

Our reference: BN-07428-2021

The Hon Wes Fang MLC  
Chair, Standing Committee on Law and Justice  
NSW Legislative Council  
Parliament House  
Macquarie Street  
Sydney NSW 2000

By email: [council@parliament.nsw.gov.au](mailto:council@parliament.nsw.gov.au)

Dear Mr Fang

## 2021 Review of the Dust Diseases Scheme

The State Insurance Regulatory Authority (SIRA) thanks the Committee for the opportunity to update members on outstanding actions arising from previous Reviews of the Dust Diseases Scheme.

### 2018 Review of the Dust Diseases Scheme

In 2018, the Standing Committee on Law and Justice undertook a review of the NSW Dust Diseases Scheme. The following recommendations remained outstanding at the time of that review.

#### Recommendation 6

*That the State Insurance Regulatory Authority liaise with key stakeholders, including the Thoracic Society of Australia and New Zealand, regarding updating of the list of dust diseases contained in Schedule 1 of the Workers' Compensation (Dust Diseases) Act 1942 and commission an independent actuarial study to consider the implications of making any amendments.*

In response to this recommendation, SIRA consulted with icare, Thoracic Society of Australia and New Zealand (TSANZ) and commissioned Professor Tim Driscoll to conduct an evidence review of the diseases nominated by TSANZ to inform options to update the dust diseases schedule.

The following activity was undertaken:

- The draft evidence review report (Driscoll report) was peer reviewed by Dr Ryan Hoy in May 2021.
  - The Driscoll report was finalised in September 2021 and recommends an additional five dust diseases be considered for inclusion in the dust diseases schedule.
  - Taylor Fry was commissioned to conduct an independent actuarial study to consider the potential implications of amending the dust diseases schedule.
  - In October 2021, Taylor Fry provided a final actuarial assessment of the implications of amending the dust diseases schedule based on the Driscoll report recommendations
- SIRA has now completed its role in leading action on the recommendation following finalisation of the Driscoll and actuarial reports and has provided icare with all evidence review and actuarial documents for it to consider and provide advice to Government on any proposed amendments to the dust diseases schedule arising from the recommendations of the Driscoll report.

#### Recommendation 7

*That the NSW Government make a regulation that the payment of reasonable funeral expenses*

*in the Workers Compensation (Dust Diseases) Scheme be increased to not exceed \$15,000, in line with the Workers Compensation Scheme statutory maximum.*

In response to this recommendation, the Statute Law (Miscellaneous Provisions) Act (No 2) 2019 (The Act) commenced in December 2019. The Act amended the Workers Compensation Act 1987 and the Workers' Compensation (Dust Diseases) Act 1942 increasing the amount of funeral expenses compensation payable in respect of the death of a worker resulting from a dust disease from \$9,000 to \$15,000.

Information on the changes was issued in the 20 December 2019 edition of the SIRA Workers Compensation Regulation Bulletin.

#### 2019 Review of the Dust Diseases Scheme

In 2019, the Standing Committee on Law and Justice undertook a review of the NSW Dust Diseases Scheme with the committee making the following recommendation:

##### Recommendation 5

*That the NSW Government investigate opportunities to raise and manage funds for future silica related compensation claims by manufactured stone workers. Consideration should be given to imposing a specific levy on the manufactured stone industry.*

SIRA engaged Taylor Fry to assess the adequacy of the Dust Disease Fund to meet silica related liability.

In February 2021, Taylor Fry reported that the Dust Disease Authority's current funding will be adequate to meet the liabilities associated with silicosis manufactured stone claims, in addition the existing levy structure will recognise and respond gradually to silicosis manufactured stone claims experience as and when it develops.

In the report Taylor Fry did recommend that the Workers Compensation Industry Classification Code (WIC) applicable to the manufactured stone activities be moved down one schedule. As SIRA is required to determine the amount insurers are required to contribute to the fund annually, and Taylor Fry were engaged to determine the 2021/22 levy rates for this purpose, the activity was moved down one schedule in accordance with their earlier recommendation. The effect of this schedule move is the rate applicable to the activity was increased from 0.12 per cent to 0.25 per cent as part of the 2021/22 determination.

SIRA would be pleased to provide further information as required by the Committee.

Yours sincerely

**Adam Dent**  
Chief Executive

Date: 17/12/21

---