



**Queensland  
Government**

**Air Travel Indemnity  
Policy**

*Air Travel Indemnity for  
Queensland Government Employees*

January 2010

## AIR TRAVEL INDEMNITY POLICY

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## 1. INTRODUCTION

### 1.1. Purpose

The Air Travel Indemnity Policy replaces the personal accident indemnity for Crown Employees contained in Treasurer's Instruction 337. The Air Travel Indemnity Policy provides an ex gratia payment for Queensland Government Employees who have received permanent injuries or who have been killed in an aircraft accident whilst on official duties.

Enquiries relating to the application of the Air Travel Indemnity Policy should be made to Queensland Treasury.

The policy was endorsed by the Government on 1 July 2004 and was last updated on 8 January 2010.

### 1.2. Legislative Provisions for Making Payment

Section 72(1)(b) of the *Financial Accountability Act 2009* ("FA Act") provides for the Accountable Officer of a department to authorise special payments from departmental accounts. Ex gratia payments pursuant to the Air Travel Indemnity Policy will be made by way of special payments under the FA Act.

## 2. INTERPRETATION

A reference to legislation includes any subsequent legislation amending or replacing that legislation from time to time.

**"Indemnified Person"** means a Queensland Government Employee who is injured or killed in an accident whilst on official duties.

**"Permanent Impairment"** has the meaning provided in section 38 of the *Workers' Compensation and Rehabilitation Act 2003*.

**"Queensland Government Employee"** means:

- a) all persons employed as public service employees under sections 5 and 6 of the *Public Service Act 2008*, including temporary employees;
- b) all persons employed as members of the Queensland Police Service (as defined in Part 2 of the *Police Service Administration Act 1990*); and
- c) persons deemed, from time to time, by the Under Treasurer of Queensland to be Queensland Government Employees for the purposes of this policy.

**"The flight"** has the following meaning:

- a) the flight shall be deemed to have commenced on the Queensland Government Employee entering the aircraft or the vehicle used by the airport authorities or by the Aerial Service for the purpose of conveyance from the airport terminal to the aircraft; and

- b) the flight shall be deemed to have ended on the Queensland Government Employee exiting the aircraft or the vehicle used by the airport authorities or by the Aerial Service for the purpose of conveyance from the aircraft to terminal.

**“Type A Aircraft”** means:

- Government owned aircraft;
- helicopters; and
- small fixed wing aircraft.

Example: Charter planes not available for use by the general public or helicopters undertaking aero-medical services.

**“Type B Aircraft”** means scheduled commercial passenger flights.

These will generally cover services where:

- there is a fee payable by persons using the service; and
- the flight is available to the general public on a regular basis; and
- the service is conducted in accordance with fixed schedules to or from fixed terminals over specific routes.

## 2.1. Payment

The payment of the ex gratia payment under this policy will be made to the Indemnified Person. In the case of death, the payment will be made to the estate of the Indemnified Person.

The Under Treasurer shall be entitled to treat the Indemnified Person as the absolute owner of the arrangement and shall not be bound to recognise any equitable or other claim to or interest in the arrangement.

## 2.2. Calculation of Ex Gratia Payment

The payments for death and total and permanent disablement<sup>1</sup> will vary depending on the type of aircraft the Indemnified Person is on. This is justified on the basis of relative risk. Increased coverage is provided for flights where the risk is greater, generally small fixed wing aircraft and helicopters (“Type A Aircraft”). However, embarking on a scheduled commercial passenger flight is a risk which a broad cross-section of the public takes every day in the context of both work and leisure (“Type B Aircraft”). Therefore, it is not intended that the higher ex gratia payment apply for Queensland Government Employees injured on Type B aircraft.

The entitlements for death and total and permanent disablement are as follows:

- Type A Aircraft \$650,000

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<sup>1</sup> For the purposes of this indemnity, the meaning of the term “total and permanent disablement” is consistent with that provided in the *Superannuation (State Public Sector) Deed 1990*. That is, disablement of a degree which, in the opinion of WorkCover Queensland after obtaining the advice of not fewer than 2 medical practitioners, is such as to render the Indemnified Person unlikely ever to be able to work again in a job for which he or she is reasonably qualified by education, training or experience.

- Type B Aircraft \$150,000

For permanent impairment determined to be less than total and permanent disablement, the ex gratia payment will be calculated according to a percentage determined by WorkCover Queensland. This percentage will then be applied to \$150,000 to calculate the ex gratia amount.

An ex gratia payment under the Air Travel Indemnity Policy is net of any benefit paid to the Indemnified Person or their estate under personal accident insurance or travel insurance held by the carrier, an operator or a Government department. This means that any such benefit paid under personal accident insurance or travel insurance payable to an Indemnified Person as a result of the accident will be taken into account and deducted from any entitlement under the Air Travel Indemnity Policy.

However, entitlements such as worker's compensation, superannuation or common law claims, including payouts pursuant to the *Civil Aviation (Carriers' Liability) Act 1964* are excluded from consideration.

The indemnified persons should take their own legal advice regarding the scope of entitlements available to them.

### **3. CONDITIONS**

The Air Travel Indemnity Policy shall not apply to death or injury of an Indemnified Person which is directly or indirectly caused by or consequential upon the following acts by the Indemnified Person:

- a) intentional self-injury or suicide by the Indemnified Person; or
- b) the Indemnified Person being rendered less capable than usual of taking care of themselves because of mental unsoundness, unlawful use of drugs or excessive alcohol use.

The ex gratia payment will not be payable unless the Indemnified Person shall, as soon as possible after the happening of the accident causing personal injury, procure and follow proper medical advice from a qualified medical practitioner.

### **4. PROCESS FOR MAKING A CLAIM**

#### **4.1. Notification**

In the event of an aircraft accident causing death or injury to an Indemnified Person, the relevant Accountable Officer shall make inquiries of the accident and obtain reports of the incident.

Where it is considered that the Indemnified Person could be eligible for an ex gratia payment under the Air Travel Indemnity Policy, the Accountable Officer shall forward the reports under an explanatory advice to the Under Treasurer as soon as possible.

The explanatory advice is to contain the following:

- (a) full particulars of the accident such as type of aircraft;
- (b) the purpose of the flight;
- (c) the cause of accident (if known);
- (d) the extent of the injuries (including medical reports and relevant receipts)<sup>2</sup>;
- (e) whether any personal accident insurance or travel insurance with respect to the Indemnified Person is held by the carrier, an operator or a Government department; and
- (f) the amount the Indemnified Person is entitled to claim under this insurance.

Where the claim is for personal injury, the Under Treasurer will seek advice from WorkCover Queensland as to the extent of the personal injury (see paragraph 4.3).

The Under Treasurer will review the application to determine if the case is eligible for an ex gratia payment under the Air Travel Indemnity Policy and advise the Accountable Officer accordingly.

#### **4.2. Timeframe**

Claims for an ex gratia payment pursuant to the Air Travel Indemnity Policy should be lodged within six months of the date when the accident occurred where the claim is for personal injury, and as soon as practicable where the accident results in death.

#### **4.3. Personal Injury Assessment**

In most circumstances, a claim for an ex gratia payment under the Air Travel Indemnity Policy will coincide with a claim for worker's compensation. To ensure the outcomes of such claims are consistent, Queensland Treasury and WorkCover Queensland have established a protocol for assessing personal injuries occurring in these circumstances.

Upon receiving a claim for personal injury under the Air Travel Indemnity Policy, Queensland Treasury will notify WorkCover Queensland that an assessment of personal injury is required, providing the relevant details of the Indemnified Person and the accident.

The Indemnified Person, as often as required, shall submit to medical examinations to enable an assessment to be made. WorkCover Queensland will, upon assessment of the Indemnified Person, advise Queensland Treasury of the extent of the personal injuries. The assessment by WorkCover Queensland will be in accordance with normal procedures pursuant to the *Workers' Compensation and Rehabilitation Act 2003*.

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<sup>2</sup> It is acknowledged that the full extent of injuries may not be able to be conclusively determined within the period prescribed for lodgement of a claim (that is, six months subsequent to the accident - see paragraph 4.2). For the purpose of assisting in making a determination on the ex gratia payment, the report on the extent of injuries provided to the Under Treasurer should deal with all present injuries and any injuries which may reasonably be foreseeable.

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#### **4.4. Privacy**

The personal information of the indemnified person is subject to, and will be treated in accordance with, the principles of the *Information Privacy Act 2009*. The Accountable Officer shall procure from the Indemnified Person who makes a claim under this policy the consent for Queensland Treasury to disclose to WorkCover Queensland their personal information obtained by Queensland Treasury for the purpose of WorkCover Queensland to assess the personal injuries sustained under this policy.

#### **4.5. Payment**

Payment of an ex gratia payment will be on confirmation of eligibility by the Under Treasurer and should be made by the relevant Accountable Officer in accordance with section 72(1)(b) of the *Financial Accountability Act 2009* to the Indemnified Person or their estate (in the event of death).

Payments are to be made without any admission of liability by the State of Queensland.