

Injured workers have rights ...

Legislation covering information on this page

Accident Compensation (WorkCover Insurance) Act 1993 (Vic)

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Accident Compensation Act (1985) (Vic)

WorkCover - Injuries and Compensation

If you are injured at work, you should get advice about lodging a claim under WorkCover. A claim can be made where a worker suffers an injury arising out of, or in the course of their employment, to which employment was a significant contributing factor. Under the *Accident Compensation Act 1985* your employer **must** pay WorkCover insurance. If your employer does not pay WorkCover insurance, you are still covered, as an insurer will be allocated to your employer.



In most circumstances, apprentices are automatically covered by WorkCover at no extra charge to the employer.

If you get hurt at work you need to notify your employer **within 30 days**, but it is advisable to do this as soon as possible.

All injuries and illnesses related to work must be reported regardless of how minor they seem. Even if you do not have to get medical attention or take time off work, the injury/illness should still be reported. Reporting the injury/illness will protect your right to claim WorkCover in the future.

Under the *Accident Compensation Act 1985 (Vic)*, your employer is obliged to keep a Register of Injuries. You need to fill out the Register of Injuries at your workplace.

You **MUST** include the following information when filling out the injury register:

- your name and job title
- the date and time of the injury/illness
- your exact location when you were injured or became ill
- how the injury happened

- the nature of the injury and what parts of your body were affected
- any witnesses to the injury or illness, and
- the date you notified your employer.

Keep a copy of your entry. If you are not able to fill in the injury register you should ask someone to do this for you. Get the person to take a photocopy. This must be done **within 30 days**.

Your employer should send you a letter acknowledging that you have reported an injury/illness. If your employer does not acknowledge your injury in writing, or if your employer fails to provide a Register of Injuries, you should ring your union, a law firm which specialises in WorkCover, Job Watch or the WorkCover Authority for advice.

Some employers might try to deny you your right to compensation if you have not notified them about your injury/illness within the 30 day time limit.

WorkCover claims

Visit your doctor and explain what happened. Obtain a WorkCover certificate from your doctor. This initial certificate is valid for up to 14 days. Any further certificates can be for up to 28 days.

You should complete a WorkCover Claim Form and give it to your employer. WorkCover claim forms are available from your employer, a union, **at Australia Post offices**, WorkCover offices or a solicitor.

You should ensure that the Medical Certificate (included in the Claim Form) is also completed.

Give the WorkCover certificate and the completed WorkCover Claim Form to your employer. Your employer should sign all copies of the WorkCover Claim Form (including the Medical Authority) and give the worker's copy to you.

A claim form for WorkCover can cover reasonable medical and associated expenses, and weekly payments based on your wages before the injury. Where serious injuries are involved, you should get advice about making a claim for a lump sum payment.

If the WorkCover claim form **is not accepted** by your employer, **send the WorkCover Claim Form and the WorkCover Medical Certificate to the WorkCover head office - 485 La Trobe Street, Melbourne 3000** or to your employer's authorised insurer.

Rejected Claims

If the claim is rejected outright, or if the Insurer makes the decision to reduce or stop weekly payments, you can request that the dispute be referred to the WorkCover Conciliation Service. You should always get specialist advice before you do this.

Sometimes paper work can be lost between the employer and the WorkCover insurance company. It is a good idea to keep a copy of the WorkCover claim form.

Important paper work

Keep copies of any medical certificates and accounts and receipts from doctors, hospitals, pathologists, dentists, physiotherapists, and other health professionals. Accounts and receipts are proof of your injury and can be used as evidence later if there is a dispute about the claim.

Do I have to see the company doctor?

It is your right to choose your own doctor for treatment purposes. You do not have to accept treatment from a company doctor. Your employer can only request that you see a company doctor once every three months.

Some employers might insist that you see a company doctor for treatment purposes. However, you do not have to accept the treatment offered by a company doctor. It is good to see your own doctor in any case.

Injured workers have rights. Although these rights have been reduced, it is a myth that there is no use obtaining legal advice. Contact your union, a specialist law firm or Job Watch for independent advice. You do not necessarily have to take the advice of your employer or the insurance company. It is wise to do your own checking.

It is unlawful to dismiss a worker for a temporary illness or injury. If you are dismissed because of a workplace accident, contact your union, a specialist employment law firm, or **Job Watch (03) 9662 1933 or 1800 33 1617**.

If you are injured in your own time, a sporting injury for instance, you should provide a medical certificate to your employer to obtain sick leave.