

Compensation for work-related cancers

If your work has caused or contributed to you developing cancer, you may be able to claim compensation. It does not have to be the only reason you developed cancer.

Is work-related cancer common?

Exposure to various agents in the workplace can cause cancer. Approximately **3.6 million** Australians are exposed to at least one cancer-causing agent (carcinogen) in their workplace. This exposure is responsible for about **5000** people being diagnosed with a work-related cancer each year. That means that **1 in 10** cancers diagnosed in men and **1 in 50** cancers diagnosed in women are work-related. Additionally it is estimated that approximately 200 melanomas and 34,000 other skin cancers per year are caused by occupational exposures in Australia.

What workplace exposures could cause cancer?*

- Ultraviolet (UV) radiation
- Asbestos
- Diesel engine exhaust
- Lead and other heavy metals
- Silica
- Wood dust
- Welding fume
- Heavy metals
- Solvents
- Rubber
- Pesticides
- Environmental tobacco smoke
- Ionising radiation
- Benzene and other similar chemicals

*This list is not exhaustive.

What cancers could workplace exposures cause?

Exposure to these agents can cause different types of cancers. The most common include mesothelioma, bronchus and lung, nose and nasal sinus, liver, bladder, cervix, pancreas, brain, stomach cancers and leukaemia. For a list of other common exposures and related cancers please view Table 2.1 on page 21 of SafeWork Australia's [Deemed Disease in Australia \(August 2015\)](#) report.

The Deemed Disease List

Most states and territories in Australia have a Deemed Disease List as part of their workers' compensation system. This is a list of diseases that are deemed to be work-related. The purpose of this list is to reverse the onus of proof. That is, instead of having to prove that the specific exposure on the List caused the specific cancer, it is assumed that the cancer was caused by the exposure, unless there is proof otherwise. The Deemed Disease List approach simplifies the work needed to make certain claims on the assumption that there is a high likelihood that the cancer has arisen as a result of workplace exposures. Cancers that are not included on the list can still be the subject of a workers' compensation claim using the normal approach.

What compensation is available?

If your cancer is work-related, you may be entitled to receive:

- reimbursement of your medical expenses
- weekly payments in place of your wages while you cannot work

If a person dies from a work-related cancer, their family may be entitled to:

- a lump sum death benefit,
- a weekly payment for dependant children (16 and under, or 17–21 and still studying), and
- reimbursement of funeral expenses.

If you think you have a work-related cancer and are seeking compensation, it's important to get legal advice from a workers compensation lawyer*. You should do this as soon as possible, as time limits apply.

*The need for a lawyer depends on your state or territory; contact your health and state or territory health and safety regulator.

Making a claim

In Australia, there are two types of claims you can make related to your workplace cancer; statutory (no fault) claims and common law claims.

The statutory scheme allows workers to apply for statutory benefits, no matter whom or what was at fault for the cause of the workplace cancer i.e. the worker does not need to prove their employer was at fault. If the cancer occurred in the course of employment, then that is enough to substantiate the claim. This is a claim under the Comcare scheme (for employees of Commonwealth Government agencies and statutory authorities).

Unlike a statutory claim, a common law claim will require the worker to prove in court that the cancer was caused by negligence of their employer. The option of pursuing common law damages is not open to all workers with a workers' compensation claim. There are certain legislative provisions that need to be met in order to pursue a claim for damages at common law, timeframes and conditions; please contact your state or territories work health and safety regulator. Workers with a permanent impairment may also be eligible to make a common law claim (except the Northern Territory). The degree of impairment and eligibility criteria varies in each jurisdiction.

It's important to speak to a lawyer specialising in these types of claims about which would be best for you.

The lawyer will help you make a claim. Usually, the first step is to see a doctor to get your state or territory's nominated medical certificate. You then submit the certificate to your employer, who notifies their insurer (except Queensland). Your employer is the last workplace where you were exposed to cancer-causing agents. The employer's insurer will then contact you to get more information. Employers are required by law to have workers' compensation insurance to cover their employees for work-related disease and illness. Please see **Table 1** for contact details, time frames, forms and processes in your state or territory.

Compensation for asbestos-related cancers

A person exposed to asbestos during their employment and who has developed an asbestos related cancer may be entitled to workers compensation. Your legal entitlements will depend on the state or territory in which you were exposed to asbestos.

Diseases caused by exposure to asbestos*

- Mesothelioma
- Lung cancer
- Asbestosis
- Asbestos related pleural cancer
- Pneumoconiosis
- Diffuse pleural fibrosis

**Please note that these diseases aren't exclusively caused by asbestos exposure e.g. pneumoconiosis can be caused by exposure to coal dust.*

A lawyer will talk you through your life history and help determine if there is evidence to support your claim. They will explain what compensation you may be able to claim and help make the process easy for you to understand. It is important to talk to a lawyer experienced in this area of work. Talking to your friends and family can help to bring back memories of places where you may have been exposed to asbestos as mesothelioma generally takes decades to develop.

What type of claims am I entitled to?

Generally, a person diagnosed with an asbestos-related cancer acquired in the workplace has the same two main avenues for legal compensation as any other workplace cancer. However there may be special procedures for claims for dust-related cancers.

The majority of common law claims for mesothelioma are settled out of court. If your prognosis is poor, or you suddenly become very unwell, the process can be expedited.

Note: In some cases, if you pursue a common law claim then your workers' compensation entitlements under state or territory based schemes may be affected. Consult a lawyer about which option is the right one for you.

For a list of mesothelioma support organisations please click visit cancer Council Victoria's '[Making a claim](#)' page.

Table 1: State or territory specific workers workplace cancer compensation information

| | Who to contact | Time to start a claim | Forms to submit | Time frames | Asbestos |
|-------------------------------------|--|--|---|---|--|
| Commonwealth | <p>Comcare Comcare provides workers' compensation coverage for Australian Government employees and certain licensed corporations. w: comcare.gov.au e: general.enquiries@comcare.gov.au p: 1300 366 979</p> <p>Claims process</p> | <ul style="list-style-type: none"> There are no time frames for lodging a claim. Lodgement of a claim with Comcare as soon as practicable is considered sufficient notice of cancer and will be considered a notification. <p>The SRC Act does not define 'as soon as practicable'. As a result, the issue of whether an employee lodged their claim as soon as practicable after becoming aware of their cancer is decided on a case by case basis.</p> | <ul style="list-style-type: none"> Worker's Compensation Claim Form. Medical certificate <p>This must identify the precise diagnosis of the claimed medical condition and indicate how the condition is related to their employment.</p> <p>Either submit online or give both documents to your employer, they will complete their section and submit this to Comcare.</p> | <ul style="list-style-type: none"> An employee should notify their employer as soon as practicable after they become aware of the cancer – whether you intend to make a claim for workers' compensation or not. | <p>Comcare administers two schemes for managing claims made by persons diagnosed with asbestos-related cancers: the Commonwealth's Workers' Compensation Scheme (SRC Act) and common law claims (ARC act).</p> <p>All employment related cancers are claimed via the same process. However there may be a consideration to timeframes.</p> |
| Australian Capital Territory | <p>WorkSafe ACT w: worksafety.act.gov.au e: workerscompensation@act.gov.au p: 13 22 81</p> <p>Further information</p> | <p>Within 3 years of the cancer occurring or becoming known to the worker and before the worker voluntarily leaves their employment (unless the court allows special circumstance).</p> <p>If the cancer causes death, the person claiming on their behalf needs to lodge the claim within 3 years of becoming aware of the workers death.</p> | <ul style="list-style-type: none"> A workers compensation claim form (provided by the employer) from the insurer. A Certificate of Capacity form from the workers nominated treating doctor. <p>Both completed forms are given to the employer.</p> | <ul style="list-style-type: none"> The worker must give notice to their employer as soon as possible. The employer must give notice to their insurer within 48 hours of receiving notification and send the claim form within 7 days. The insurer accepts or rejects the claim within 28 days. | <p>All employment related cancers are claimed via the same process.</p> |
| New South Wales | <p>State Insurance Regulatory Authority (SIRA) w: sira.nsw.gov.au e: contact@sira.nsw.gov.au p: 13 10 50</p> <p>Workers compensation guidelines</p> | <ul style="list-style-type: none"> Within 6 months of the disease occurring. A claim can be made up to 3 years from the date of the disease if failure to make a claim was due to ignorance, mistake, absence from the state or other reasonable cause. Date of cancer is either the date the patient was diagnosed or the date that the patient was deemed to have a reduced capacity. | <ul style="list-style-type: none"> A SIRA certificate of capacity. Workers cancer claim form. It is also recommended to send in any medical reports/ documents along with any other supporting information | <ul style="list-style-type: none"> The worker must give notice to their employer as soon as possible after the cancer is diagnosed. When employers become aware of a work related cancer, they must notify their insurer within 48 hours. The insurer must determine liability within 21 days from when the workers cancer claim form was submitted. | <p>All dust diseases such as mesothelioma are handled by Dust Disease Care (see row below).</p> |
| New South Wales | <p>icare's Dust Disease Care (DDC) Scheme w: www.icare.nsw.gov.au e: DDAenquiries@icare.nsw.gov.au p: (02) 8223 6600</p> <p>icare is responsible work-related compensate-able dust cancer claims (this includes asbestos). Applying for compensation with Dust Cancers Care is free. Contact icare first to discuss your situation prior to making an application.</p> | <ul style="list-style-type: none"> There are no time limitations on when a worker or dependent of a deceased worker can make an application for compensation. However, a worker must have made an application for compensation or requested a medical examination with DDC prior to their death to be eligible for payment of weekly compensation benefits, medical and other treatment expenses. If this did not occur dependents will be restricted to the one off lump sum and weekly benefits. | <ul style="list-style-type: none"> Complete icare's worker's application form. Complete medical examination. Use the request a medical examination form. If opted to see another doctor, include a certified respiratory specialist doctor's report stating that you have (or are suspected to have) a compensable dust disease. Include pathology reports if you are living with cancer. Sign all forms, including authority to release medical and employment records. You do not need a lawyer to assist you. | <p>Once you submit your application with all relevant forms, icare aims to process all applications within 60 working days.</p> | <p>Claims for asbestos related cancers are managed by two separate organisations, which process claims separately.</p> <p>If exposure occurred at work, you can make a claim through the Dust Disease Board (DDB) and make a separate claim for lump sum compensations through the Dust Disease Tribunal (DDT).</p> |
| Northern Territory | <p>NT WorkSafe w: worksafe.nt.gov.au e: datantworksafe@nt.gov.au p: 1800 250 713</p> <p>Workers compensation guidelines</p> | <p>A worker has 6 months to lodge a claim from the date of becoming incapacitated from a cancer.</p> <ul style="list-style-type: none"> In some circumstances a claim can be made after 6 months. | <ul style="list-style-type: none"> The NT Workers Compensation Claim form. A Statement of Fitness for Work (medical certificate) from a doctor. <p>Both completed forms are given to the employer.</p> | <ul style="list-style-type: none"> The employer must send the claim form to their insurer within three working days of receiving it. The insurer must make an initial decision on the claim within 10 working days of the employer receiving it. | <p>All employment related cancers are claimed via the same process.</p> |

Guidance fact sheet

| | Who to contact | Time to start a claim | Forms to submit | Time frames | Asbestos |
|-------------------|---|--|---|--|---|
| Queensland | <p>WorkCover Queensland w: worksafe.qld.gov.au e: info@workcover.qld.com.au p: 1300 362 128</p> <p>Further information Asbestos claim information</p> | <ul style="list-style-type: none"> A worker has six months from the date of diagnosis to lodge a claim. Anything past six months may be reviewed if failure to lodge was due to a mistake, the claimant's absence from the state or a reasonable cause. | <ul style="list-style-type: none"> Worker Capacity Certificate from a specialist or general practitioner. After receiving this certificate call WorkCover directly or complete a WorkCover Claim form and submit it online. If you have a histology report this will assist your claim but it is not essential. You do not need a lawyer to assist you. | <p>A decision on a claim can take up to 20 business days.</p> <p>If the claim isn't determined in the timeframe, WorkCover QLD will contact the worker verbally and in writing to let them know why a decision hasn't been made.</p> | <p>You will need to supply evidence of exposure to asbestos in the course of your employment, which may include a:</p> <ul style="list-style-type: none"> Histology report Employment history Job tasks The extent of exposure to asbestos |
| South Australia | <p>Return To Work SA w: rtwsa.com e: info@rtwsa.com p: 131855</p> <p>Claims process</p> | <ul style="list-style-type: none"> Generally a claim should be lodged within 24 hours of the cancer occurring or as soon as reasonably practicable after the worker becomes aware of the cancer. In terms of cancer this is when the worker first becomes partially or totally incapacitated for work by the cancer. An asbestos claim must be commenced within three years of you becoming aware of your asbestos related condition. | <ul style="list-style-type: none"> A Work Capacity Certificate issued by your doctor. Contact ReturnToWork SA or speak to your or newly assigned claims agent. A claim form is not necessary. | <ul style="list-style-type: none"> Once the forms are received by the employer they have five business days to report it to the insurer. Generally the insurer will take ten business days to determine the claim. However it may be longer depending on circumstances of the claim. | <ul style="list-style-type: none"> The South Australian Employment Tribunal deals with dust disease claims. You should contact a lawyer. If you were exposed prior to 30.09.1987 your claim is covered by the Workers Compensation Act 1971. This involves making an application against an employer. Otherwise your claim is covered by the Return to Work Act 2014. This involves filing a common law claim. |
| Tasmania | <p>Workers Assist Tasmania w: workerassist.org.au e: workerassist@workerassist.org.au p: 1300 366 322</p> <p>Workers compensation guidelines Asbestos compensation information Asbestos workers compensation guide</p> | <ul style="list-style-type: none"> Six months from the day that the worker first becomes incapacitated by the cancer. The worker must give notice to their employer as soon as possible, verbally, by email or in writing. If the workers is aware of their incapacity and decides to leave their employment, this must be done before you leave. If the cancer causes death, the person claiming on their behalf has six months of becoming aware of the workers death. | <ul style="list-style-type: none"> A worker's claim for compensation form (obtained from the employer). A workers compensation medical certificate from the treating doctor accredited by WorkCover Tasmania. Both completed forms are given to your employers; either to person, or by post. For an asbestos related cancer you must lodge your application with the Asbestos Compensation Commissioner (details are on the form). | <ul style="list-style-type: none"> The employer must give the worker a Notice of Right to Make a Workers Compensation Claim form within 14 days. This can be written or verbal. The employer must forward the claim within five working days. The insurer will contact the worker within 28 days. If a decision has not been made they will supply reasons and what steps the employer/insurer is taking. A decision must be made within 84 days of lodging the claim. | <p>Time limits - where your life expectancy is:</p> <ul style="list-style-type: none"> less than two years: 12 months from when a relevant medical certificate is given to you. more than two years: no time limit. <p>Forms:</p> <ul style="list-style-type: none"> Use Form 1: Asbestos-Related Cancers Seek a referral to an asbestos-related cancers medical specialist for the appropriate medical certificate. |
| Victoria | <p>WorkSafe Victoria w: worksafe/vic.gov.au e: info@worksafe.vic.gov.au p: 1800 136 089</p> <p>Claims process</p> | <ul style="list-style-type: none"> There are no time frames for lodging a claim. A worker should notify their employer as soon as practicable after they become aware of the cancer. | <ul style="list-style-type: none"> A WorkSafe Victoria 'Worker's Cancer Claim Form'. This can be obtained from post offices or downloaded from the WorkSafe website. Certificate of Capacity issued by a medical practitioner. The employer is then required to forward the documents on to their WorkSafe agent. | <ul style="list-style-type: none"> The employer has 10 calendar days to lodge the claim after receiving the worker's cancer claim form. A WorkSafe Agent will tell you if it has been accepted in writing within 28 days. | <p>All employment related cancers are claimed via the same process. The agent then determines the steps required so they are able to assess the claim.</p> |
| Western Australia | <p>WorkCover WA w: workcover.wa.gov.au p: 1300 794 744</p> <p>Workers compensation guidelines</p> | <ul style="list-style-type: none"> Within 12 months of diagnosis (there are some exceptions decided on a case-by-case basis). Three years for asbestos related cancer. | <ul style="list-style-type: none"> A First Certificate of Capacity - you can get this from your doctor. Worker's Compensation Claim Form. | <ul style="list-style-type: none"> The employer has five working days to lodge the Certificate of Capacity and Claim Form with their insurer. The insurer will notify you within 14 days after receiving your claim form. | <ul style="list-style-type: none"> It is recommended workers obtain legal representation or seek information from an asbestos cancer organisation. |

If you require further clarification please contact the Cancer Council legal referral service on 13 11 20.

This fact sheet provides general information and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.

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