



SISA Update October 2019

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 **SISA**
Self Insurers of South Australia

Overall situation

- Welcome back to our friends from the public sector
- OCPE is currently the ‘member of record’
- Allows 1 seat on Exec to represent public sector – now Sophie Pantelios, OCPE
- Agencies considering membership should first consult with OCPE
- Otherwise remains very quiet at Govt level
- 2019/20 SI fee rates published 20/9/19:

	2019/20	2018/9
SI Fee (Exc SIICA)	4.3%	4.4%
SI Fee (Inc SIICA)	5.3%	5.4%
WHS Fee (% of SI Fee)	47%	40%

Labour Hire Licencing Act

- National level proposal to limit regulation to specific industries:
 - Horticulture processing
 - Meat processing
 - Seafood processing
 - Cleaning
 - Trolley collection
- Meeting held with Commissioner & OCBS staff
- Detailed summary sent to members 19/9/19
- Members needing further advice should contact OCBS &/or seek legal advice

Recent Full Court Decisions

- 2 Full Court of the Supreme Court rulings have dealt with consent minutes of order and contracting out:
 - *Stephenson v Return to Work Corporation of South Australia* [2019] SASCF 89 – under s.191 of RTWA, consent orders cannot include a waiver of rights to future claims for any condition that is unknown to the worker when the orders are made
 - *Mitsubishi Motors Australia Limited v Kowalski* [2019] SASCF 95 - under s.119 of the repealed Act, consent orders can contain a waiver of rights to entitlements with respect to the injury that is the subject of the consent orders

Recent Full Court Decisions

- But – what about future rights to lump sums for conditions that are known but have not been assessed? Does the S.22(10) one assessment rule apply?
- Stephenson now subject of leave application to High Court
- Going on appeal to FCSC – *Giameos v Return to Work Corporation of South Australia [2019] SAET 55* - SAET Full Bench ruled that even when treatment is pre-approved the worker can only have expenses paid until the medical entitlement period ends

Recent SAET cases

- *McMahon Services Australia Pty Ltd v RTWSA & Paschalis [2019] SAET 199* – Full Bench reduced psych WPI from 35 to 15 per cent – held that reduction for a pre-existing condition (PEC) does not require that there be a diagnosis of the PEC
- *Oliver v Return to Work SA and Bradley Painting Pty Ltd [2019] SAET 195* - discontinuance based on S&W misconduct overturned
- *Department for Education v van Hattem [2019] SAET 193* – psych claim - Full Bench case re “the significant contributing cause”

Recent SAET cases

- *Adom v Return to Work SA No. 3 [2019] SAET 188* – deals with what evidence should be provided to an IMA after referral by SAET
- *Nieuwenhuizen v Catholic Church Endowment Society Inc [2019] SAET 179* – held that the treating psychologist's notes should be made available to the parties
- *Ahmad v Thomas Foods International [2019] SAET 156* – worker WPI previously assessed under repealed Act, sought further assessment confined to interim SI status – appeal dismissed

SAET proposals for revised case management

- Proposes a two-stream model aimed at improving the efficiency of dispute management and compliance with SAET orders
- ‘Docket case’ is where serious injury status is the primary issue - to be managed by a DP
- All others to be managed by Registry – litigation plan by Commissioner after conciliation – no hearing date until plan is completed & certificate of readiness filed
- Feedback sought 20/9/19 – only 1 response so far
- Please provide us with your views - feedback due to SAET 25/10/19

SISA news

- Closing the Loop presentations now available in document library
- Participating in opioid panel & forum 28/11/19 – see email 2/10/19 and SISA events page for further info – very high-powered panel
- Sponsoring session at Both Sides of the Fence 1/11/19
- Xmas drinks 13/12/19 at Wakefield Hotel
- SISA still open to suggestions for further training

Questions?

Workplace Safety



What my mom thinks I do



What my friends think I do



What my spouse thinks I do



What society thinks I do



What I secretly think I do



What I actually do