



# Retro-Paid Loss 2023-24

Criteria, terms & conditions

# Contents

<b>1</b>	<b>Introduction</b>	<b>3</b>
<b>2</b>	<b>What is a Retro-Paid Loss arrangement?</b>	<b>3</b>
<b>3</b>	<b>Specified criteria for application</b>	<b>3</b>
3.1	Base premium .....	3
3.2	Grouped employers .....	4
3.3	Satisfactory work health and safety and workers compensation compliance history .....	4
3.4	Commitment from Board Member and/or Chief Executive Officer (CEO) .....	4
3.5	Large claims cap .....	4
3.6	Trusts .....	4
<b>4</b>	<b>Terms and conditions for Retro-Paid Loss arrangement</b>	<b>5</b>
4.1	Premium adjustments .....	5
4.2	Exiting Retro-Paid Loss arrangements .....	5
4.3	Claim reviews for existing claims .....	5
4.4	Claim cost information .....	5
4.5	Changes in business structure(s) .....	5
4.6	Retro-Paid Loss annual renewal .....	6
<b>5</b>	<b>Application process</b>	<b>6</b>
<b>6</b>	<b>Request for review by unsuccessful applicants</b>	<b>6</b>
<b>7</b>	<b>Information for Retro-Paid Loss arrangement</b>	<b>6</b>
7.1	Premium payment .....	6
7.2	Premium and claim management for a Retro-Paid Loss arrangement .....	7
7.3	Employer claim history and performance .....	7
7.4	Premium review .....	7

# 1 Introduction

A Retro-Paid Loss (RPL) arrangement has been available in South Australia from 1 July 2012 on application, as an option for large employers or a group of employers.

This booklet describes the eligibility criteria and application process for employers wanting to apply for an RPL arrangement for the 2023-24 financial year.

Applications will be assessed by ReturnToWorkSA. ReturnToWorkSA, in its absolute discretion, may decline an application for entry into an RPL arrangement.

Specified criteria must be satisfied for acceptance of any employer or a group of employers' entry into the 2023-24 RPL arrangement.

The calculation of premium payable under the 2023-24 RPL arrangement is determined by the ReturnToWorkSA Premium Order (Retro-Paid Loss Arrangement) 2023-24 (RPO-RPL).

## 2 What is a Retro-Paid Loss arrangement?

Under an RPL arrangement, an employer's insurance premium more closely reflects their individual claims experience for claims with a date of injury in the premium period (financial year). The premium is adjusted each year to reflect the claim development over a 4 year period.

An initial premium is calculated and payable upfront or by instalments through the premium year. For 2023-24 the initial premium is calculated in the same way as the Premium payable by registered employers whose premium is based on the estimated remuneration of the employer during the 2023-24 premium period.

A maximum premium is calculated in accordance with the RPO-RPL. This is twice the base premium. This provides security for the employer(s) against a higher than expected cost of claims.

A premium adjustment is performed annually, up to and including the fourth adjustment date, 48 months after the date of the commencement of the premium period. The annual premium adjustment may be positive or negative, depending on the development of claim costs.

An RPL arrangement operates independently for each premium period.

## 3 Specified criteria for application

In accordance with the delegation provided to the ReturnToWorkSA Chief Executive Officer (CEO) by the Board of the Return to Work Corporation of South Australia and subsection 143(7) (e),(f) and (g) of the *Return to Work Act 2014* (the Act), the ReturnToWorkSA CEO has determined that applicants wishing to participate in the RPL arrangement must meet all of the criteria specified below.

### 3.1 Base premium

For entry into an RPL arrangement a base premium of more than:

- \$300,000 is required for an individual employer
- \$500,000 is required for a group of employers

Base premium is calculated by multiplying the annual estimated remuneration of the employer, or group of employers by the relevant industry premium rate/s.

This is intended to ensure that participating employers have the resources and systems required to effectively implement the injury prevention and management improvements needed to utilise the RPL

arrangement. If an employer is part of a group of employers (refer 3.2 Grouped employers), the group base premium must meet the \$500,000 base premium criteria.

(Please note: in the event of an annual application to renew an RPL arrangement where an employer or group of employers falls below the required threshold, ReturnToWorkSA reserves the right to decline or accept an application in its absolute discretion.)

### **3.2 Grouped employers**

Grouping provisions will apply to RPL arrangements if the participating employers fall within the provisions of section 145 of the Act.

If an employer is part of a group, the entire group must be prepared to enter an RPL arrangement. No single employer of a group or selected employers of a group will be considered for entry.

### **3.3 Satisfactory work health and safety and workers compensation compliance history**

ReturnToWorkSA will examine an applicant employer's, or group of employers', compliance history as part of its consideration of an application for entry into an RPL arrangement.

Matters that will be considered include, but are not limited to, situations in which the employer or group of employers or a related person has:

- breached or is under investigation for possible breaches of work health and safety (WHS) laws in the last 3 financial years including any unresolved improvement and prohibition notices;
- breached or is under investigation for possible breaches of the Act; or
- when the acceptance of the application may otherwise be detrimental to the objectives of an RPL arrangement.

ReturnToWorkSA will, in its absolute discretion, decide whether the employer's, or group of employers', compliance history is such that the employer or group of employers will be accepted for entry into an RPL arrangement.

### **3.4 Commitment from Board Member and/or Chief Executive Officer (CEO)**

ReturnToWorkSA considers a signed RPL application form as a commitment from the employer's (or group of employers') Board or CEO to participate in the RPL arrangement. This includes the employer's or group of employers':

- commitment and resources required to participate effectively in an RPL arrangement;
- ability to meet and exceed the statutory requirements for workplace safety, injury management and early return to work;
- ability to continuously improve workplace safety, injury management and return to work; and
- confirmation that the employer (or group of employers) is in a sound financial position and able to cover the premium obligations that may result from participation in an RPL arrangement.

### **3.5 Large claims cap**

The large claim cap for the 2023-24 RPL arrangement is \$500,000 per claim.

Where a single event leads to 3 or more individual claims, the maximum total combined costs of all those claims in relation to that event will not exceed \$1,000,000.

### **3.6 Trusts**

Employers and others who are trustees will be considered for participation in an RPL arrangement in that capacity, subject to their meeting the other applicable eligibility criteria.

Any trustees wishing to participate must submit a copy of the relevant Trust Deed (including any amendments to the Trust Deed), Australian Business Number details of both the trust and trustee and additional information as detailed on the application form, as part of their application to participate. Trustees must notify ReturnToWorkSA in writing within 14 days of any changes occurring of the details notified in their application to participate in the RPL arrangement.

## 4 Terms and conditions for Retro-Paid Loss arrangement

### 4.1 Premium adjustments

Effective from 1 July 2017 premium adjustments occur at 15, 27, 39, & 48 months (the 'run off' period). The premium adjustment formulas are published in the RPO-RPL. Email [RetroPaidLoss@rtwsa.com](mailto:RetroPaidLoss@rtwsa.com) if you would like a copy.

### 4.2 Exiting Retro-Paid Loss arrangements

A participating employer or a group of employers cannot exit from an RPL arrangement during the premium period and will be required to 'run off' the claims based premium adjustments (refer 4.1).

Employers entering receivership, administration, voluntary administration or liquidation must exit from an RPL arrangement and will not be approved for entry if an application is made for renewal at the expiry of the premium period.

Where an employer exits RPL to self-insurance the premium is calculated in accordance with Part 9 of the RPO-RPL.

### 4.3 Claim reviews for existing claims

An employer entering into an RPL arrangement will agree to participate in case reviews of all active claims with their claims agent from previous premium periods to assist in achieving positive outcomes for return to work and injury management.

### 4.4 Claim cost information

Claims with a whole person impairment (WPI) of 30% or more will have a life-time estimate, informed by the actuary of ReturnToWorkSA, used in the calculation of premiums.

Claims with a WPI of 5% to 29% will have actual costs used in the calculation of premiums unless it is anticipated that an economic or non-economic loss payment may still be required, in which case ReturnToWorkSA will estimate the total claim costs incorporating the expected future lump sum payments.

Claims with a WPI of 4% or less will have actual costs used in the calculation of premiums.

Refer to the RPO-RPL for criteria in relation to the cost of claims used in calculating premium for an RPL arrangement.

### 4.5 Changes in business structure(s)

Where an employer or a group of employers participating in an RPL arrangement changes business structure or activities or circumstances during the premium period, notification must be provided to ReturnToWorkSA within 14 days of the change occurring.

For example, where an employer or a group of employers operating in an RPL arrangement acquires or divests itself of a location or business, there are many scenarios that may arise and these circumstances will need to be considered individually to ensure that appropriate coverage for workers is maintained

and appropriate premiums are applied. Any variation in the arrangement will be at the discretion of ReturnToWorkSA after consultation with the employer.

#### **4.6 Retro-Paid Loss annual renewal**

Any employer or group of employers must apply annually for participation into an RPL arrangement.

ReturnToWorkSA will, in its absolute discretion, decide whether the employer or a group of employers will be accepted for entry into an RPL arrangement.

## **5 Application process**

To apply for entry into an RPL arrangement, employers must complete an RPL Application Form. Application forms and further information regarding the RPL arrangement can be obtained by contacting:-

[RetroPaidLoss@rtwsa.com](mailto:RetroPaidLoss@rtwsa.com)

Completed applications should be submitted electronically at [RetroPaidLoss@rtwsa.com](mailto:RetroPaidLoss@rtwsa.com).

Applications must include all the information required on the application form as well as the 2023-24 remuneration estimate.

**Applications for the 2023-24 Retro-Paid Loss arrangement close on 31 May 2023.**

## **6 Request for review by unsuccessful applicants**

Applications are assessed against the employer's ability to meet all the specified criteria and terms and conditions for participation in an RPL arrangement.

If an application is refused, an employer may request a review of ReturnToWorkSA's decision by directing a request in writing to the address below within 14 days of the date of the letter rejecting the application.

**Chief Executive Officer  
ReturnToWorkSA  
GPO Box 2668  
ADELAIDE SA 5001**

The employer should include full details of why they believe they should be approved to participate in an RPL arrangement and provide any additional supporting evidence they wish to have considered.

## **7 Information for Retro-Paid Loss arrangement**

### **7.1 Premium payment**

The initial premium will be required in full by 7 October 2023 or by 9 monthly instalments commencing October 2023, with the final instalment due 7 June 2024.

Adjusted or final premium payment(s) will be required in full as specified on the adjustment note.

## 7.2 Premium and claim management for a Retro-Paid Loss arrangement

The premium calculation for an RPL arrangement will be specified in the RPO-RPL for each financial year.

ReturnToWorkSA will issue premium notices and manage the premium collection. The claims agents will manage claims as usual.

## 7.3 Employer claim history and performance

An employer or a group of employers is more likely to benefit from an RPL arrangement if they have a clear picture of their own performance and the levers that can be used to produce successful work health safety, injury management and return to work outcomes.

Please note: an employer or a group of employers that has experienced major fluctuations in their work injury history in previous years, may pay more under an RPL arrangement than under the Return to Work Premium

system. An employer or a group of employers may choose to seek independent actuarial or financial advice prior to submitting an application for an RPL arrangement and must assume entire responsibility for their decision.

## 7.4 Premium review

If an employer considers a decision by ReturnToWorkSA to be unreasonable or incorrect in relation to a premium calculation, they have the right to apply for a review of that decision.

An application for a review that relates to an individual employer must be made within two months of the employer being notified of the decision.

Applications for review are made under section 157 of the Act. Please note that an application for review does not suspend the liability of an employer to pay the statutory payment due in accordance with the decision to be reviewed. The Application for Review form can be accessed on the ReturnToWorkSA website [www.rtwsa.com](http://www.rtwsa.com)

Should a review be successful, ReturnToWorkSA will adjust the premium accordingly. Please note that a premium review can result in an increase, decrease or no change to the disputed premium calculation.

A premium review regarding a Retro-Paid Loss premium calculation must be lodged with:

ReturnToWorkSA

GPO Box 2668

ADELAIDE SA 5001

Or email: [premium.review@rtwsa.com](mailto:premium.review@rtwsa.com)



The following free information support services are available:

If you are deaf or have a hearing or speech impairment you can call ReturnToWorkSA through the National Relay Service (NRS):

- **TTY users** can phone 13 36 77 and ask for 13 18 55.
- **Speak & Listen (speech-to-speech) users** can phone 1300 555 727 and ask for 13 18 55.
- **Internet Relay users** connect to NRS on [www.relayservice.com](http://www.relayservice.com) and ask for 13 18 55.

For languages other than English call the Interpreting and Translating Centre on 1800 280 203 and ask for an interpreter to call ReturnToWorkSA on 13 18 55. For Braille, audio or e-text call 13 18 55.