

Comcare

The Federal workers compensation scheme



ANDERSONS
S O L I C I T O R S

Injured at Work?

If you have an injury or disease arising out of your employment, you may be entitled to compensation. The process for claiming compensation through Comcare can be complicated. At Andersons, we try to make the process easier for you by providing you with the right information and working with you through the claim process.

This brochure is a guide to your rights and entitlements when you've been injured, suffered a work related illness or developed a disease because of your workplace. If you think you have a claim, contact Andersons for a free initial consultation.

Who can Claim Comcare?

Comcare covers injured workers including part-time and full-time workers or apprentices employed by the Commonwealth or by a Commonwealth authority or a licensed corporation.

What Can I Claim?

If you have sustained a workplace injury you may be entitled to the following compensation, irrespective of who was at fault or who was responsible for your injury:

- ◆ Comcare benefits such as weekly payments for loss of income;
- ◆ Medical and rehabilitation expenses;

- ◆ Lump sum compensation (subject to the worker having a permanent impairment of 10% or more);
- ◆ Common law damages (in some cases and on election of the worker).

At Andersons, we have recovered compensation for our clients for a range of work related injuries, including (but not limited to) the following:

- ◆ Neck and back injuries;
- ◆ Arm and leg injuries;
- ◆ Electrocutation injuries;
- ◆ Neurological injuries;
- ◆ Head injuries;
- ◆ Burn injuries and scarring;
- ◆ Fractures;
- ◆ Internal injuries;
- ◆ Chemical and asbestos exposure;
- ◆ Industrial deafness;
- ◆ Psychiatric/psychological injuries;
- ◆ Dependency claims in cases of accidents resulting in death.

Weekly Payments for Loss of Income

Weekly payments of income support are based on your normal weekly earnings.

If you are off work because of your injury/disease, you are entitled to receive your full normal weekly earnings for up to 45 weeks. If you are only able to work

reduced hours, you are entitled to receive 'top-up' payments so you are not financially disadvantaged because of your injury/disease.

After 45 weeks, you are entitled to receive 75% of your full normal weekly earnings, and if you are only working reduced hours, you are also entitled to top-ups.

The calculation of your normal weekly earnings can be complex depending on whether you usually worked overtime, received penalty rates, received other allowances, etc.

If your claim for Comcare weekly payments is rejected or you believe you are not being paid correctly, you should contact Andersons for a free initial consultation.

Medical & Rehabilitation Expenses

The insurer is liable to pay the reasonable costs of:

- ◆ medical treatment (including doctors and specialists);
- ◆ Dental expenses;
- ◆ Surgical procedures;
- ◆ Hospitalisation;
- ◆ Nursing and therapeutic treatment (including physiotherapy, osteopathy, massage and chiropractic).
- ◆ Medication;
- ◆ Travel (subject to some limitations); and

- ◆ Provision (in prescribed circumstances) of household services and attendance care.

In certain circumstances the insurer will also pay for alterations to the employee's residence or motor vehicle and for the provision and/or replacement of aids and appliances.

Lump Sum Payments

You may be entitled to claim lump sum compensation where your injury causes a degree of impairment of 10% or more.

If the injury causes the total loss of a finger or toe or loss of the sense of taste or smell, lump sum compensation is available even if impairment is less than 10%.

Where an impairment entitlement exists, additional compensation is payable for non-economic loss (pain and suffering) under a statutory formula.

A claim cannot be made until the injury has stabilised, although there is a provision to apply for an interim impairment award in certain circumstances.

Once the permanent impairment assessment has been made, no further amounts of compensation are payable even if there is a further increase in the degree of impairment, unless any increase is 10% or more.

Payment of lump sum compensation for permanent impairment does not affect your entitlement to weekly payments or payment of medical and like expenses.

If you wish to make a claim for lump sum compensation, contact Andersons and arrange a consultation with one of our Comcare solicitors.

Can I sue my employer for compensation (Common Law Damages)?

You can sue your employer if their negligence caused your injury and your permanent impairment is determined at 10% or more. After your impairment is assessed under Comcare, you can choose to accept the permanent impairment payment or to sue your employer for pain and suffering damages to a maximum of \$110,000.00. Your choice cannot be altered once made.

You cannot sue for loss of earnings.

A common law settlement against your employer does not affect any entitlement to ongoing payment of your medical and like expenses and weekly payments for incapacity.

Can I sue a third party for compensation (Damages)?

If injured due to the negligence of a third party (ie. not your employer) you may be entitled to sue for compensation provided you notify the Comcare insurer. For example, if you sustained a serious injury in a car accident on your way to work you may be entitled to compensation under the *Safety, Rehabilitation and Compensation Act* and also have the right to sue the negligent driver.

Death Claims

In the unfortunate event that a work related injury results in the death of a worker, their dependants may be entitled to claim compensation.

The system that determines what benefits any dependants are entitled to is complex and can be different for each claim. You should contact Andersons to ensure you are getting your full rights and entitlements.

What if my claim is rejected?

If your claim is rejected you have 30 days from notification of rejection or dispute, to advise the insurer that you are seeking reconsideration of the decision.

If you are still not happy with the reconsidered decision, you have 60 days

to lodge an appeal in the Commonwealth Administrative Appeals Tribunal.

If your claim is rejected or disputed, you should contact Andersons and make an appointment to see one of our Comcare solicitors.

Do time limits apply to lodge a claim for compensation?

Time limits apply for lodging a claim for Comcare or to sue for common law damages.

A Comcare claim needs to be lodged within six months of the disability arising or being diagnosed. In some cases you may be able to lodge a claim after this period. It is important that you contact Andersons as soon as possible, to ensure you receive your full rights and entitlements.

A claim for common law damages needs to be lodged within three years of the event that caused your injuries, unless the Court orders an extension of time to commence an action. If you are under the age of 18 years at the time of the accident, a parent or guardian may instruct a solicitor to start proceedings on your behalf and in those circumstances, the three year time limit does not start until you turn 18 years old.

What are my general rights with regard to Comcare?

You have the right to:

- ◆ make a claim for compensation or Comcare weekly payments;
- ◆ choose your own doctor;
- ◆ have all personal information kept confidential;
- ◆ get advice before signing anything;
- ◆ get a copy of all medical reports about your claim whether provided by your own doctors or doctors representing Comcare;
- ◆ get a copy of any rehabilitation or return to work plan and be consulted on the contents of that plan;
- ◆ have reasonable out-of-pocket expenses paid within 14 days;
- ◆ an interpreter, if required;
- ◆ an advocate, for example an Andersons solicitor.



ANDERSONS
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Offices across metropolitan Adelaide
and regional South Australia
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