

Employees residing or moving overseas

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Introduction

After suffering an injury, employees may leave Australia (whether on short term or long term basis) and intend to claim compensation entitlements under the SRC Act whilst they are residing overseas. In these circumstances there are two relevant provisions of the SRC Act:

- section 3 provides that the application of the SRC Act extends to all places outside Australia, including the external territories.
- section 120 provides that written notice is required to be given to Comcare by injured employees who have been in receipt of incapacity payments under section 19 for 3 months or longer, who depart Australia. The employee can provide notice before they depart, but once they have departed Australia they must provide notice within 7 days. This is irrespective of whether they intend to return to Australia.

The employee is also required to provide their overseas residential address every three months.

Note: The information in this page is not relevant to employees who were engaged outside Australia for employment outside Australia (locally engaged overseas employees).

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Management of claims for employees residing overseas

The usual compensation benefits apply to employees residing overseas, just the same as if they were still resident in Australia. However, there are some practical differences in managing overseas claims. For example, there is a different way of reimbursing medical expenses involving exchange rate conversions. Also, simply obtaining information such as compliant medical certificates may be more difficult in some cases.

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Interpreting foreign language documents

It is expected that medical certificates and any other documents provided by the employee in relation to their claim are provided in English. Where applicable the employee will need to arrange to have the documents translated into English by a registered translator prior to sending them to Comcare. Untranslated documents should be returned to the employee in order for them to arrange the necessary translation.

If for some exceptional reason the overseas employee has been unable to organise translation of the document, the Claims Manager (CM) will need to organise the translation. Where it is a routine type of document such as a medical certificate or an invoice, there are interpreting websites that may be sufficient to provide the necessary translation. Other Comcare staff may also be in a position to provide a translation.

For more significant documents such as medical reports, recommendations for treatment, permanent impairment matters, legal matters etc, it would be prudent to engage a professional interpreting service. CMs should discuss these matters with their Assistant Director when considering engaging an interpreting service.

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Compliant overseas medical certificate

As with medical certificates issued in Australia, to be compliant, an overseas medical certificate must:

- contain employee details
- provide the date of examination
- state the diagnosis
- contain a review date (not be open-ended)
- detail the treatment required in relation to the compensable condition
- be signed by the relevantly qualified doctor that examined the employee
- include contact details of the relevantly qualified doctor.

Comcare has designed a medical certificate (certificate of capacity) that, when fully completed, fulfills the requirements under the SRC Act. The use of this form, while preferred, is not mandatory. However, the medical certificate does have to be sufficiently compliant with this form. Overseas employees and their doctors can access this form on Comcare's website.

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Overseas legally qualified medical practitioners (LQMP)

From an Australian perspective, an LQMP is a person with legally accepted qualifications to practice medicine. An indication of a medical practitioner's qualifications can be identified by the letters appearing after their name. For example:

- MB.BS = Bachelor of Medicine and Bachelor of Surgery
- FRACP = Fellow of the Royal Australasian College of Physicians
- FRACS = Fellow of the Royal Australasian College of Surgeons
- FRANZCP = Fellow of the Royal Australasian College of Psychiatrists

Medical practitioners in Australia must be registered with the Medical Board of Australia to practice medicine or provide medical services and treatment. The Australian Health Practitioner Regulation Agency (AHPRA) regulates Australia's health practitioners in partnership with various national boards including the Medical Board of Australia.

As to what constitutes a LQMP overseas, the following features should be in place:

- the medical practitioner is registered with that country's ruling medical body to practice medicine, or provide medical services and treatment (e.g., the equivalent to the Medical Board of Australia).
- the practitioner must hold the relevant local, legally accepted qualifications and requirements for their field of medicine.

CMs may in some cases be able to seek assistance from relevant authorities such as the Department of Foreign Affairs and Trade (DFAT) via the numerous Australian Embassies, Consulates and Missions overseas, to assist in clarifying a practitioners qualifications and registration in that country. No details about the employee or the claim can be provided to these authorities though.

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Medical examinations for overseas employees (Section 57)

Despite their location, employees residing overseas are subject to the same requirements as an employee residing in Australia. As such, a CM may arrange for the employee to undergo a medical examination under section 57 of the SRC Act.

The processes involved in arranging medical examinations for overseas employees are much the same as for Australian based employees.

In some cases, CMs may be able to conduct their own search for medico-legal practitioners/companies in the required region, for example via the internet. If a potential medico-legal specialist in the required field of expertise is found, contact should be made to confirm whether they will be able to undertake the medical examination and provide a report. Overseas medico-legal specialists conducting section 57 examinations on behalf of Comcare should also be advised that they may be required to give evidence (by telephone) before an Administrative Appeals Tribunal in the event that the employee appeals against any subsequent decisions by Comcare.

When arranging medical examinations for overseas based employees, due regard must be had of the location of the employee and the availability of a properly accredited LQMP in or near that location. The CM should provide an overseas employee with sufficient notice of an appointment.

The CM may in some cases be able to seek assistance from relevant authorities such as the Department of Foreign Affairs and Trade (DFAT) via the numerous Australian Embassies, Consulates and Missions overseas, to identify an appropriate doctor to undertake the examination. No details about the employee or the claim can be provided to these authorities though. Many Australian Embassies' websites have listings of local doctors and their specialties or, alternatively, the Embassy may be able to provide information regarding suitable doctors in their region. The Australian Embassy/Mission may also be able to provide advice regarding transport and accommodation logistics.

Be aware of the geography and characteristics of the region you're dealing with. What may seem like a short or simple journey may prove, in some cases, to be logistically difficult. For example, the employee may live in a remote regional area a long distance from the closest appropriately qualified LQMP in a major city. In such cases where travel costs may be substantial and involve air travel, the CM can organise for flight bookings and accommodation in the same manner as booking for Australian based employees.

Reasonable travel costs incurred by the employee attending an overseas medical examination arranged by Comcare can be considered for reimbursement in the same manner as those travelling within Australia.

Other alternatives to the above arrangements would be:

- ask the employee if they will be in Australia any time in the near future. If so, it may be an opportune time to organise a medical examination to occur during their time in Australia
- some Australian medico-legal companies have teleconferencing facilities that could enable a section 57 examination to be conducted by a local, Australian specialist via teleconference in some cases.

Refer to the list of [Our embassies and consulates overseas](#) at the Department of Foreign Affairs and Trade.

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Medical treatment for overseas employees (Section 16)

Employees residing overseas must continue to submit medical evidence in order for Comcare to approve payment of medical treatment. This is usually provided by way of a medical certificate. The provisions of section 16 of the SRC Act apply equally to employees residing overseas. The need for treatment, the frequency and/or duration of medical treatment should be managed in the same manner as for those employees residing in Australia.

For medical treatment costs in Australia, guidance to what is appropriate to pay is based on the Australian Medical Association (AMA) rates or allied health rates for each State and Territory.

For treatment provided in other countries, the CM will need to determine what amount is appropriate to that treatment under section 16 of the SRC Act. The amount charged, once converted to Australian dollars, should be compared with the usual Comcare rate for that same service. If the amount charged appears excessive, the Claims Manager can investigate the matter further by contacting:

- the Australian embassy/consulate in that country to ascertain the level of fees that would generally be considered reasonable for the particular form of treatment;
- the Association that governs the particular speciality in that country e.g. that country's Physiotherapy Association.

The treatment cost is paid at the exchange rate applicable at the time the employee paid for the treatment. The Reserve Bank of Australia (RBA) is the appropriate source for this information.

The employee is therefore reimbursed for the actual cost incurred i.e. is reimbursed the AUD amount actually paid for that treatment. In the unlikely event that the service provider bills Comcare directly, the same methodology would apply to payment to the overseas provider.

CAIS would normally arrange for these transactions to occur.

Incapacity payments for overseas employees

An employee residing overseas is entitled to receive incapacity payments in the same circumstances as if they were residing in Australia. The employee must submit medical evidence in order for Comcare to consider liability for incapacity payments. This is usually by way of a compliant medical certificate. For separated employees, Comcare will pay any entitlement into the employee's nominated Australian or overseas bank account. Payment is not available by any other means e.g. cheque or money orders.

Injured employees residing overseas can incur various unavoidable bank fees and charges on payment transfers. The SRC Act contains no authority for the payment of any bank fees or charges.

Transaction fees (including those for overseas money transfers) are not part of any compensation entitlement under the SRC Act. Comcare has no authority to pay them or deduct them from compensation payments, regardless of whether the fee is levied by an overseas bank or a local bank. Therefore, Comcare cannot top up compensation payments to allow for the cost of overseas funds transfers.