

BULLETIN

Employers Guide to Workers Compensation

This information bulletin has been developed to inform employers of their responsibilities relating to workers' compensation under the NT workers' compensation scheme.

Workers' compensation insurance

Under the *Workers Rehabilitation and Compensation Act*, employers **MUST** hold a workers' compensation insurance policy with an approved insurer, if:

They employ a person who provides work or service for them and **does not** provide the employer with an [Australian Business Number](#) (ABN) in writing.

See NT WorkSafe information bulletins *Approved Workers Compensation Insurers* and *Eligibility for Workers Compensation* for more information about approved insurers and eligibility, respectively.

When is a worker covered for workers' compensation?

In the Northern Territory a worker is entitled to compensation for any personal injury or disease or an aggravation of an injury or disease that occurs:

- during the course of employment;
- by any incident arising out of employment;
- on a journey to or from work, except if the accident involved a motor vehicle.

If someone is involved in a motor vehicle accident while on their normal journey travelling to or from work they can claim under the Motor Accidents Compensation scheme (MAC), which is administered by the Territory Insurance Office ([TIO](#)).

For further information see NT WorkSafe information bulletin *Guidelines for Journey Claims* for the settling of journey claims

Please note that injuries from motor vehicle accidents that arise from the use of a vehicle to perform work are covered by workers' compensation.

Claim forms

To claim for workers' compensation entitlements the worker must submit a Northern Territory workers' compensation claim form. [Claim forms](#) can be obtained from the employer, the insurer or NT WorkSafe, and via NT WorkSafe's website:

The worker must complete the first 2 pages and submit the claim form to the employer, along with a workers' compensation First Medical Certificate from a doctor if the claim is for loss of income.

Where the claim form is for medical expenses only, the worker needs only to provide the account or receipt with the claim form.

NOTE: *The worker cannot claim by submitting a medical certificate only.*

A worker has six (6) months to lodge a claim for workers' compensation from the date of the injury or becoming aware of a disease.

Receipt of a claim

Once a claim has been received from a worker, the employer must complete page 3 of the claim form and **must submit it to their workers' compensation insurance company within 3 working days of receiving the claim from the worker**. The employer should retain a copy for their records.

It is not the employer's role to determine liability for the claim; this is the role of the employer's insurer. The insurer must make an initial decision on the claim within 10 working days of the employer receiving it. The insurer will manage and make all the decisions regarding the claim on behalf of the employer.

The insurer's decision must be to either:

- **Accept liability**

Payment of benefits will commence. These benefits will include lost earnings, reasonable medical and rehabilitation expenses.

- **Reject liability**

The worker will be formally advised in writing of the reasons for rejection and the worker's rights of appeal.

- **Defer liability**

The worker will receive up to 8 weeks pay while the insurer further investigates the claim. The insurer must make a final decision to accept or reject the claim before 56 days have expired from the date of the decision to defer.

Note: The employer may advise the worker of the option to use sick leave or annual leave until the insurance company makes a decision on the claim. If the claim is accepted, weekly payments begin and any sick leave taken should be re-credited.

Payment of compensation

If the insurer accepts liability for the worker's claim, then weekly (periodical) payments of compensation must be made by the employer commencing within 3 working days of the decision to accept the claim.

If the insurer defers liability, weekly payments of compensation must be made by the employer commencing within 3 working days of that decision. These payments are to continue for up to 8 weeks within which time the insurer will either accept or reject liability. If the claim is subsequently accepted, compensation owing should be offset by any amounts paid during the period of deferral.

If the claim is rejected the deferral payment will cease. This payment is not recoverable from the injured worker.

Weekly or periodic compensation payments for incapacity for work are based on the injured worker's normal weekly earnings (NWE) immediately before the date of entitlement to compensation.

The following is a brief explanation of what is included in the calculation of NWE. However the insurer will assist in calculating the worker's entitlement.

NWE are a worker's normal number of hours per week, at their normal hourly rate. NWE also includes:

- overtime where the overtime was worked in a regular and established pattern;
- shift penalties where worked in a regular and established pattern;
- over award payments;
- climate allowance;
- district allowance;
- leading hand allowance;
- qualification allowance;
- service grant;

But does not include any other allowance e.g. employer contributions to superannuation.

Benefits supplied in lieu of cash, for example board, lodging and electricity, may also form part of NWE and should be advised to the insurer.

Employer contributions to superannuation

Employer contributions to superannuation are NOT included in the calculations of normal weekly earnings with regards to workers' compensation benefits under the Northern Territory Workers *Rehabilitation and Compensation Act*.

Return to Work

- The employer must take all reasonable steps to provide the injured worker with suitable employment.
- The employer must as far as practicable, participate in efforts to retrain the injured worker.
- The employer must assist the injured worker with their rehabilitation program.

For further information see NT WorkSafe bulletin *Rehabilitation – A Guide for Employers*.

If the employer is unable to provide the worker with suitable employment, the employer in consultation with the insurer must refer the worker to the alternative employer incentive scheme (AEIS).

For further information see NT WorkSafe bulletin *Alternative Employer Incentive Scheme*.

The insurer, employer and injured worker all have obligations in the workers' compensation process

What can be expected from the employer's insurer

Injured workers are to be treated with care and understanding and insurers should supply all workers who make a claim with general information about their claim.

The insurer must make an initial decision on the claim within 10 working days of the employer receiving it. The insurer will manage and make all the decisions regarding the claim on behalf of the employer.

- **For Accepted Claims**

Including but not limited to:

- an explanation of the entitlement based on normal weekly earnings, including an invitation to receive further detail on how compensation was calculated. Workers should be informed that they may have an entitlement to be paid for the value of benefits received in lieu of cash (non cash benefits);
- an outline of entitlements (e.g. reasonable medical expenses);
- travelling costs for treatment;
- obligations in relation to the rehabilitation process;
- information that if workers are unable to pay in advance for the cost of medications that they should discuss their circumstances with the insurer;
- reduction in weekly benefits at 26 weeks;
- for long term incapacity the implications of re-assessing loss of earning capacity after 104 weeks having regard to most profitable employment, whether or not such employment is available. Information should be included that any action to reduce payments will be subject to the right of appeal.

It is acceptable for relevant information to be provided at appropriate trigger points rather than providing unnecessary information up front.

- **For Deferred Claims**

The letter from the insurer must provide full information about the deferral and the entitlements to compensation during the deferral period.

- **For Disputed Claims**

Formal notice must be provided, including information on mediation.

Injured workers will be given the name of their case manager and a direct telephone number for personal contact.

If a Deferred Claim or Disputed Claim is subsequently accepted, then the information outlined for Accepted Claims must then be supplied.

What is expected of the employer

It is the employer's responsibility to forward the completed claim form along with all other documentation to their insurance company within 3 working days of receiving the claim from the injured worker.

The employer is responsible for making weekly payment of incapacity compensation to injured workers if the claim is accepted or deferred.

The employer must take all reasonable steps to provide the injured worker with suitable employment.

The employer must as far as practicable, participate in efforts to retrain the injured worker.

The employer must assist the injured worker with their rehabilitation program.

If the worker is unable to return to their normal job, their employer should determine if there is another job or a combination of jobs that the worker might be able to do. This might involve getting an accredited vocational rehabilitation provider to assess the suitability of the duties, and make recommendations regarding ergonomics and workstations etc.

If the employer is unable to provide the worker with suitable employment, the employer in consultation with the insurer must refer the worker to the alternative employer incentive scheme.

The employer might also involve /consult with the treating doctor, fellow workers or union representatives.

What is expected of the injured worker

The worker should inform the employer of a work-related injury or disease as soon as practicable. This can be done either verbally or in writing.

Immediately notify the insurer if they return to work with an employer (other than the employer in whose employment the injury occurred).

Participate in any examination by a medical practitioner provided and paid for by the insurer at reasonable intervals.

If the worker is receiving weekly payments of compensation because they are incapacitated for work, ensure that the employer is provided with a medical certificate for the period that they are incapacitated for work.

Injured workers are expected to participate in injury management in accordance with the legislation, cooperating in establishing a return to work program and participating in a cooperative manner in a return to work program, including attending appointments as required.

An injured worker should discuss with their treating medical practitioner and employer what duties they feel they can realistically do, given their injury. It is reasonable to expect an injured worker to allow their employer to discuss return to work options directly with their treating medical practitioner.

Further information

Any enquiries regarding the management of claims should firstly be directed to the workers' compensation insurer. For further advice contact NT WorkSafe.

For further information please contact NT WorkSafe on 1800 250 713 or visit www.worksafe.nt.gov.au