



# Workers' Comp

## Are you covered?

**The Workers' Compensation scheme in the NT is different from other State schemes. Make sure you are covered and know your entitlements.**



## Key questions answered

### 1. Am I covered for workers' comp?

Only direct employees are covered for Workers' Compensation in the NT.

If you provide your boss with an Australian Business Number (ABN) in writing then you are not covered by the definition of a worker.

Working directors of companies and family members of businesses are only covered if their personal details are disclosed to the insurer.

### 2. When is a worker covered for workers' compensation?

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;
- From an incident arising out of employment;
- On a journey to or from work, except if the accident involved a

motor vehicle.

**NOTE:** Injuries that occur gradually and diseases must be materially contributed to by your employment.

### 3. How do I make a claim?

If you believe you have suffered a work-related injury or disease, tell your employer or supervisor as soon as you can. This can be done either verbally or in writing.

You have up to six (6) months to lodge a claim for workers' compensation from the date of the injury or from when you first became aware of the injury or disease.

You must complete the first 2 pages of the NT WorkSafe approved claim form and submit the form to your employer.

**LOST TIME:** If the claim is for lost time, two copies of the approved workers' compensation medical certificate must be attached. If this certificate is not attached, the claim is

not valid. If the claim is for medical expenses only, the approved workers' compensation medical certificate is not required.

### 4. How much will I be paid?

A worker is entitled to receive their normal weekly earnings for the first 26 weeks of total or partial incapacity, less any amount they actually earn.

If after the first 26 weeks you are still incapacitated, you will normally be paid at 75% of your loss of earning capacity. Minimum and maximum provisions may apply.

### 5. Will my weekly benefits reduce at any time?

Weekly benefits automatically reduce after 26 weeks to 75% of your loss of earning capacity.



**More info p2**

# More Workers' Compensation questions answered

## 6. What are my other workers' compensation entitlements?

- Reasonable costs for medical, surgical and rehabilitation treatment, hospitalisation and hospital treatment are payable.
- Pharmaceutical expenses.
- Travelling or being transported to and from any place in order to attend for treatment or hospitalisation, including kilometre allowance.
- Accommodation costs incurred while away from the normal place of residence to attend treatment.
- Upgrading of job skills or training for a different career if it is not otherwise possible to obtain suitable employment.
- Payment in respect of permanent impairment.

The above list is not complete as the needs of each worker are different and your insurer will consider each request for service on its merits.

## 7. Are employer contributions to my superannuation included in the calculation for my workers' compensation entitlement?

Employer contributions to superannuation are NOT included in the calculations of normal weekly earnings with regards to workers' compensation benefits. However there is an obligation under the Building and Construction Industry (NT) Award for the employer to continue making contributions (see clause 5.12.5(b)).

## 8. What happens when a decision on a claim gets deferred?

A claim can be deferred for up to 56 days to allow the insurer to gather further information on the claim.

When the claim is deferred the employer must commence payments of weekly benefits within three working days of the decision to defer.

No other benefits are paid during the period of the deferral.

## 9. What can I do if my claim is rejected, or my benefits are cancelled or reduced?

If the claim is rejected or benefits cancelled or reduced, you will be notified formally by the Insurer with a "Notice of Decision and Rights of Appeal" form.

You can appeal the decision by applying to NT WorkSafe for *mediation*.

If the matter is not resolved at mediation you can also apply to the Work Health Court for *resolution of the dispute*.

## 10. I had a vehicle accident on my way to work, am I covered by workers' compensation?

Journey claims to and from work involving motor vehicles are excluded from the Work Health Act, however they are covered under the Motor Accidents Compensation Act. Journey claims not involving a motor vehicle are still covered.

## 11. What steps do I need to take to return to work?

If rehabilitation is recommended, you must co-operate with reasonable treatment, rehabilitation and return to work programs.

If your employer is unable to provide suitable duties you must actively assist in gaining suitable alternative employment.

The worker is also required to inform their employer if they commence employment elsewhere, or circumstances change in a way which may affect their entitlements.

## 12. Can I visit my family doctor or do I have to go to the doctor specified by my employer?

You are entitled to be treated by the doctor of your choice, however your boss or insurer is also entitled to have you examined by their doctor.

## 13. Deaths

If a work related injury results in the death of a worker, the dependants will be entitled to receive a single lump sum payment, funeral expenses and other benefits in accordance with the Act.

## 14. Is there Common Law under the Work Health Act?

No. Northern Territory Workers' Compensation Scheme is a no fault scheme. Under the Northern Territory Work Health Act there is no provision for common law.

That means a worker, for the purposes of the workers' compensation provision of the Work Health Act, cannot sue their employer or fellow worker for negligence.

If an employee is not defined as a worker under this Act, such an exclusion would not apply and the employer could be sued at common law if negligence could be established.

## 15. What is Commutation?

Where a partially incapacitated worker is receiving weekly benefits as a top up of his or her loss of earnings, this benefit can, in certain circumstances, be commuted to a once only lump sum payment.

Entitlements to weekly benefits may be commuted to a lump sum upon application to the Work Health Court by the employer/insurer or worker, where because of the small amount of the regular payment, the administration cost in making the payments is disproportionate to the benefit received; or otherwise, a worker may apply to the court for a commutation of his or her weekly benefits. In this case the Court must be satisfied that:

- The worker's condition is stabilised;
- The worker's rehabilitation is complete;
- The worker is not totally incapacitated for work; and
- The worker has received financial counselling.

The maximum commutation to be linked to the worker's Normal Weekly Earnings (NWE) or Average Weekly Earnings (AWE), whichever, in the case of a particular worker, is the greater.

**The above information is of a general nature from the NT WorkSafe website [www.worksafe.nt.gov.au/comp\\_rehab/worker\\_faq.shtml](http://www.worksafe.nt.gov.au/comp_rehab/worker_faq.shtml) . You should specific legal advice for particular problems.**

**For more information please contact Mick Huddy at CFMEU NT Branch 08. 8981 5280.**