



# Workers' Compensation

## Are your Contractors slipping through the cracks?

## Common Compliance Gaps & How to Assess Them

**As we head into a new year of navigating the global crisis, creating a healthy and safe workplace is a top priority for 2021.**

As a business, this is not only a legal requirement, but also pivotal to your financial and operational resilience. Protecting all those who work for you, including your contractors, helps to create a positive and productive operational environment. A robust health and safety strategy also mitigates your risk of prosecution, penalties, business disruption and reputational damage.

One key work and safety requirement in Australia is having Workers' Compensation cover in place for your employees and all other people who are deemed your 'workers' by the Workers' Compensation and Injury Management Act (1981).

This system is there to provide financial support in the event that a person is injured or becomes ill due to work. The compensation claimed and/or paid can include wages, medical expenses, rehabilitation costs, lump sum payments where an injury is deemed permanent, and payments to families for work-related deaths, among other amounts.

**Workers' Compensation is an excellent safety net for your people and business, but it can be an incredibly tricky compliance area to manage. This is largely due to three factors:**

### 01. **It's not always clear who requires cover:**

As mentioned, the Act requires an employer to provide Workers' Compensation cover to anyone they employ who is deemed a 'worker'. Knowing who qualifies as a worker can be challenging, especially when you rely on multiple contractors and sole traders.

### 02. **There are multiple jurisdictions to consider:**

Workers' Compensation Laws differ across states and territories. There are even different regulatory authorities for certain states.

### 03. **COVID-19 is adding more complexity:**

Many organisations have had to restructure their workforces or pivot to using more contractors to get work done – which impacts their Workers' Compensation schemes. At the same time, employers have had to get their heads around new COVID-related health and safety risks. For the first time, COVID-related Workers' Compensation claims can be filed in Australia – and data from [Safe Work Australia](#) shows that by the end of July 2020, 533 such claims had already been lodged. More than a third (34%) of these related to the mental health impacts of the pandemic.

**In this fast-changing landscape, it is more critical than ever to check whether your Workers' Compensation program is protecting everyone it should, including relevant independent service contractors.**

**Let's explore the challenges and discuss the steps your organisation can take to reduce risk, ensure total compliance, and minimise the human and economic cost of illness and injury in your workplace.**

## Understand your potential blind spots:

When evaluating your risks and the strength of your Workers' Compensation compliance strategy, it is essential to ensure that your Workers' Compensation program is 100% compliant with all the laws that govern the jurisdictions in which you and your people operate. Here are three key points for consideration:

### 01. Classifying Contractors

Workers' Compensation is compulsory for all employees who are deemed 'workers' in Australia. Ensuring your permanent employees are covered is relatively straightforward, but the requirements can be confusing when it comes to the independent service contractors you engage.

Before onboarding a contractor, it is important to understand whether they are deemed a 'worker' under your Workers' Compensation insurance. For example, depending on where you operate, the definition of a worker could include:

- A contractor who earns 80% of their monthly revenue from your organisation.
- A contractor who works on a regular and systematic basis, who has a reasonable expectation of the engagement continuing as such.

To avoid potential liability, organisations should correctly classify contractors and, if they are not deemed 'workers', verify they have their own, adequate Workers' Compensation cover in place.

### 02. Working Directors

Many organisations assume that their working directors are automatically covered under their Workers' Compensation cover. In fact, this is not always the case. For working directors to be insured, they must be classified as a working director under the Workers' Compensation and Injury Management Act. This [classification](#) includes, among other criteria, directors who "execute work for or on behalf of the company; and whose earnings as a director of the company by whatever means are in substance for personal manual labour or services".

### 03. Sole Traders

Sole traders are individuals who work for themselves but have not formed a company to work under. Typically, unless they can be classified as a working director, a sole trader is not deemed a 'worker' and is therefore not liable to be covered under Workers' Compensation insurance.

It is therefore advisable for sole traders to take out a personal accident and illness policy, or a suitable alternative, to ensure they are covered. However, 40% of sole traders don't have Personal Accident Insurance. What's even more concerning is that if a sole trader has employees or hires contractors, they are obligated to take out Workers' Compensation insurance that covers these individuals, too.

## The consequences of compliance gaps:

If an individual you hire is deemed a 'worker' by law, and sustains a work-related injury or illness but is not covered by your own Workers' Compensation insurance, you will be in breach of the Act and may therefore be liable for:

- Potential fines and penalties
- Prosecution
- Reputational fallout

You may also be legally obligated to pay:

- Hundreds of thousands of dollars in compensation to the injured worker
- Legal costs, including any damages awarded in common law claims

Considering the high human and financial costs of Workers' Compensation cover breaches, if you are not fully confident in your organisation's current approach, we would advise conducting a risk and compliance assessment as soon as possible.

## How iPRO Can Help

With our intelligent technology and data-driven compliance management solutions, we can help protect your organisation and keep your people safe, by conducting an independent and automated assessment to identify compliance gaps and at risk contractors.

Our services include:

- Verification of your contractors' Workers' Compensation insurance status. At risk contractors are automatically identified and escalated for review and, if necessary, further assessment.
- Due diligence checks on your contractors' organisational structure and operations, to ensure appropriate coverage and identify potential high-risk activities.
- The option to add an additional assessment on sole traders and directors of partnerships for those not deemed as a 'worker'.

Importantly, all declarations and evidence are securely stored and monitored by iPRO. That means you can easily demonstrate proof of compliance should you be asked to do so by a regulatory authority.

## Next Steps

The fastest way to discover hidden risks, with minimal effort and at no cost to your business, is to request our free Workers' Compensation Assessment & Risk Insights Report.

This is a no fee, no obligation service we are currently offering.

## How it Works

1. **Connect:** Client provides iPRO a list of their contractors, enabling iPRO to contact them on the client's behalf.
2. **Assign:** Assessment is automatically assigned to each contractor for completion to determine if deemed a 'worker'.
3. **Earn:** Contractors complete assessment and provide evidence as required.
4. **Verify:** iPRO will automatically verify all Workers' Compensation certificates and issue a badge.
5. **Report:** iPRO aggregates reporting and insights of contractors' data and provide free risks insights report.

### Would you like us to health check your Workers' Compensation compliance?

Get in touch with us today to request your free Assessment & Risk Insights Report.

Alternatively, ask us about our automated compliance management solutions and Smart Badges. Leveraging our intelligent automation technology and compliance expertise can help you manage evolving risks and reduce complexity in your overall compliance program.