by WorkCover WA.
- iii.** In situations where claims data and/or estimates cannot be agreed, WorkCover WA may make a determination based on evidence available. Loading applications will not be progressed until all parties have agreed on claim data, or WorkCover WA has made a determination.
- iv.** WorkCover WA will provide claim and policy data, up to six years, previously submitted by the insurer(s) as at policy expiry.

**b. *Loading methodology:***

Insurers are required to provide WorkCover WA with the percentage requested above the recommended premium rate for the relevant ANZSIC industry classification.

When an employer has multiple ANZSICs and is a labour hire entity, the insurer is required to submit one loading application (not multiple for each individual ANZSIC) at a total policy level, requesting a proposed blended rate (as a percentage of wages), across all ANZSICs declared on the policy.

Labour hire entity appeals will be assessed at a total policy level and total claims level.

The resultant premium rate is to exclude all costs outside of the base premium, such as commissions, brokerage, GST, overseas common law, industrial common law, principal's indemnity, amongst others.



**c. Claim costs recovery:**

When lodging a loading application, insurers are required to provide claim information to WorkCover WA and the employer/broker if it is likely to recover costs from a third party, and to quantify the expected recovery. Where there is disagreement between an insurer and an employer/broker on the prospect of claim recovery, WorkCover WA will make a determination.

21. Once WorkCover WA is satisfied pre-assessment requirements have been met, an assessment of the premium loading is undertaken, only when employer/broker consent has not been provided.
  - a. WorkCover WA does not conduct an independent underwriting assessment of the employer.
  - b. WorkCover WA uses a statistical actuarial model to assess the reasonableness of a proposed premium. The model provides WorkCover WA with a quantitative guide of the maximum appropriate loading. It is primarily based on an employer's past claims performance, including estimates of outstanding claim liabilities.
22. The actuarial model considers the claim history, up to six years of current and former insurers, for each industry classification as this reflects recent claims performance and limits the impact of one-off claims. This approach also achieves consistency with the methodology used to determine recommended premium rates.
  - a. Where six years of history is unavailable, WorkCover WA may also consider the reliability of shorter claim periods, and claims history of former (related) entity structures.
23. For labour-hire entities the model combines (or blends) wages and claim costs across all ANZSICs for the one labour hire entity, including inactive ANZSICs, using up to six years of data.
24. WorkCover WA will typically only approve an application if the loading is less than the maximum loading indicated by the actuarial model.
25. WorkCover WA will only consider loading applications for current and forthcoming policy periods.
26. Applications to load greater than 75% of the recommended premium rate will typically not be approved where there is no claims history.
27. Premium loadings greater than 75% of the recommended premium rate are considered monthly by the WorkCover WA Board. Only complete applications will be considered.

## Premium Appeals: WorkCover WA Requirements

28. Section 154(1) of the Act enables an employer to lodge an appeal with WorkCover WA if it is dissatisfied with a premium assessment or classification. There are two forms of appeal:
- a. **Premium assessment appeal:**  
Where an employer is dissatisfied with the amount of premium proposed by an insurer.
  - b. **Classification appeal:**  
Where an employer disagrees with the industry into which its insurer has classified it.
29. In these appeal circumstances, WorkCover WA's expectations of insurers and employers/brokers are:
- a. Reasonable efforts to resolve the disagreement via an insurer's internal dispute resolution process must have been made between the insurer and employer/broker before an appeal is lodged with WorkCover WA.
  - b. An insurer cannot change an industry classification without consulting the employer/broker.
  - c. Insurers are responsible for selecting the relevant industry classification. Where an employer/broker disagrees on the industry classification, insurers and employers/brokers are to seek guidance from WorkCover WA website resources.
  - d. The Act requires appeals to be lodged within one month of the insurer advising the employer of the proposed premium classification and/or assessment (refer s154(2) of the Act).
    - i. The appeal period commences on the following day of full terms being provided by the insurer to the employer/broker (refer paragraphs 18(a) and 18(b)).
    - ii. By the end of this timeframe, WorkCover WA must be advised of an employer/broker's intent to appeal where negotiations with an insurer are continuing.
    - iii. In extenuating circumstances, WorkCover WA may grant limited additional time for an employer to appeal.
    - iv. The Board will only consider information which was known to all parties at the time a loading application is made. This does not preclude the clarification of claim and payment data.
  - e. Loading applications and appeals will be considered by WorkCover WA simultaneously.
30. Appeals are considered by the WorkCover WA Board. Only complete applications will be considered.



## Premium Rate Assessment Appeals: WorkCover WA Assessment

31. In most cases, where an appeal is lodged, WorkCover WA will assess the proposed premium against the actuarial model.
32. Unless extenuating circumstances apply, WorkCover WA will assess appeals as follows:
  - a. The primary assessment of loadings is the outcome produced by the actuarial model, based on claims history and current and estimates of existing claim liabilities. Although an employer may consider certain claims as 'one-offs,' these claims are still relevant and therefore considered by WorkCover WA. Other factors such as an employer's financial viability; risk management processes; and/or insurer service standards are secondary considerations and do not carry the same weight.
  - b. WorkCover WA will not consider premium appeals where the proposed premium loading is not above 75% of the recommended premium rate for the employer's industry. The Act gives insurers the authority to charge a loading of up to 75% without WorkCover WA approval.
  - c. Labour hire entities will have a blended rate assessed at a total policy level.
33. When an appeal is upheld, WorkCover WA will determine an appropriate premium rate known as the assessed rate, in accordance with s154(4) of the Act. The Board's decision is final and no resubmissions by parties will be accepted.

## Premium Classification Appeals: WorkCover WA Assessment

34. If a disagreement between an insurer and employer/broker arises in regard to the most suitable industry classification, an appeal to WorkCover WA can be lodged. In these situations, WorkCover WA will:
  - a. Seek confirmation that attempts to resolve the disagreement have been made via the insurer's internal dispute resolution process.
  - b. Seek the respective views of the proposed industry classification from the insurer and employer/broker and assess the extent paragraph 29c has been followed.
  - c. Obtain further information and/or seek further independent advice, as required.
35. Where an employer lodges an appeal on both 'premium assessment' and 'classification' grounds, the classification appeal will first be considered due to the potential subsequent impact on the premium. A change in an industry classification does not necessarily result in a lesser premium. WorkCover WA may request insurers to provide a rate on both classifications to assist with making a determination.