

Our network of offices

In 2007 Ryan CarlisleThomas joined forces with leading regional law firm Stringer Clark to create Victoria's biggest network of legal services. With offices in 17 metropolitan and regional locations, plus affiliates in Beechworth, Bendigo, Bright, Mildura, Mt Beauty, Myrtleford, Shepparton, and Wodonga, Ryan CarlisleThomas can provide expert local service to clients throughout Victoria.

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Comcare

A simple guide to your rights



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clients. not cases

Injured at work?

Ryan CarlisleThomas has prepared this brochure to ensure injured workers and their families understand their rights under Comcare and get the best legal advice.

Commonwealth Government employees and employees of certain large national firms have their own special compensation scheme. It's called Comcare.

If you are injured in the course of your employment, you are almost certainly entitled to some level of compensation under Comcare.

Comcare can pay your normal wages while you recover from injury.

Medical and care expenses are usually paid for.

If you are permanently injured, you may also be eligible for a lump sum payment, either through Comcare, or by suing under Common Law.

In the event of death, the family of the deceased worker may also be eligible for compensation.

A good lawyer can make lodging a Comcare claim a relatively quick and inexpensive task and is essential to suing for damages under Common Law.

The expert injury lawyers at Ryan CarlisleThomas offer a free first interview on Comcare matters.

What is Comcare?

Comcare is a compensation scheme run by the Federal Government.

You are covered if you are employed by a Commonwealth Government department, Australia Post or Telstra and if you are full-time, part-time, temporary or on probation. Employees of some large national firms are also covered by Comcare.

You are covered for injuries sustained:

- At work, even during an authorised recess. For injuries that occurred before to 13th April 2007, authorised recesses are covered even if the injury occurred away from work.
- During travel to and from work to an approved training course, to obtain medical treatment for an accepted injury and/or travel in the course of employment. If the date of injury is prior to 13th April 2007, travel to and from work is also covered.
- Training at an approved centre.

The families of deceased workers may also be eligible for compensation.

Making a claim: a checklist

1. Report the injury

- You should report your accident/incident at the time the injury occurs. You should always submit an incident report to your supervisor, no matter how minor it may seem at the time. Always inform your union.

2. Obtain a medical certificate from your doctor

- This should be given to your supervisor, or your lawyer, who will then attach it to your claim for forwarding to Comcare.

3. Lodge a Comcare claim

- Incident reports and claim forms are available from your supervisors. A Ryan CarlisleThomas lawyer can help you ensure all the right steps are taken.



What are the benefits?

Injury compensation

Injured workers may be eligible for the following compensation payments:

- Incapacitated for up to 45 weeks – 100% of your normal weekly earnings.
- Incapacitated for more than 45 weeks – 75% of normal weekly earnings.
- Partially incapacitated after 45 weeks – If you return to work but work fewer hours or at less pay, you can have a salary top-up of between 80 and 100%.
- All “reasonable” household and attendant care expenses are paid if you are incapacitated for longer than 28 days.
- All “reasonable” rehabilitation costs including medical, hospital and pharmaceutical are paid.
- Alterations to your residence, place of employment and care to help you lead a normal life may also be paid if you are permanently disabled.

Compensation for death

In the event of death, the family and dependants of an employee covered by Comcare may be eligible for a compensation payout. The maximum compensation is \$212,026.74, regardless of the size of the family.

In addition, a weekly payment of \$70.65 per week per child is payable. Conditions apply.

Rehabilitation

If you are injured, your employer will help you devise a Rehabilitation and Return to Work Plan which is designed to re-introduce you to your workplace gradually. The plan is also meant to address any modifications that may have to be made to your workplace to make your job easier.

A rehabilitation plan must be developed at the written request of the worker.

Importantly, the plan must be agreed to by you, your doctor and your employer. If you are worried about your plan or if your employer breaches the plan, you should contact your union or lawyer immediately.

Permanent disability and lump sum claims

If you are permanently injured, you may be eligible for a lump sum payment. You can pursue a lump sum through your employer (via Comcare) or through the courts (Common Law) even if you are already being paid other benefits.

1. Comcare lump sum claims

- If your injury results in permanent impairment, you may file for a lump sum under Comcare. Importantly, you must pass a 10% impairment threshold.
- The maximum total lump sum payout is \$194,000 (subject to periodic indexation). These are “no fault” payments.

2. Common Law lump sum claims

- If you are injured or a family member has died because of employer negligence, you are entitled to sue for damages. A Common Law claim may only be pursued if there is a permanent impairment of at least



10% or a death. Common Law lump sums may be bigger than Comcare payments, but they can only be pursued if the employer was negligent.

Can I appeal?

You may appeal if:

- All or part of your claim is rejected;
- Compensation payments or payment of medical and other expenses cease; or
- Payments are suspended after a breach of or disagreement about the Return to Work Plan.

It is vital that you contact your Ryan Carlisle Thomas lawyer as appeals must be lodged within 30 days of the Comcare decision. You may be asked to provide witnesses and documentation to support your claim, so keep a diary and all relevant paperwork.

Legal services

Ryan Carlisle Thomas employs accredited specialists in personal injury law, and provides a free first interview on any legal matter. We offer No Fee 'Til You Win arrangements on injury compensation claims. Some out-of-pocket expenses and other party's costs may apply, however, Ryan Carlisle Thomas will pay for medical reports to support your claim.

Call our injury line on **1300 366 441** for advice.

Guidelines for completing the Comcare claim form

When you are filling out your Comcare claim form, it is important to provide accurate information. This section answers some of the most common questions about filling out a claim form. Always seek advice from your lawyer or union if you are uncertain about how to answer a question.

Question 10

If there is no exact date, nominate the approximate month and year instead.

Question 11

(a) This date is important as Comcare usually considers this date as the commencement of liability for medical expenses.

(b) Also supply the doctor's address and phone number.

Question 12

Nature of referral means type of specialist or other referral for treatment e.g. orthopaedic surgeon, physiotherapist.

Question 14, 15 and 16

If previous injuries are not disclosed, and the failure to disclose is subsequently discovered by the employer, liability for the injuries can be denied/ceased on the basis that the employer was deliberately misled. In some cases, the employer can seek to recover all monies paid under the compensation claim.

Question 21

Legal advice should be sought before providing any signed statement, particularly in relation to stress claims or journey accidents as exclusionary provisions apply.

The statement should be an explanation of the circumstances of the injury.

- Begin the statement with name, classification level, a brief background of the employment history.
- What duties/responsibilities did you have when the condition developed? Detail the work-related factors that caused the condition/injury to occur.
- Has the doctor referred you for other treatment, what type and how often?
- Has there been any contact with the Occupational Health Unit or Return to Work co-ordinator?
If so, have any arrangements been made regarding rehabilitation at this stage. Have there been any modifications to your work place as a result of the injury?
- Authorise the employer to contact the doctor and specialist regarding the work-related injury.
It is common practice for the employer to write to the doctor or specialist for information about the injury. Give details of their names, addresses and telephone numbers. Sometimes, these reports are not helpful. However, it is unlikely the claim will ultimately succeed without the support of the treating doctors. If you obtain the reports, you may have to pay for them, whereas if the employer requests the reports, they will cover the cost.

After receiving legal advice, complete your statement and sign and date the document.

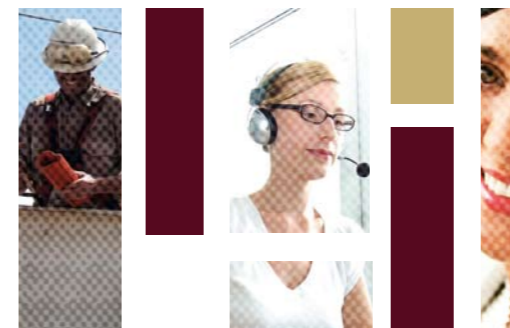
Question 24

It is not compulsory to provide witness statements with the claim.

If it was an accident that caused the injury as opposed to an illness or disease and the accident was witnessed, try to obtain witness statements to attach to the claim.

Question 26

You do not have to answer this question. However, if legal proceedings against a third party or a damages claim against the Commonwealth or the employer have already been commenced, the legislation requires



written notification of such legal action. It would be very unusual for legal action to have been commenced prior to the compensation claim being lodged.

Question 34

Liability for journey accidents can be denied if a direct route was not taken and if a route was taken that increased the risk of injury. If there was deviation from the journey, this question should not be answered without first seeking legal advice.

Once the claim form is complete, read it through carefully with your lawyer and sign and date the form.

Note: Part 2 of the form is to be completed by the employer. You are entitled to a complete copy of the claim form and all other material collected by the employer/Comcare. These documents should be provided on written request.



Comprehensive legal services

Ryan Carlisle Thomas and our regional partner Stringer Clark have more than 160 staff across 17 locations throughout Victoria. In addition to Comcare services we offer legal advice on:

Personal injuries

Compensation claims for financial loss, pain and suffering resulting from exposure to asbestos, tobacco and other toxic substances, accidents, medical negligence, defective products and wrongful death.

Motor vehicle injuries

Claims for loss of earnings, medical expenses and permanent disabilities, and damages for serious injuries caused by a motor vehicle, train or tram.

Criminal law

Defence of charges in police and traffic matters, and appearances in criminal courts.

Family law

Applications for divorce, maintenance, custody, access and restraint orders, division of property in matrimonial and de-facto relationships and separate representation of children.

Employment

Claims for unfair and wrongful dismissal, award breaches and under-payment of wages and advice on contracts of employment.

Sexual/physical abuse

Compensation claims for victims abused by an individual or through contact with an organisation (e.g. church, school, residential institution).

Military compensation

Compensation claims for members of the armed forces and Reservists.

Anti-discrimination and equal opportunity claims

Sexual harassment and discrimination on grounds such as age, race, religion, sex, sexual orientation and disability.

Superannuation

Advice on termination and retirement entitlements, claims for disability benefits and Superannuation Complaints Tribunal applications.

Wills and probate

Preparation of Wills, administration of deceased estates and obtaining grants of probate and letters of administration.

Conveyancing

Sale and purchase of houses and land. Section 32 vendor's statements.

Migration law

Immigration and refugee applications and appeals, student visas and family reunions.