

# WorkCover

Your simple guide to a  
complicated system



LAWYERS

in association with

Stringer  
**Clark**

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 Stringer Clark service.

# Our WorkCover team

No one can manage your WorkCover claim better than Stringer Clark.

Our expert team has one of the highest success rates and after managing 30,000 WorkCover cases over the past 10 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

### *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.

### *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 Stringer Clark.

### *Wait for your assessment*

Your employer has 10 days to forward a 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 agent 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.

### *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. Stringer Clark 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, hydrotherapy and medication 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 1st 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 on or after  
12th 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 3rd 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 1st July 2006:*

5% (arm, back, neck or leg injury sustained on or after 3rd 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 common law 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.

## *Common law claims – suing for negligence*

### *Injuries before 12th November 1997*

If you were injured before 12th 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 31st 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 Stringer Clark immediately for advice since strict time limits apply.

### *Injuries on or after 20th October 1999*

If you were injured on or after 20th 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.

General damages claims for pain and suffering and loss of enjoyment of life can be pursued even if there is no economic loss. The maximum amount that can be claimed for injuries on or after 1st July 2006 is \$462,720. In order to pursue a claim for income loss and loss of future earning capacity 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 4th 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 common law damages action must begin within six 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 dependents can claim.

The maximum for a dependant 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.

*Stringer Clark 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 Magistrate's Court or County Court.

Stringer Clark 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 our "No fee 'til you Win" policy.

## *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.

### *Stringer Clark offers:*

- A free initial consultation.
- "No fee 'til you Win" policy 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 1800 641 743.
- A comprehensive network of offices throughout metropolitan and regional Victoria.
- A WorkCover practice led by Accredited Specialists in personal injury law.

### *Comprehensive legal services*

Stringer Clark and our metropolitan partner Ryan Carlisle Thomas have more than 160 staff across 21 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.

#### *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.

#### *Comcare*

Specialist advice, representation and claims for Commonwealth Government employees, employees of ship owners or shipping companies and Military personnel who are injured in the course of their work or have an injury or illness to which the job has materially contributed.

#### *Victims of crime compensation*

Compensation claims for pain and suffering and financial losses for victims of criminal activity.

### *Employment*

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

### *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.

### *Criminal law*

Defence of charges in police and traffic matters, and appearance 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.

### *Wills and probate – Will challenges*

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

### *Conveyancing*

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

# Our network of offices

In 2007 Stringer Clark joined forces with leading metropolitan law firm Ryan Carlisle Thomas to create Victoria's biggest network of legal services.

With offices in 21 metropolitan and regional locations, plus affiliates in Beechworth, Bendigo, Bright, Mildura, Mt Beauty, Myrtleford, Shepparton, Warragul and Wodonga, Stringer Clark can provide expert local service to clients throughout Victoria.

# Stringer Clark offices

## Ararat

165 Barkly Street  
Ararat 3377  
Ph: (03) 5352 1866  
Fax: (03) 5352 1863

## Ballarat

29 Lydiard Street Sth  
Ballarat 3350  
Ph: (03) 5331 7898  
Fax: (03) 5232 1810

## Castlemaine

13 Hargraves Street  
Castlemaine 3450  
Ph: (03) 5331 7898  
Fax: (03) 5332 1810

## Colac

13 Murray Street  
Colac 3250  
Ph: (03) 5231 6955  
Fax: (03) 5231 6266

## Geelong

127 Myers Street  
Geelong 3220  
Ph: (03) 5221 6266  
Fax: (03) 5223 1905

## Hamilton

44 Brown Street  
Hamilton 3300  
Ph: (03) 5571 2528  
Fax: (03) 5571 2531

## Horsham

40 McLachlan Street  
Horsham 3400  
Ph: (03) 5382 2244  
Fax: (03) 5352 1863

## Portland

10 Henty Street  
Portland 3305  
Ph: (03) 5523 1288  
Fax: (03) 5523 5778

## Warrnambool

179 Koroit Street  
Warrnambool 3280  
Ph: (03) 5562 5733  
Fax: (03) 5562 8817

# Ryan Carlisle Thomas offices

## Ballarat

29 Lydiard St Sth  
Ballarat 3350  
Ph: (03) 5331 7898  
Fax: (03) 5332 1810

## Bayswater

Unit 11, 653 Mountain Hwy  
Bayswater 3153  
Ph: (03) 9720 9311  
Fax: (03) 9720 9225

## Clayton

47 Henderson Road  
Clayton 3168  
Ph: (03) 9238 7878  
Fax: (03) 9238 7888

## Cranbourne

98A High St  
Cranbourne 3977  
Ph: (03) 5996 8788  
Fax: (03) 5996 8811

## Dandenong

41 Robinson St  
Dandenong 3175  
Ph: (03) 9238 7878  
Fax: (03) 9238 7888

## Frankston

Level 1, 108-120 Young St  
Frankston 3199  
Ph: (03) 9770 0544  
Fax: (03) 9238 7888

## Geelong

127 Myers St  
Geelong 3220  
Ph: (03) 5221 6266  
Fax: 5223 1905

## Melbourne

Level 30, 80 Collins St  
Melbourne 3000  
Ph: (03) 9240 1414  
Fax: (03) 9240 1444

## Melbourne

27-29 Leicester St  
Melbourne 3000  
Ph: (03) 9342 0100  
Fax: (03) 9349 4383

## Melton

112 McKenzie St  
Melton 3337  
Ph: (03) 9747 6822  
Fax: (03) 9731 0822

## Narre Warren

2 Malcolm Court  
Narre Warren 3805  
Ph: (03) 9238 7878  
Fax: (03) 9238 7888

## Pakenham

114 Main St  
Pakenham 3810  
Ph: (03) 5941 5722  
Fax: (03) 5941 5733

## Werribee

67 Watton St  
Werribee 3030  
Ph: (03) 9731 0811  
Fax: (03) 9731 0822

## Wonthaggi

45 McBride Avenue  
Wonthaggi 3995  
Ph: 1300 136 227  
Fax: 9238 7888

# Stringer Clark

freecall 1800 641 743

[www.stringerclark.com.au](http://www.stringerclark.com.au)

Ararat  
Ballarat  
Castlemaine  
Colac  
Geelong  
Hamilton  
Horsham  
Melbourne  
Portland  
Warrnambool