

Tasmanian Legislation

Workers' Rehabilitation and Compensation Act, 1988



Entitlement to Compensation

A worker is entitled to claim compensation if they suffer an injury or disease which arises out of or in the course of their employment and in the case of diseases, to which their employment has contributed to a substantial degree.

Injury includes the recurrence, aggravation, acceleration, exacerbation or deterioration of any preexisting injury or disease where employment was the major or most significant contributing factor.

Injuries occurring while the worker is travelling to or from work, on a meal/rest break and away from the workplace, or during a social or sporting activity away from the workplace, are not generally compensable unless undertaken at the request or direction, or with the authority of the employer.

Notice of Injury

Notice of the injury should be given to the employer as soon as practicable after the injury happens and before the worker has voluntarily left the employment in which he/she was engaged at the time of the injury.

The notice may be given orally or in writing to the employer, or any person designated for the purpose by the employer, or any person under whose supervision the worker is employed. The notice shall include the name and address of the person injured, the nature of the injury, the date on which it occurred and the cause of the injury.

Within 14 days, the employer must provide the prescribed notice in writing to an injured employee advising of their right to claim.

An employer must notify their insurer within three days of becoming aware of an injury.

Claim for Compensation

A claim for compensation shall be made on a claim form approved by the Workcover Tasmania board and be accompanied by an approved medical certificate from an accredited medical practitioner.

The claim may be personally given to the employer or a person designated by the employer for that purpose. A claim may be posted to the employer at the employer's usual or last-known place of business or residence.

A claim should be made within six months of the date of injury or in the case of death, within six months of the date of death. In the latter case, the claim may be lodged by the legal representative(s) or by the dependent of the deceased worker.

Failure to make a claim within six months is not a bar to the recovery of compensation if the failure was occasioned by mistake, absence from the State or other reasonable cause. There are substantial penalties imposed for submitting fraudulent claims.

An employer must notify their insurer within three days of receiving the claim for compensation.

An employer must forward the claim to their insurer within five days of receiving the claim for compensation.

An employer or insurer is to notify an injured worker of the claim's status within 28 days of receipt of the claim.

Disputed Claims

Any dispute relating to a claim for compensation may be referred to the Workers' Rehabilitation and Compensation Tribunal for determination. In the first instance, advice may be sought from the Information Officer, Workers' Rehabilitation and Compensation Tribunal on 1300 366 322.

A Tribunal Registrar may attempt to resolve the matter by consultation or conciliation between the parties.

Benefits

Weekly payments of compensation must commence, if it is reasonably practicable, on the first pay after receipt of a claim for compensation by the employer, or, in any other case, no later than 14 days after receipt of the claim.

A worker who is entitled to compensation as a result of an injury should receive weekly payments equal to the normal weekly earnings (NWE) averaged over the 12 months preceding the date of incapacity (or for employees with less than 12 months service, the length of service with the employer), or their ordinary time weekly rate of pay in the employment in which he was engaged immediately prior to the commencement of incapacity - whichever is greater. Note that the calculation of NWE generally will only include overtime paid on a regular and uniform basis.

Weekly compensation benefits will be subject to step down provisions if incapacity extends after 26 weeks from the first date of incapacity. The degree of step down is based upon the workers degree of incapacity, ability to participate in a suitable return to work program, the employer's ability to provide suitable alternative duties and the number of hours completed by a worker during a working week.

Payments of weekly compensation expire 9 years after the date of the initial incapacity unless the injury is of a serious nature resulting in a permanent degree of whole person impairment, in which case the duration is dependent upon the degree of the impairment.

The Act provides for the payment of all reasonable and necessary medical expenses incurred by a worker as a result of injury for a period of 1 year after the date weekly benefits cease, or if no weekly payments 1 year after the claim is made.

Lump sum payments are prescribed for injuries resulting in Whole Person Impairments exceeding a 5% threshold. There is no threshold for loss of fingers or toes.

Rehabilitation

The Act requires licensed insurers to ensure that there is an Injury Management Program in respect of each of its insured employers. Rather than develop their own Injury Management Program, employers have the ability to use their insurer's Injury Management Program.

A Return to Work Plan is required where a worker has or is likely to be totally and/or partially incapacitated for work for more than five days, but less than 28 days. An Injury Management Plan is required where a worker has or is likely to be totally and/or partially incapacitated for work for 28 days or more. The Return to Work and Injury Management Plans are to be developed in consultation and agreement with the employer, the injured worker and the primary treating medical practitioner.

Worker's Right to Information

The worker is entitled to obtain details of an employer's insurer and workers' compensation insurance policy. It should be noted that the employer is normally not able to insure for the first five days of incapacity and for the first \$200.00 of medical expenses for any claim and must, for that period, bear the full costs associated with any claim for compensation

**Our Workers' Compensation Insurer is:
Allianz Australia Insurance Limited ACN 000 122 850 ABN 15 000 122 850**

Level 1, 93 Cameron Street Launceston
PO Box 576 Launceston 7250
Ph: (03) 6332 3113
Fax: (03) 6332 3119

Level 8, 27 Elizabeth Street Hobart
Ph: (03) 6216 3202
Fax: (03) 6216 3210

For More Information Contact: Workplace Standards Tasmania Ph: 1300 366 322

Injury Management

Allianz's injury management program (IMP) has been developed to ensure our treatment, rehabilitation, injury management practices and strategies deliver timely, safe and durable return to work outcomes for injured workers. The program has been approved by WorkCover Tasmania based on the requirements of the *Workers' Rehabilitation and Compensation Act 1988 (The Act)*. An abridged version of the injury management program has been developed to assist employers in meeting their legislative requirements and maximising outcomes.

Early contact

Allianz recognises that early contact facilitates a timely return to work. If there is a significant injury Allianz will commence contact with the employer, injured worker and the primary treating medical practitioner within three working days.

Provision of suitable duties

Return to work options should be considered in consultation with the employer, worker and primary treating medical practitioner. The employer is encouraged to create, maintain and distribute a general duties list to all relevant stakeholders. This will assist with the immediate implementation of a return to work plan or an injury management plan.

Return to work plan

It is a legislative requirement that a return to work plan be established where a worker has or is likely to be totally and/or partially incapacitated for work for more than five days, but less than 28 days. Allianz must establish the return to work plan in consultation and agreement with the employer, the injured worker and the primary treating medical practitioner. The legislation requires that Allianz, the employer and the injured worker agree to and comply with the obligations imposed under the return to work plan in accordance with *Section 143E* of the Act.

Injury management plan

The injury management plan is an objective plan for co-ordinating and managing the implementation of injury management strategies. It is a legislative requirement that an injury management plan be established where a worker has or is likely to be, totally and/or partially incapacitated for work for 28 days or more. Allianz must establish an injury management plan in consultation and agreement with the employer, the injured worker and the primary treating medical practitioner. The legislation requires that Allianz, the employer and the injured worker agree to and comply with the obligations imposed under the injury management plan in accordance with *section 143E* of the Act.

Workplace rehabilitation

The injury may be referred for specialised assistance from an accredited workplace rehabilitation provider. Allianz recognises the importance of making appropriate rehabilitation referrals and will make the referral in consultation with those directly involved, e.g. the employer. Referrals may also be made at the doctor, employer or injured worker's request.

Procedure for managing disputes

Allianz is committed to the prevention of disputes through maintaining communication with key stakeholders and will endeavour to conduct transparent, consultative decision-making. Allianz will follow four stages when addressing any injury management-related dispute.

Injury Management

Obligations for each party as outlined in the Act:

Employers obligations	Injured worker obligations
1. Maintain a <i>register of injuries</i> at each workplace in accordance with <i>s33(2)</i> .	1. Tell the employer if they have received a workplace injury as soon as practicable after being injured, in accordance with <i>s32</i> .
2. Establish a summary of the provision of the Act and display it in each workplace in accordance with <i>s152</i> .	2. Nominate a doctor or medical practice that is prepared to take part in the development of an <i>injury management plan</i> and participate in the steps set out in the plan, in accordance with <i>s143G</i> .
3. Maintain and comply with an approved injury management program consistent with the Allianz injury management program in accordance with <i>s142</i> .	3. Authorise the primary treating medical practitioner to provide relevant information to Allianz and the employer for the purpose of managing the injury and the Workers' Compensation claim.
4. Notify Allianz Australia within three working days after becoming aware that a worker has received a workplace injury in accordance with <i>s143A</i> .	4. Take part and co-operate in the establishment of their <i>return to work and/or injury management plan</i> .
5. Serve on the worker the prescribed notice in writing, advising the worker of the right to claim Workers' Compensation within 14 days of being informed by a worker of an injury, in accordance with <i>s33A</i> .	5. Comply with the obligations imposed under the return to work or injury management plan, including any obligation to receive medical or surgical treatment or take part in rehabilitation, in accordance with <i>s143N</i> .
6. Notify Allianz Australia within three working days of receiving a claim for compensation in accordance with <i>s36</i> .	6. Provision of up to date medical certificates detailing the certification of fitness for work.
7. Forward the claim form and other paperwork to Allianz Australia within five working days of receipt, in accordance with <i>s36</i> . Forward all documentation received in relation to a claim upon receipt.	7. Making reasonable efforts to return to work with their pre-injury employer as soon as possible.
8. Take part and co-operate in the establishment of a <i>return to work and/or injury management plan</i> for the worker and comply with the reasonable obligations imposed under the plan, in accordance with <i>s143E</i> .	8. Attend independent medical examinations arranged and as advised by Allianz Australia in accordance with <i>s90A</i> .
9. Provide suitable alternative duties for the injured worker to perform and so far as reasonably practicable, in accordance with <i>s143M</i> .	

Allianz' Obligations

1. Implement and give effect to the injury management program by complying with the obligations under the program and ensuring that employers are aware of their obligations and requirements under the program, in accordance with *s142*.
2. Establish and give effect to a *RTW plan and/or injury management plan*, in accordance with *s143E*
3. Contact the injured worker, employer and primary treating medical practitioner (if applicable) within three business days after being notified that a workplace injury is *significant**.
4. Keep the worker informed of any significant steps proposed or taken for the injured worker under the *return to work or injury management plan* and make all reasonable attempts to resolve any disputes in relation to injury management, in accordance with *s143P*.
5. Promptly pay service, medical and treatment providers for their reasonable services performed or conducted as a result of the workplace injury.

* A "*significant injury*" means a workplace injury suffered by the worker that is likely to result in the worker being totally or partially incapacitated for more than 5 working days.