



## Workers Compensation - Claims Process and Benefits

The *Workers Compensation Act 1951* (the Act) aims to provide timely, safe and durable return to work through effective injury management and income support to injured workers. The Office of Regulatory Services (ORS) WorkSafe ACT is the government agency responsible for the administration and regulation of the workers compensation legislation.

The Act supports and facilitates the progress of injury management and provides a benefit scheme that encourages workers to return to work as early and safely as possible.

### Claim process steps

- Step 1. The injured worker must give notice to their employer as soon as possible. Details of the injury are entered in the *Register of Injuries*.
- Step 2. The employer must give notice to their insurer within 48 hours of receiving notification. See [Information Bulletin 11.09](#) - Workers Compensation - Register of Injuries and Early Notification for written confirmation details.
- Step 3. If the injury results in the worker becoming incapacitated for work for 7 days, the insurer must make contact with the injured worker, employer and (if appropriate and practical) the workers nominated treating doctor, within 3 business days.
- Step 4. The injured worker obtains a claim form from their employer and an approved medical certificate from their nominated treating doctor. The worker completes the claim form, attaches the certificate and gives it to their employer.
- Step 5. The employer must send the claim form to their insurer within 7 days of receiving the claim from the injured worker.
- Step 6. The insurer accepts or rejects the claim within 28 days.
- Step 7. If the worker's injury is a significant injury, the employer and worker must take part in the establishment of a *Personal Injury Plan* by the insurer and comply with reasonable obligations under this plan. The *Personal Injury Plan* can be developed with the assistance of an Approved Rehabilitation Provider.
- Step 8. The employer must provide suitable duties for the injured worker, if requested, within six months after date of injury.

### Weekly benefits payments

The employer commences payment of weekly compensation from the date the worker gives notice of the injury to the employer. If a worker makes a claim in relation to an injury, the insurer is liable to pay weekly compensation and costs in relation to the injury from the date of the injury until the insurer rejects or settles the claim.



## Total incapacity

While a worker is totally incapacitated by a work related injury, the worker will receive their average pre-injury weekly earnings for the first 26 weeks from the date of injury. Where there was a regular and established pattern of earnings, average earnings may take into account other employment and overtime. After the first 26 weeks of incapacity, the injured worker receives an amount calculated in accordance with the Act.

The employer must immediately give the injured worker any payments from the insurer.

Payment may cease if the injured worker fails to participate and cooperate with their *Personal Injury Plan* and any medical examinations that have been arranged. An injured worker must make all reasonable efforts to return to work as soon as practicable.

## Partial incapacity

Partial incapacity payments are weekly payments to an injured worker who commences duties in which he or she is earning less than before the injury. This occurs when the worker is not able to fully resume their former duties because of the injury.

Partial incapacity payments may be paid to make up the difference between the partial return to work earnings, and the injured worker's average pre-incapacity weekly earnings. After the first 26 weeks of incapacity, payments may make up the difference up to an amount calculated in accordance with the Act.

## Medical Treatment and Related Expenses

The cost of medical treatment and other expenses relating to a compensable injury are payable to the injured worker. Other expenses may include; clothing that was damaged or lost as a result of the accident, the amount of wages lost by the worker whilst attending treatment, transport to and from the treatment, and the cost of accommodation (including meals) if required.

## Permanent injuries

A worker who has suffered a permanent injury listed in Schedule 1 of the Act, as the result of a compensable injury, may be entitled to receive a lump sum payment, as compensation for the permanent injury.

A permanent injury claim cannot be made earlier than two years after the injury unless:

- The magistrates court allows it to be made; or
- The injury has stabilised\*.
  - \* The workers injury is taken to have stabilised if he or she has returned to work at previous work hours and has been working those hours for at least three months.

The injured worker may also be entitled to seek common law damages if the injury was a result of the employer's negligence. Should the injured worker wish to pursue this option they must do so within three years and they would need to consult a lawyer.

## Deaths

If a work related injury results in the death of a worker, the dependants will be entitled to receive a single lump sum payment, funeral expenses and other benefits in accordance with the Act.

## Further Information

If you have a workers compensation inquiry, contact the Office of Regulatory Services (ORS) WorkSafe ACT on (02) 6207 3000.