

Common-law claim

If you believe your injury was caused because your employer did not take reasonable care for your safety and was negligent in their duties, you may claim common-law damages against your employer.

If you claim for common-law damages a judge will consider your particular circumstances such as pain and suffering, loss of future earnings and loss of enjoyment of life.

For this reason, common-law damages are often considerably higher than the statutory benefits received from WorkCover. If you wish to claim common-law damages, seek the assistance of a solicitor experienced in personal injuries matters.

Time limits

You must lodge your claim for compensation within certain time limits. It is important that you are aware of these limits – ask your solicitor.



Timing of court settlements

Most claims for damages are settled before the court case. However, if a claim goes to court, and in the meantime you are unemployed, you can apply for support from Centrelink.

Need a solicitor?

If you wish to make a compensation claim but don't have a solicitor, you can find one via Queensland Law Society's Referral Service on www.qls.com.au or phone 07 3842 5842.

The information in this brochure is merely a guide and is not meant to be a detailed explanation of the law. Queensland Law Society recommends you see your solicitor about particular legal problems.



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INJURED AT WORK



A LEGAL GUIDE TO YOUR ENTITLEMENTS AND COMPENSATION

If you are injured at work you should lodge your application for compensation within 28 days to avoid losing compensation. However, your application can be lodged up to six months after the accident.

The law regulating compensation is complicated, so it is advisable to talk to your solicitor first.

Compensation law

Workers' compensation in Queensland is governed by the *Workers' Compensation and Rehabilitation Act 2003* or, in the case of Commonwealth employees, by the *Safety, Rehabilitation and Compensation Act 1988* (Cth). All Queensland employers are legally required to insure their workers to cover the cost of compensation for work-related injuries.

Even if your employer is not properly insured you may apply for compensation.

This brochure addresses claims under the *Workers' Compensation and Rehabilitation Act 2003*. For claims under the *Safety, Rehabilitation and Compensation Act 1988* (Cth), consult a solicitor.



Can you claim?

You can claim if your circumstances fall within the definitions of the *Workers' Compensation and Rehabilitation Act 2003* ('WorkCover Act'), in particular the definitions of:

- worker
- injury, and
- course of employment.

Worker

A 'worker' is a person who performs work under a contract of service for another person (employer).

If you do not fall within this definition, you should contact your WorkCover office to arrange separate insurance cover.

Injury

Your employment must be a significant factor causing your injury. This definition may be an issue if you have a pre-existing degenerative condition which has been aggravated or accelerated by your work conditions.

If your principal place of employment is in Queensland, you are entitled to apply for compensation regardless of who or what caused your work-related injury.

Course of employment

Your injury must arise out of, or in the course of, employment.

This coverage extends to injuries sustained during travel:

- authorised by your employer, and
- between your home and work, taking the shortest convenient route.

Note: coverage does not extend to injuries sustained:

- within the fence line of your home, or
- when your voluntary actions cause the injury, eg dangerous driving, drink driving, etc.

Coverage may not extend to injuries caused by your deliberate misconduct or if intentionally self-inflicted.

Things to do if you are injured at work

As soon as practical, you should:

- report your injury to someone at work, eg, your manager or supervisor
- establish if there are any witnesses to your injury
- see a registered medical practitioner (you will need a Workers' Compensation Medical Certificate)
- see your solicitor about your compensation alternatives.

Specific procedures must be followed and strict time limits may apply to your claim.

Permanent injury

If you suffer permanent injury caused by the negligence of your employer, and your injury is assessed at less than 20% work-related impairment, you must choose between accepting a lump-sum payment or a common-law claim for damages. If your injury is assessed at 20% work-related impairment or over, you can accept a lump sum and still pursue a common-law claim for damages.

Statutory claim

If your application for compensation is approved by WorkCover the benefits you receive will depend on the type of injury you have and may include:

- a weekly compensation payment (paid fortnightly)
- medical and paramedical (eg physiotherapist, chiropractor, osteopath) costs
- hospital costs
- related travel costs
- rehabilitation costs.

If your work injury results in a permanent disability, WorkCover may offer you lump-sum compensation. The lump sum paid is decided according to a table.

If you choose a lump-sum payment your decision is final and all other payments cease and your entitlement to claim damages at common law may also cease – so it is important to speak to your solicitor first.