



The Section 39 Experience

Roshana May, Director ILARS, WIRO
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Section 39 Cessation of weekly payments after 5 years

- (1) **Despite any other provision of this Division**, a worker has **no entitlement to weekly payments** of compensation... after an aggregate period of **260 weeks**.
- (2) This section **does not apply** to an injured worker whose injury results in permanent impairment ... more than **20%**.
- (3) **For the purposes of this section**, the degree of permanent impairment that results from an injury is to **be assessed as provided by section 65**



When does the count of weeks start?

For those where **claim** made before 1 Oct 2012 from **1 January 2013**

For all others, from **first date of incapacity**

Earliest cut-off

260 weeks from 1 October 2012

25 September 2017

260 weeks from 1 January 2013

26 December 2017

2016 Regulation | Pt 2A, *Workers Compensation Regulation 2016*

Two classes of worker: Existing recipients and all others

For **existing recipients** only:

- > Can be **Deemed >20%** by insurer, or
- > **'NOT MMI' Medical Assessment 'pending'**

WIRO response to regulation

- > Paid legal advice to affected workers
- > Fast Track Application form processed within 24 hrs
- > 3 stage funding to test section 39
- > Examination of WCC processes
- > Comprehensive **Section 39 Guide for Lawyers**
- > **Relationship with icare** to refer potential 'deeming' claimants for urgent attention



WIRO data

2,254 Applications for s39
Funding

Of finalised cases:

31% Continuing

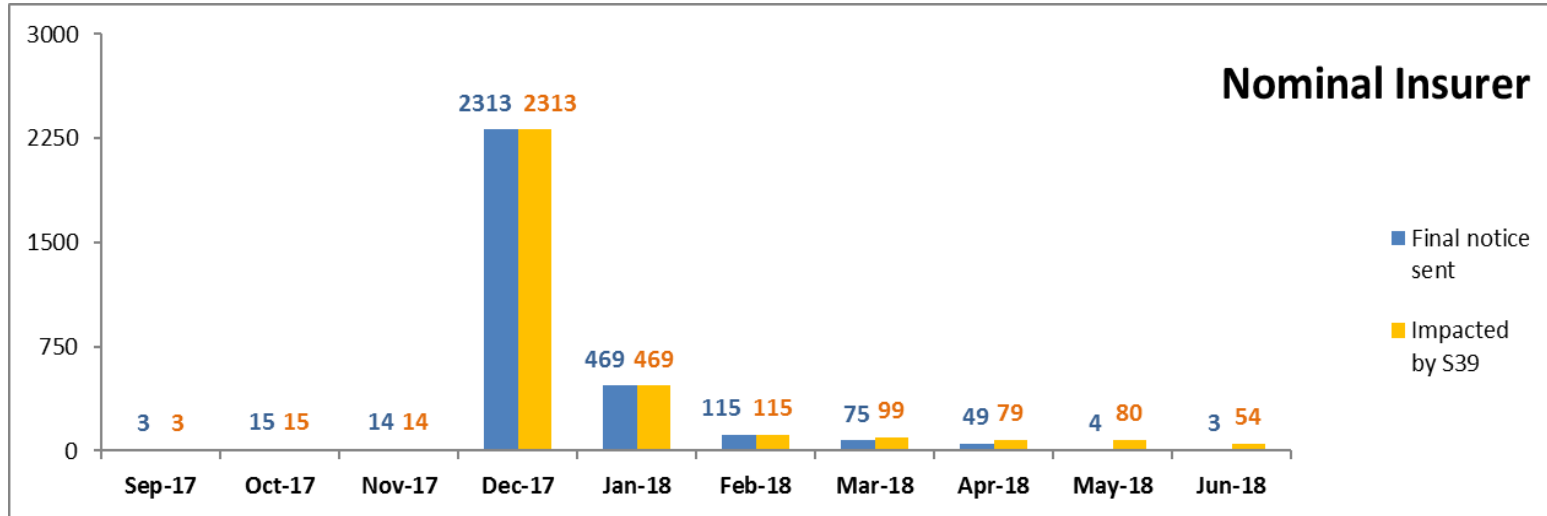
69% Not continuing

Applications by top 15 insurers

Allianz	677
QBE	468
EML	348
CGU	160
GIO	145
QBE TMF	135
Allianz TMF	94
EML TMF	67
Woolworths	32
Coles	20
Qantas	18
StateCover Mutual Ltd	13
Racing NSW Insurance Fund	10

icare data

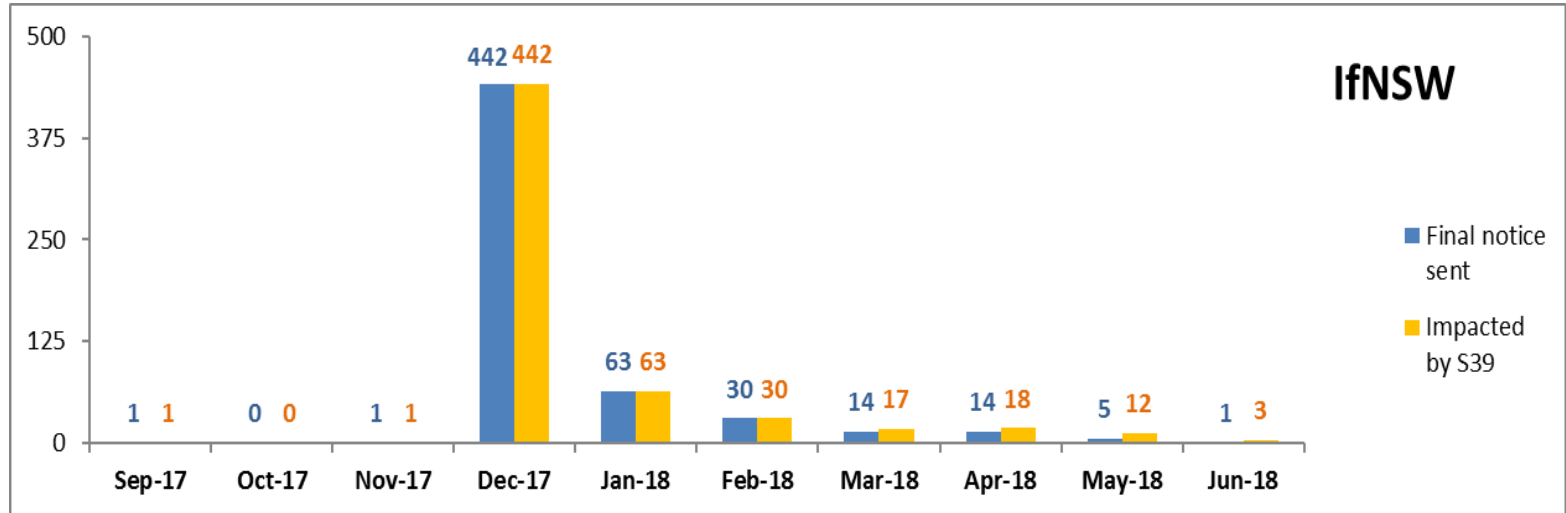
Workers no longer entitled to weekly benefits



3,241 of 4,404 ceased benefits

icare data

Workers no longer entitled weekly benefits



587 of 808 ceased benefits

Impact of disputes and extension of benefits



376 disputes lodged
at the Commission

167 disputed WPI
percentage



200 Not MMI request
(104 confirmed
not MMI – 54%)



Not MMI outcome	No.
No timeframe for MMI	57
A timeframe for MMI	65

Procedural pathway for 'Not MMI' workers

'Not MMI' may require lodgement of a further dispute



Assessed
as not
reached
MMI by
WCC



Relevant
period of
recovery
or
treatment



New IME
assessment
to assess
WPI

If assessment
>21% ongoing
entitlement

No further action

If assessment
<21% cease
entitlement

Potential for
further dispute

icare Community Support Services

Week	Referral Intake	% of Intake
Jan 18 - Week 1*	9	18.75%
Jan 18 - Week 2	20	41.67%
Jan 18 - Week 3	12	25.00%
Jan 18 - Week 4*	2	4.17%
Jan 18 - Week 5*	5	10.42%
Grand Total	48	100.00%

Call received regarding

- Emergency Housing Food Emergency Financial
 Rent support Fuel Cost of Utilities

Reported background to need

Include in point form only, static risk factors [age, sex, psychiatric diagnosis, current psychotic symptoms, AOD use, and forensic history] and dynamic factors [feeling of worthlessness, hopelessness, financial stress, relationship issues, loss of role etc.].

- 45 YO female, resides in a private rental in Port Macquarie with husband and 19 YO autistic son
- Unable to assess mental health history due to clients presentation during needs assessment
- Client very distressed due to housing situation and potential for eviction in the next couple of weeks

Details of Emergency Need reported

Include in point form for only clients presentation on the phone i.e. currently distressed, what client is saying [document in quotation if threat is stated], current intent and what is stopping the client from acting on threat.

- Client presented as very emotional, distressed and anxious during contact
- "They want to put up the rent again by \$10...we are going to be homeless.. I cant afford to pay it"
- "I don't know what to do!"
- Current rent \$375/week - to be increased next week to \$385
- \$510 electricity bill owing
- \$150 mobile phone bill owing
- \$109 Telstra bill owing
- \$230/month - car loan

- Caller not with an NGO – Immediate face to face referral made.
 Notification and discussion with Team Leader 1/02/2018
 Notification to icare 2/2/2018

Beyond June 2018 – impacted workers

	ALZ	EML	GIO	Grand Total
July 2018	29	21	25	75
August 2018	22	27	43	92
September 2018	26	17	35	78
October 2018	24	21	30	75
November 2018	40	15	43	98
December 2018	29	14	36	79
January 2019	37	14	44	95
February 2019	28	16	43	87
March 2019	29	14	34	77
April 2019	20	18	22	60
May 2019	29	19	46	94
June 2019	18	15	40	73
Grand Total	331	211	441	983

- Anticipated **exits** will be **> 74%**
- New recipients require a MAC **>20%**
- Surgery does not prevent application of s39



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