
Comcare

Compensation

Made easy

No Win No Fee

OR Expenses*

*Conditions apply

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Injured at work?

Ryan Carlisle Thomas has prepared this brochure to ensure injured workers and their families understand their rights under Comcare and get the best legal advice.

Commonwealth Government employees and employees of certain large national firms have their own special compensation scheme. It's called Comcare.

If you are injured in the course of your employment, you are almost certainly entitled to some level of compensation under Comcare.

Comcare can pay your normal wages while you recover from injury. Medical and care expenses are usually paid for.

If you are permanently injured, you may also be eligible for a lump sum payment, either through Comcare, or by suing under Common Law.

In the event of death, the family of the deceased worker may also be eligible for compensation.

A good lawyer can make lodging a Comcare claim a relatively quick and inexpensive task and is essential in suing for damages under Common Law.

The expert injury lawyers at Ryan Carlisle Thomas offer a free first interview on Comcare matters, along with a "No Win No Fee OR Expenses" arrangement on most injury matters.

Comcare can pay your normal wages while you recover from injury

What is Comcare?


Comcare is a compensation scheme run by the Federal Government.

You are covered if you are employed by a Commonwealth Government department, Australia Post, Telstra and if you are full-time, part-time, temporary or on probation. Employees of some large national firms are also covered by Comcare.

You are covered for injuries sustained:

- At work, even during an authorised recess. For injuries that occurred before 13th April 2007, authorised recesses are covered even if the injury occurred away from work.
- During travel to and from work to an approved training course, to obtain medical treatment for an accepted injury and/or travel in the course of employment. If the date of injury is prior to 13th April 2007, travel to and from work is also covered.
- Whilst attending training at an approved centre.

The families of deceased workers may also be eligible for compensation.



What are the benefits?

Injury compensation

Injured workers may be eligible for the following compensation payments:

- Incapacitated for up to 45 weeks – 100% of your normal weekly earnings.
- Incapacitated for more than 45 weeks – 75% of normal weekly earnings.
- Partially incapacitated after 45 weeks – If you return to work but work fewer hours or at a lower pay, you can have a salary top-up of between 80 and 100%.
- All “reasonable” household and attendant care expenses if you are incapacitated for longer than 28 days.
- All “reasonable” rehabilitation costs including medical, hospital and pharmaceutical costs.
- The costs of alterations to your residence and place of employment and to provide care to help you lead a normal life may also be paid if you are permanently disabled.

Compensation for death

In the event of death, the family and dependants of an employee covered by Comcare may be eligible for a compensation payout. The maximum compensation is \$476,000, regardless of the size of the family.

In addition, a weekly payment of \$130 per week per child is payable. Conditions apply.



Rehabilitation

If you are injured, your employer will help you devise a Rehabilitation and Return to Work Plan which is designed to re-introduce you to your workplace gradually. The plan is also meant to address any modifications that may have to be made to your workplace to make your job easier.

A rehabilitation plan must be developed at the written request of the worker.

Importantly, the plan must be agreed to by you, your doctor and your employer. If you are worried about your plan or if your employer breaches the plan, you should contact your lawyer immediately.

Making a Comcare claim: a checklist

1. Report the injury


- You should report your accident/incident at the time the injury occurs. You should always submit an incident report to your supervisor, no matter how minor it may seem at the time.

2. Obtain a medical certificate from your doctor

- This should be given to your supervisor, or your lawyer, who will then attach it to your claim for forwarding to Comcare.

3. Lodge a Comcare claim

- Incident reports and claim forms are available from your supervisors. A Ryan Carlisle Thomas lawyer can help you ensure all the right steps are taken.



Permanent disability and lump sum claims

If you are permanently injured, you may be eligible for a lump sum payment. You can pursue a lump sum through your employer (via Comcare) or through the courts (Common Law) even if you are already being paid other benefits.

1. Comcare lump sum claims

- If your injury results in permanent impairment, you may file for a lump sum payment under Comcare. Importantly, you must pass a 10% impairment threshold.
- The maximum total lump sum payout is \$232,000 (subject to periodic indexation). These are “no fault” payments.

2. Common Law lump sum claims

- If you are injured or a family member has died as a result of employer negligence, you are entitled to sue for damages. A Common Law claim may only be pursued if there is a permanent impairment of at least 10% or a death. Common Law lump sums may be larger than Comcare payments, but they can only be pursued if the employer was negligent.

Can I appeal?

You may appeal if:

- All or part of your claim is rejected;
- Compensation payments or payment of medical and other expenses cease; or
- Payments are suspended after a breach of or disagreement about the Return to Work Plan.

It is vital that you contact your Ryan Carlisle Thomas lawyer promptly as appeals **must be lodged within 30 days** of the Comcare decision. You may be asked to provide witnesses and documentation to support your claim, so keep a diary and a copy of all relevant paperwork.

Completing a Comcare claim form

When you are filling out your Comcare claim form, it is important to provide accurate information. This section answers some of the most common questions about filling out a claim form. Always seek advice from your lawyer if you are uncertain about how to answer a question.

Question 10

If there is no exact date, nominate the approximate month and year instead.

Question 11

- (a) This date is important as Comcare usually considers this date as the commencement of liability for medical expenses.
- (b) Also supply the doctor's address and phone number.

Question 12

“Nature of referral” means the type of specialist or other referral for treatment e.g. orthopaedic surgeon, physiotherapist.

Questions 14, 15 and 16

If previous injuries are not disclosed and the failure to disclose is subsequently discovered by the employer, liability for the injuries can be denied/ceased on the basis that the employer was deliberately misled. In some cases, the employer can seek to recover all monies paid under the compensation claim.

Question 21

Legal advice should be sought before providing any signed statement, particularly in relation to stress claims or journey accidents, as exclusionary provisions apply.

The statement should be an explanation of the circumstances of the injury.

- Begin the statement with name, classification level, a brief background of the employment history.
- What duties/responsibilities did you have when the condition developed? Detail the work-related factors that caused the condition/injury to occur.
- Has the doctor referred you for other treatment? If so, what type and how often?

- Has there been any contact with the Occupational Health Unit or Return to Work co-ordinator? If so, have any arrangements been made regarding rehabilitation at this stage? Have there been any modifications to your work place as a result of the injury?
- Authorise the employer to contact the doctor and specialist regarding the work-related injury. It is common practice for the employer to write to the doctor or specialist for information about the injury. Give details of the doctor and/or other specialists, including name, address and telephone number. Sometimes, these reports are not helpful. However, it is unlikely the claim will ultimately succeed without the support of your treating doctor/s. If you obtain the reports, you may have to pay for them, whereas if the employer requests the reports, they will cover the cost.
- After receiving legal advice, complete your statement and sign and date the document.

Question 24

It is not compulsory to provide witness statements with the claim.

If it was an accident that caused the injury, as opposed to an illness or disease, and the accident was witnessed, try to obtain witness statements to attach to the claim.

Question 26

You do not have to answer this question. However, if legal proceedings against a third party or a damages claim against the Commonwealth or the employer have already been commenced, the legislation requires written notification of such legal action. It would be very unusual for legal action to have been commenced prior to the compensation claim being lodged.

Question 34

Liability for journey accidents can be denied if a direct route was not taken and if a route was taken that increased the risk of injury. If there was deviation from the journey, this question should not be answered without first seeking legal advice.

Signing the form

Once the claim form is complete, read it through carefully with your lawyer then sign and date the form.

Note: Part 2 of the form is to be completed by the employer. You are entitled to a complete copy of the claim form and all other material collected by the employer/Comcare. These documents should be provided to you upon written request.



“ A good lawyer
can make lodging
a Comcare claim
relatively quick
and inexpensive ”



Fees

Under our *No Win No Fee OR Expenses** policy on fees and out of pocket expenses, we will waive our fees if you don't win a case we have agreed to fund and pick up the tab on your out of pocket expenses. Out of pocket expenses are counted as medical reports, court fees and many other expenses other firms would typically require you to pay in the event the case was lost.

The terms of our policy will be fully explained to you during your first free consultation.

Our record

We have prosecuted more than 60,000 successful injury claims and are respected as an industry leader.

Our philosophy

We believe in listening, advising and, when instructed, fighting for you. Our team takes client care seriously.

We're always there for you. Always on your side.

Comcare legal experts



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Our offices



In 2007, Ryan Carlisle Thomas joined forces with leading regional law firm, Stringer Clark, to create Victoria's biggest legal network.

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for you ”

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OR Expenses*

*Conditions apply

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