

## 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, Warrigal and Wodonga, Ryan CarlisleThomas can provide expert local service to clients throughout Victoria.

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### Stringer Clark offices:

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#### Colac

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#### Hamilton

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#### Horsham

157 Bailey St  
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#### Portland

10 Henty St  
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#### Warrnambool

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Client advice line: 1300 366 441

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## WorkCover

Your simple guide to a complicated system



RYAN  
CARLISLE  
THOMAS

LAWYERS

clients, not cases

## Injured at work?

It happens to many people at some stage of their working lives.

Injury can be a traumatic experience. Just and adequate compensation may not remove the pain, but it can assist you with the rest of your life.

Victorian workers (other than those employed by the Commonwealth Government) who are injured at work are covered by the state's workers compensation scheme. Casual and part-time workers, out workers, subcontractors and the self-employed are also covered by WorkCover.

If you're injured, you are almost certainly entitled to some level of compensation under WorkCover. This may include weekly payments, medical expenses and lump sum payment if you are permanently injured, all of which are explained in this brochure.

The benefits can be significant.

However, to obtain any benefit, you must know your rights under the WorkCover system.

We've prepared this brochure to inform you about those rights.

Having read this brochure, you may decide you need a lawyer. A good lawyer can make lodging a WorkCover claim a relatively quick and inexpensive task.

We are happy to offer you a free, no obligation initial consultation as part of the Ryan CarlisleThomas service.

## Our WorkCover team

No one can manage your WorkCover claim better than Ryan Carlisle Thomas. Our expert team has one of the highest success rates and after managing 30,000 WorkCover cases over the past ten years, we know how to get the right compensation for you.

## Who is covered?

You are entitled to compensation if your work caused or significantly contributed to your injury or disease. Although WorkCover does not cover injuries sustained while travelling to or from work, you may have a claim under the Transport Accident Act.

## Making a claim: a checklist

### 1. Report your injury

- If you don't report your injury within 30 days, you may not be covered. Always record your injury in the injury book and make sure your employer acknowledges your report in writing. Employers are required by law to keep an injury book and to acknowledge injury reports.

### 2. Lodge your WorkCover claim form

- To make a claim for weekly payments you must give your employer a completed WorkCover claim form and a WorkCover medical certificate. You must also send a copy of these documents to your employer's WorkCover agent. Claim forms can be obtained from your employer, a post office, or Ryan Carlisle Thomas.

### 3. Wait for your assessment

- Your employer has 10 days to forward the claim to their WorkCover agent, and the agent has 28 days to assess the claim. Your claim should therefore be accepted or rejected in a maximum of 38 days.

- If your claim is accepted, you will receive weekly payments for the period covered by the medical certificate. If it is rejected, the insurer must notify you in writing of the reasons for the decision.
- If your claim is for medical expenses only, submit the claim form to your employer. If the agent rejects the claim or fails to make a decision you may appeal to the Accident Compensation Conciliation Service.

#### 4. Lodge a lump sum claim

- If you are eligible to claim a lump sum for a permanent disability or impairment, you will need a lawyer. Ryan Carlisle Thomas can lodge and process the claim on your behalf.

## What are the benefits?

### Medical and other expenses

You can claim all medical expenses including physiotherapy, chiropractic, acupuncture and hydrotherapy for as long as they are essential to assist you to recover from your injury.

Assisting a worker's return to work is a major aim of WorkCover. The employer is required to help you design a rehabilitation and return to work plan and must offer you the choice of a rehabilitation provider. Rehabilitation expenses may also include any home help you require or modifications to your home and car. Travel expenses associated with visiting treating doctors and WorkCover doctors can also be claimed.

### Weekly payments

You may be entitled to weekly payments for up to 104 weeks for claims lodged before 1 January 2005, and 130 weeks for claims lodged on or after that date. Your weekly entitlement depends on whether you are still able to perform some duties, or unable to work at all. The amount payable is based on your pre-injury average weekly earnings, maximum amounts set out in the Act, and your employer's ability to offer alternative employment. You may be entitled to weekly payments at 75% of your pre-injury earnings beyond 104/130 weeks if you are permanently unable to work. If you are working 15 hours a week and earning at least \$132 gross per week but are incapable of undertaking further work, you may still be entitled to a percentage of your pre-injury earnings.



## What about lump sums?

For injuries sustained on or after the 12<sup>th</sup> November 1997:

If you have sustained at least 10% whole person physical impairment (5% for injuries to the spine and the upper/lower limbs on or after 3 December 2003), in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment 4th edition, you may be entitled to lump sum compensation. The following amounts are payable for injuries sustained on or after 1/7/06:

5% (arm, back, neck or leg injury sustained on or after 3 December 2003) = \$9,650

10% = \$15,550

15% = \$27,200

20% = \$38,850

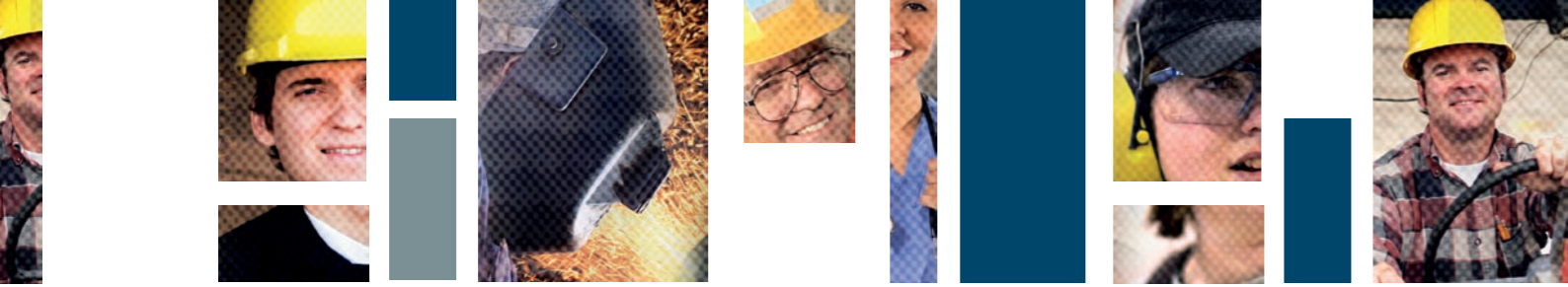
25% = \$50,500

30% psychiatric impairment = \$12,450

Acceptance of a lump sum entitlement does not affect your weekly payments or medical and like expenses or your right to pursue a damages claim.

If you have sustained a "total loss" injury (i.e. amputation of a finger) your entitlement may be assessed in accordance with the Table of Maims.

Example – Total loss of Right Index finger \$47,540



## Common law claims – suing for negligence

### Injuries before 12 November 1997

If you were injured before 12 November 1997 and have sustained a serious injury you may be able to pursue an action for damages. In general, an application to sue at common law should have been lodged by 31 August 2000. However, there are exceptions (e.g. you were unaware of your injury or the extent of your disability/incapacity) and you should contact Ryan Carlisle Thomas for advice.

### Injuries on or after 20 October 1999

If you were injured on or after 20 October 1999 and you have sustained a “serious injury” you may be entitled to pursue an action for damages if you were injured as a result of your employer’s or a third party’s negligence.

Claims for general damages (pain and suffering) can be pursued even if there is no economic loss. The maximum amount that can be claimed for injuries on or after 1/7/06 is \$462,720. In order to pursue a claim for pecuniary loss (income loss) at common law, it will be necessary to show that you have a “serious injury” resulting in a 40% loss of earning capacity.

The maximum amount for economic loss is \$1,062,800.

A “serious injury” for general damages purposes is defined as either a 30% whole person impairment according to the AMA Guides to the Evaluation of Permanent Impairment 4<sup>th</sup> Ed. or;

- (a) permanent serious impairment or loss of a body function; or,
- (b) permanent serious disfigurement; or,
- (c) permanent severe mental or permanent severe behavioural disturbance or disorder; or,
- (d) loss of a foetus.

A damages action must begin within 6 years of the date of injury or your common law rights will be barred.

## Death claims

If work contributed to the death of a worker his or her dependants can claim.

The maximum for a dependent spouse is \$250,000 plus additional weekly pension amounts for the spouse and other dependants.

Negligent employers can also be sued by dependants.

A claim can be pursued if employment was a contributing factor to a worker’s death, irrespective of where the death occurs. This can include stress-related heart attacks, physical injury causing death or exposure to chemicals or other substances including asbestos.

## Can I appeal a decision made by my employer or their WorkCover agent?

If your claim is rejected or the employer or insurer fails to make a decision in accordance with the Act, you have 60 days to lodge a Request for Conciliation with the Accident Compensation Conciliation Service.

Workers are not automatically entitled to legal representation before the Conciliation Service but they are entitled to take a friend or union representative with them to the conference.

Ryan Carlisle Thomas can assist you:

- To lodge the conciliation referral.
- To obtain all relevant material and file it with the Conciliation Service.
- During the conciliation process.
- To have representation at the conference.

## Medical panels

Medical panels are now used to resolve medical disputes. They have increased powers to determine how much work you can do and the extent to which your job caused your injury or impairment.

The court and all parties to the dispute must accept the opinion of a medical panel.

## Can I appeal to court?

Yes. If conciliation is unsuccessful, you may issue proceedings in the Magistrates' Court or County Court.

Ryan Carlisle Thomas will advise you of the merits of issuing court proceedings and the delays and costs involved. In the appropriate cases we may be prepared to fund your Court action on a "No fee 'til you win" basis.

## WorkCover ombudsman

If you are unhappy with the processing of your WorkCover claim by your employer's WorkCover Agent/Self Insurer you can lodge a complaint with the Victorian Ombudsman's Office – WorkCover Division.



## Ryan Carlisle Thomas offers:

- A free initial consultation
- "No fee 'til you win" arrangements in injury compensation cases. This means we will not charge legal fees unless the claim is successful. Some out of pocket expenses and other party's costs may apply.
- Advice and referral hotline 1300 366 441
- A comprehensive network of offices throughout metropolitan and regional Victoria.
- A WorkCover practice led by Accredited Specialists in personal injury law.

## 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 WorkCover 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.