

# In the event of a workplace injury



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## 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 WorkCover 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 WorkCover?

WorkCover covers injured workers including part-time and full-time workers, casual workers, labour hire workers and in some cases contractors and the self-employed.

## 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:

- ◆ WorkCover benefits such as weekly payments for loss of income;
- ◆ Medical and rehabilitation expenses;
- ◆ Lump sum compensation;
- ◆ Common law damages (in some cases).

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 are based on your pre-injury average weekly earnings calculated for the twelve months immediately before your injury. It is important to note that these calculations take into account when the claim was made.

For claims made on or after 1 July 2008 the final figure is based on the amount the worker actually earned in the 12 months before the injury or disability, which includes:

- ◆ basic wages ;
- ◆ shift allowances
- ◆ overtime (if ongoing); and
- ◆ superannuation salary sacrifice.

Your weekly payments will be paid by WorkCover for the first 13 weeks you are off work as a result of your work related injury.

After 13 weeks there is a reduction in payments to 90%, followed by a further reduction to 80% after 26 weeks.

If you are seriously injured, weekly payments may be paid until retirement age.

If your claim for WorkCover weekly payments is rejected, you should contact Andersons for a free initial consultation.

## Medical & Rehabilitation Expenses

You are entitled to reasonable medical and rehabilitation expenses for treatment required as a result of your work related injury, including:

- ◆ medical treatment (including doctors and specialists);
- ◆ hospital services;
- ◆ nursing services;
- ◆ rehabilitation like physiotherapy, psychology, vocational services and occupational therapists;
- ◆ household appliances;
- ◆ medicines;
- ◆ physical rehabilitation, for example gym membership;
- ◆ home help and attendant care.

If your claim for reasonable medical expenses is rejected, you should contact Andersons for a free initial consultation.

## Lump Sum Payments

If your injury results in a permanent impairment, you may be entitled to a lump sum payment. The laws relating to lump sum payments changed significantly from 1 April 2009. You must be assessed by an accredited permanent impairment assessor. This assessor will determine your Whole Person Impairment ('WPI') and using the required assessment criteria, make a determination of your WPI resulting in a percentage of impairment.

Under the new laws, your WPI must be 5% or more to qualify for a lump sum payment. Workers with psychiatric injuries are not eligible to receive WorkCover lump sum payments.

You should consult Andersons to determine your rights and entitlements in relation to lump sum payment applications.

## Common Law Damages

Common Law Damages are a separate action to your WorkCover claim. They are a lump sum payment of compensation for your injuries if they were caused by the negligence of a third party but you cannot sue your employer or your fellow employees for common law damages.

Examples of claiming common law damages are:

1. You have a motor vehicle accident during the course of your employment and the driver at fault is not your employer or a fellow employee.
2. You work for a labour hire company which means the labour hire company is your employer. They contract you out to another company. That company is not your employer so if you are injured as a result of their negligence, you may be entitled to sue them for common law damages.

Opportunities to claim common law damages are limited under South Australia law and the claiming process can be complex. You should contact a common law expert at Andersons to ensure you receive any compensation due to you.

## 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 you 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.

## Do Time Limits Apply to Lodge a Claim for Compensation?

Time limits do apply for lodging a claim for workers' compensation or common law damages.

A claim for workers compensation 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 WorkCover?

You have the right to:

- ◆ make a claim for compensation or WorkCover 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 WorkCover;
- ◆ 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.



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