



Comcare - what injuries and diseases are covered by the scheme?

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If you are an employee of one of the organisations covered by [Comcare](#) (whether employed full-time, part-time or casual), and you suffer an injury at work, you can claim compensation under the *Safety Rehabilitation & Compensation Act 1988* (Cth).

However, not all health problems are 'compensable' or covered by the Comcare legislation. In some circumstances, one might think an injury or disease clearly justifies compensation but the law doesn't afford legal protection, and in other circumstances an injury or disease will be protected by the law even though the link to the workplace may appear to be tenuous.

Injuries sustained at work or diseases that result from your employment can be covered by the Comcare system. The law distinguishes 'injuries' and 'diseases'. Physical injuries include direct injuries to a body part (eg, spraining your back, dislocating a knee or shoulder, or even an amputation of a limb) and this can also include an aggravation of a pre-existing injury.

Diseases include psychological disorders, heart conditions, cancers, respiratory conditions and strokes, and these diseases can either be directly caused from employment or they are often aggravated/exacerbated by employment. If the disease has been caused by or contributed to by the workplace, it will likely be compensable.

There are certain situations where on the face of it, it might not appear that the injury/disease was caused by work, but you may nonetheless be able to make a claim.

For example, if you are injured whilst temporarily performing work duties away from the workplace, you could be protected by the Comcare law. Similarly, if you are travelling for work or even in the process of obtaining medical treatment, a medical certificate or participating in your rehabilitation program at the request of your case manager or employer, you could be protected by the law.

The *Safety Rehabilitation & Compensation Act 1988* contains exclusionary provisions. These specific provisions exclude a worker from obtaining compensation and legal protection. In other words, even if the injury/disease can be linked to the workplace, specific exclusions may apply. For example:

- If your depression was caused because you were demoted, disciplined or subjected to negative appraisals at the workplace, you may be denied compensation if the conduct of the employer amounted to reasonable administrative action;
- Injuries suffered whilst travelling from work and your home (and vice versa) are also generally excluded;
- If you voluntarily assumed the risk of injury, or caused the injury yourself, you will likely be excluded (although this can be complex because many jobs require the worker to perform very risky work);
- If your injury resulted from your own serious and wilful misconduct, for example, being in an accident whilst driving a truck under the influence of a prohibited drug.

If your claim has been rejected because of an 'exclusion' under the law, you should contact a lawyer experienced in the [workers compensation](#) matters.

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