

PUBLIC CONSULTATION ON PROPOSED AMENDMENTS TO THE WORK INJURY COMPENSATION ACT

AIM

1. The Ministry of Manpower (MOM) invites members of the public to give feedback on the proposed amendments to the Work Injury Compensation Act (WICA).

BACKGROUND

2. The WICA provides injured employees with a lower-cost and speedier way to claim work injury compensation (WIC) as compared to filing a suit in the courts. Under the WICA, an employer is liable to pay WIC to all their employees, as long as their injury is from an accident arising out of and in the course of employment, regardless of whether the employee is at fault. To balance employer's liabilities, there are prescribed limits to the compensation amount under the WICA.

3. The WICA has offered effective protection to the vast majority of injured employees, with almost all the 16,000 valid claims a year being compensated. However, there are about five cases a year which are not compensated. Claims processing time can be long-drawn for some cases. MOM has reviewed the WICA to give greater assurance of compensation, and to speed up processing of the claims process.

4. While the proposed amendments may lead to higher WIC insurance premiums, the incremental cost is estimated to be manageable (at less than 0.01% of annual total labour cost), with greater impact to companies with more injury claims. The higher premium cost should also be weighed against the greater assurance of compensation, and faster claims processing for injured employees.

AREAS OF REVIEW

A. Broaden WICA Coverage, Increase Payout

Expand mandatory insurance coverage

5. Since 1995, employers are required under the WICA to purchase WIC insurance for (a) all employees performing manual work; and (b) non-manual employees (NMEs) in factories earning up to \$1,600 a month¹. WIC insurance covers employers for the WIC liability, and compensates injured employees when the employer is unable to pay. The mandatory insurance

¹ Mandatory insurance coverage is waived for the Government, statutory boards, and employers of all persons employed in companies fully owned by the Government, international airlines, international shipping lines, international oil companies, banks, finance companies, retail shops, hairdressing saloons, photographic saloons, coffee shops, tailoring and dressmaking shops, theatres and cinemas, and hotels.

coverage is due for an update as it is increasingly difficult to distinguish between factories and non-factories. It is also necessary to revise the NME salary threshold to keep pace with wage growth.

6. To provide the assurance of WIC compensation to more employees, we propose to:
 - (a) Extend mandatory insurance to NMEs working in non-factories.
 - (b) Update the NME salary threshold for WIC insurance requirements to \$2,600, to align with the new salary threshold for non-workmen under Part IV of the Employment Act (EA). This provides assurance of compensation to the employees most at risk of financial hardship if their employers are unable to compensate. To allow businesses time to adjust, the NME threshold will be raised to \$2,100 in April 2020 and then to \$2,600 in April 2021.

Expand scope of compensation

7. The WICA provides that injured employees are compensated their Average Monthly Earnings (AME) when on medical leave, such that they are no worse off from the earnings they received over the past 12 months. AME comprises basic salary, together with all variable wage components like overtime pay and bonus, and most allowances².

8. However, employees who are assigned light duties as a result of work injuries are likely to earn lower salaries than AME due to their inability to perform work at the same intensity. To ensure that all injured employees are compensated up to their usual level of earnings due to work injuries, we intend to extend WIC compensation to include injured employees on light duties as well. Their compensation should be equivalent to the shortfall between their earned salaries during light duties and AME.

9. In order to process compensation claims for injuries that result in light duties, and to have a more comprehensive picture of the extent of work injuries, we will require all injuries resulting in any instance of light duty or medical leave to be reported. Reporting will nonetheless be simplified so that it is not an administrative burden to employers. Please refer to Annex A for the information required for reporting of injuries with less than 4 days of MC or light duties.

² AME is calculated based on the past 12 months' earnings before the date of accident. It includes wages, allowances, overtime payments, bonuses or annual wage supplement. It does not include travelling allowances, employer's CPF contributions or pensions or monies paid to cover any special expenses incurred by the employee by nature of his employment.

Update WICA compensation limits

10. The compensation limits for permanent incapacity (PI) and death, as well as for medical expenses, are updated every four years to keep pace with wage growth and inflation. The next update is due to take effect in January 2020. Taking into account the growth in wages and the size of hospitalisation bills since the last revision in 2016, we propose to raise the compensation limits for PI and death by 10% to \$289,000 and \$225,000 respectively, and the compensation limit for medical expenses by 25% to \$45,000.

	Current Limit (Since 1 January 2016)	Proposed Limit
Death	\$ 204,000	\$225,000
Total PI³	\$ 262,000	\$289,000
Medical Expenses	\$ 36,000 or within 1 year from date of accident, whichever is reached first	\$ 45,000 or within 1 year from date of accident, whichever is reached first

B. Speed Up Claims Processing

11. Today, when an employee is injured at work, his employer has to submit an incident report to MOM as the first step in the claims process. If the employee wishes to claim compensation through the WICA for a serious injury, he needs to file a claim with MOM and be assessed by a medical practitioner for the steady-state extent of PI. MOM computes the compensation based on the employee's PI, AME and age (see Annex B for how compensated is derived), and informs the employer, employee and insurer. If all parties agree to the compensation amount, the employee will be paid the compensation and the claim is concluded. 76% of claims involving permanent incapacity are settled within six months, but 12% of claims take more than nine months. MOM intends to amend the WICA to compensate workers more speedily.

12. There are three key reasons that delay claims processing. They are: (a) the employee fails to submit or delays submitting his/her WICA claim; (b) a lengthy period is required to assess the steady-state extent of PI; and (c) detailed salary records are not available so the actual AME is disputed by parties.

13. Therefore, we propose the following amendments to speed up claims processing:

³ This excludes the additional 25% compensation that is paid for total PI to offset the cost of care for the injured employee.

- (a) Process WICA claims for all work injuries notified to MOM by the employer, without requiring the employee to separately file the claim. The employee will continue to be allowed to opt out from the WICA at any time before accepting the compensation, for example, if he/she wishes to seek compensation by filing a suit in the courts.
- (b) Compensate based on the prevailing state of incapacity (termed a “current incapacity” assessment) at the medical assessment occurring at least six months after the date of accident. This is because the view of the WIC Medical Board⁴ is that the extent of incapacity by then would be a close approximation of the steady-state permanent incapacity for most cases. Nonetheless, for employees with complicated injuries that take longer to stabilise, doctors can notify the Commissioner of Labour (“Commissioner”) to conduct PI assessments at a later date.
- (c) In cases where there are no itemised pay slips or other documentation to enable the AME to be calculated, compensation will be based on a multiple of the employee’s basic monthly salary (“derived AME”). Employers are already required to make itemised pay slips available⁵. If itemised pay slips or other evidence of AME are not available, the multiple will be set at a level such that the derived AME will be greater than the actual AME for at least 75% of cases.

C. License WIC Insurers to Process All Insured WICA Claims

14. Unlike other types of general insurance where insurers process all claims, WIC insurers currently process only temporary incapacity (TI) claims while MOM processes death and PI claims. Current process for death and PI claims requires claimants to deal with and to submit documents to both MOM and the insurer. This is not optimal and slows down the claims process.

15. To speed up the claims process and allow employees to receive their compensation faster, we propose for insurers to be licensed to sell standardised WIC policies and to process all claims arising from such policies. These proposals will reduce the number of disputes, particularly those arising from policies with complex exclusions that absolves insurers from liability. The claims processing arrangement is similar to that of other countries like Australia, where insurers process all types of WIC claims, with the regulators involved only if there is a dispute.

⁴ The WIC Medical Board comprises senior consultants from 6 restructured hospitals and advises the Commissioner for Labour on matters relating to medical evidence for determination of compensation.

⁵ Since 1 April 2016, all employers must issue itemised pay slips to all employees covered by the EA and are required to keep a record for all pay slips issued for two years.

16. To provide assurance that the claims process is fair and expedient, we propose the following safeguards:

- (a) Allow the Commissioner to impose licensing conditions on insurers to ensure that claims are processed in a fair and timely manner. These include requiring claims to be processed in accordance with MOM guidelines, setting standards on claims processing time, and sharing of policy and claims data with MOM and other insurers. The Commissioner will also be empowered to overrule the insurers' decisions.
- (b) Allow the Commissioner to accredit WIC policies based on a core set of standard terms and conditions. In particular, approved WIC policies will only be permitted to have a standard list of allowed exclusions. A maximum penalty of \$80,000 may be imposed on any person who sells a non-approved WIC policy⁶.

D. Other Amendments

17. We also propose to make other amendments, such as:

- (a) Increasing the maximum fines for WICA offences. As any case of non- or delayed compensation amplifies the trauma to injured employees and erodes public trust in the WICA regime, we recommend that the fine for non- or delayed compensation be increased from \$10,000 to \$15,000.⁷ Furthermore, to deter repeat offenders, we propose to double the maximum fines for second or subsequent WICA offences.
- (b) Allowing the Commissioner to assess the validity of late objections and to allow them if reasonable. This will address circumstances when legitimate objections are raised after the deadline for objections has passed, such as when fresh evidence is surfaced by doctors, or when fraudulent claims are found.
- (c) Clarifying certain legal ambiguities and to streamline the claims process, as detailed in Annex C.

⁶ This is benchmarked to the Employment Agencies Act's penalty for unlicensed employment agency activities.

⁷ This is benchmarked to the EA's penalty for non- or delayed payment of salary.

CONSULTATION DETAILS

18. The consultation exercise will be open from **31 January to 25 February 2019**.

19. We seek your support to ensure that the consultation exercise is productive and focused, and request respondents to:

- (a) Identify yourself and the organisation you represent (if applicable). This enhances our understanding of the impact of the proposed changes on different stakeholder groups;
- (b) Make your comments clear and concise;
- (c) Identify the specific proposal you are commenting on, and provide your comments on how the proposals/features can be improved or made clearer; and
- (d) As far as possible, explain your points with illustrations and examples.

20. Please submit your feedback on the proposed amendments by **6:00pm, 25 February 2019** in any of the following ways:

- (a) Email to mom_consultations@mom.gov.sg with the subject heading “Consultation on Proposed Amendments to the Work Injury Compensation Act”; or
- (b) Mail to
Workplace Policy & Strategy Division (Attn: Occupational Safety & Health Unit)
Ministry of Manpower, Singapore
18 Havelock Road, #06-02
Singapore 059764

21. Please provide your personal particulars so that we can contact you for further clarifications, if necessary. We will not release your personal particulars without your prior consent.

SUMMARY OF RESPONSES

22. Your feedback is important to us. All feedback received will be taken into consideration. We will consolidate and publish a summary of the key comments received, together with our responses, on the REACH website after the consultation exercise closes. All feedback will be

treated with confidentiality and we will not disclose the identity of the person(s) providing the feedback.

23. Thank you.