

Tasmanian Legislation

Workers' Rehabilitation and Compensation Act 1988

The information contained in this brochure is current as at March 2023

The Legislation

The Workers' Rehabilitation and Compensation Act 1988 (Act) is the principal piece of legislation setting out the laws relating to workers rehabilitation and compensation in Tasmania.

Entitlement to Compensation

A worker is entitled to claim compensation if they suffer an injury or disease which arises out of or in the course of their employment and in the case of diseases, to which their employment has contributed to a substantial degree.

An injury includes the recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease where employment was the major or most significant contributing factor.

Injuries occurring whilst the worker is travelling to or from work, on a meal/rest break and away from the workplace, or during a social or sporting activity away from the workplace, are not generally compensable unless undertaken at the request or direction, or with the authority of the employer.

Notice of Injury

Notice of the injury should be given to the employer as soon as practicable after the injury happens and before the worker has voluntarily left the employment in which he/she was engaged at the time of the injury.

The notice may be given orally or in writing to the employer, or any person designated for the purpose by the employer, or any person under whose supervision the worker is employed. The notice shall include the name and address of the person injured, the nature of the injury, the date on which it occurred and the cause of the injury.

Within fourteen (14) days, the employer must advise the worker of their right to make a claim for compensation either in writing or orally.

The employer must notify their insurer within three (3) days of becoming aware of an injury.

Claim for Compensation

A claim for compensation shall be made on a claim form approved by the WorkCover Tasmania board and be accompanied by an approved initial workers compensation medical certificate.

The claim may be personally given to the employer or a person designated by the employer for that purpose. A claim may be posted to the employer at the employer's usual or last-known place of business or residence.

A claim should be made within six months of the date of injury or in the case of death, within six months of the date of death. In the latter case, the claim may be lodged by the legal representative(s) or by the dependent of the deceased worker.

Failure to make a claim within six months is not a bar to the recovery of compensation if the failure was occasioned by mistake, absence from the State or other reasonable cause.

An employer must notify their insurer within three (3) days of receiving the claim for compensation.

An employer must forward the claim documentation to their insurer within five (5) days of receiving the claim for compensation.

An employer or insurer is to notify an injured worker of the claim's status within 28 days of receipt of the claim.

Disputed Claims

For any dispute relating to a claim for compensation, advice may be sought from Allianz Case Manager or from Worker Assist.



Benefits

Weekly payments of compensation must commence, if it is reasonably practicable, on the first pay after receipt of a claim for compensation by the employer, or, in any other case, no later than fourteen days after receipt of the claim.

A worker who is entitled to compensation as a result of an injury should receive weekly payments equal to the normal weekly earnings (NWE) averaged over the twelve months preceding the date of incapacity (or for employees with less than 12 months service, the length of service with the employer), or their ordinary time weekly rate of pay in the employment in which they were engaged in immediately prior to the commencement of incapacity - whichever is greater. Note for the inclusion of overtime into a normal weekly earnings it is required to meet 4 criteria as outlined in section 70 of the Act.

Weekly compensation benefits will be subject to step down provisions if incapacity extends after 26 weeks from the first date of incapacity. The degree of step down is based upon the workers degree of incapacity, ability to participate in a suitable return to work program, the employer's ability to provide suitable alternative duties and the number of hours completed by a worker during a working week.

Payments of weekly compensation expire 9 years after the date of the initial incapacity unless the injury is of a serious nature resulting in a permanent degree of whole person impairment, in which case the duration is dependent upon the degree of the impairment.

The Act provides for the payment of all reasonable and necessary medical expenses incurred by a worker as a result of injury for a period of 1 year after the date weekly benefits cease, or if no weekly payments 1 year after the claim is made.

Lump sum payments are prescribed for injuries resulting in Whole Person Impairments exceeding a 5% threshold. There is no threshold for loss of fingers or toes.

Rehabilitation

The Act requires licensed insurers to ensure that there is an Injury Management Program in respect of each of its insured employers. Rather than develop their own Injury Management Program, employers have the ability to use their insurer's Injury Management Program.

Employers are encouraged to develop and implement a Return to Work Plan as early as possible if a worker is certified as totally or partially incapacitated for work.

In accordance with Allianz's approved Injury Management Program, either a Return to Work or Work and Health Plan (WHP) is required to be developed once incapacity, total or partial, reach 28 days. The case manager and/or Injury Management Coordinator (IMC) will advise if a WHP is required, and will collaborate with the employer, worker and primary treatment medical practitioner to ensure one is implemented within with required timeframe. A WHP constitutes an Injury Management Plan as per the Act.

Worker's Right to Information

The worker is entitled to obtain details of an employer's insurer and workers' compensation insurance policy.

Our Workers' Compensation Insurer is:



Allianz Australia Insurance Limited
ABN: 15 000 122 850

Phone: 1300 130 664

Fax: 1300 662 183

Email: taswc.claims@allianz.com.au

Online: www.allianz.com.au

For more information phone Worksafe Tasmania on 1300 366 322 or visit WorkSafe Tasmania