Know Your Agreement
Accident make-up pay

Clause 50

The CEMEA increases the period of payment of accident make-up pay to eligible employees, to a maximum of 39 weeks, inclusive of non-term weeks.

This is a significant rise from 26 weeks under the previous Agreement.

Why is this important?

Employees who are injured at work and as a result unable to safely perform their duties will in most cases eligible compensation payments under the *Workplace Injury Rehabilitation and Compensation Act 2013* (WIRC Act) – however, these payments are not made at the worker's full pre-injury salary. For the first 13 weeks, Workcover payments are equivalent to 95% of salary, after this they drop to 80%.

The accident make-up pay clause in this Agreement requires that the employer 'top up' the balance, so that for up to 39 weeks the employee suffers no drop in their income – the last thing anyone needs when incapacitated through their work.

Accident make-up pay is an amount equivalent to the difference between:

- the amount of compensation payable under the WIRC Act (and any wages earned by a partially incapacitated employee), and
- the amount that would have been payable under CEMEA, including superannuation, if the employee had been performing their normal duties.

Many industries do not have accident make-up pay and most are still set at 26 weeks.

Compensation expert Kevin Purse explained the significance of make up pay in 2016, when the Fair Work Commission upheld the principle that accident make up pay provisions should continue as an entitlement to injured workers under 37 modern Awards.

"Accident make-up pay provisions have been an important component of many industry awards and enterprise agreements in Australia. They are designed to offset the financial hardship of 'stepdowns' - phased cuts in income replacement payments for injured workers contained in Australia's predominantly state-based worker's compensation laws."