

# Comcare

The Federal workers compensation system

Have you suffered a work-related injury and considering pursuing a Comcare workers compensation claim?

Sep 2017

## Key considerations

Comcare is a scheme that provides workers compensation entitlements to injured workers (including part-time and full-time workers or apprentices) employed by the Commonwealth, a federal agency or licenced corporation. If your employer is a Comcare employer, you will not be covered by the South Australia Return to Work scheme if you suffer a work-related injury.

### What can you claim?

An injured worker can claim weekly benefits for loss of income, medical expenses and other entitlements as a result of their work-related injury.

**What type of injuries are covered?** The law protects workers who suffer work-related physical and psychological injuries.

**Did employer cause the injury?** This is not a straightforward question to answer, and different tests and exclusions apply for physical and psychological conditions. You should seek legal advice.

**Permanent impairment** If a worker suffers a physical or psychological injury or illness, and this condition results in a permanent incapacity, they can pursue lump-sum compensation. There are some exclusions.

**What if my claim is rejected?** A worker can request a 'reconsideration' of the rejection of their claim and if the worker is still dissatisfied following the reconsideration process, they can appeal to the Administrative Appeals Tribunal.



**ANDERSONS**  
S O L I C I T O R S

[andersons.com.au](http://andersons.com.au)  
Freecall 1800 653 655  
100% South Australian

## 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 Commonwealth public servants and Commonwealth agencies (for example, those employed by the Australian Taxation Office or Australia Post) as well as larger employers (often operating across state boundaries) who have been provided with a specific Commonwealth licence to operate under Comcare.

## 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).

## Weekly payments for loss of income

Weekly payments are based on your normal weekly earnings and are calculated in accordance with a formula set out in the relevant legislation.

If your claim for Comcare weekly payments is rejected, 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;
- Ravel (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 a lump sum 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.

## 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.

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

## What are my general rights with regard to Comcare?

You have the right to:

- make a claim for compensation or Comcare weekly payments;
- claim physical and/or psychological injuries;
- 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; and
- an advocate, for example an Andersons' solicitor.