

Compensation for work-related cancers



If your work has caused or contributed to you developing your cancer, you may be able to claim compensation. To be eligible for compensation, your work must have ‘substantially contributed’ to the cancer diagnosis. It does not have to be the only reason you developed cancer, or even the main reason.

This fact sheet answers some common questions about compensation for work-related cancer.

Is work-related cancer common?

Exposure to various substances in the workplace can cause cancer.

About 5,000 people are diagnosed with a work-related cancer each year. That is 1 in 10 male workers and 1 in 50 female workers.

What workplace exposures could cause cancer?

Exposure to different substances can result in work-related cancers.

- **Sun**—if you have worked in the sun, you may be at a greater risk of developing skin cancer, including melanoma. Skin cancer is a common work-related cancer.
- **Asbestos, diesel exhaust, vinyl chloride, wood and leather dust, heavy metals, solvents, rubber and pesticides**—exposure to these substances can cause different types of cancers but the most common are lung, nasal, liver, bladder, pancreas, brain or stomach cancers and leukaemia.
- **Ionising radiation**—if you’ve been exposed through the mining or nuclear energy industries, you may be at greater risk of developing several types of cancer.

What compensation is available?

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

- reimbursement for your medical expenses
- weekly payments in place of your wages while you cannot work
- a lump sum amount to compensate you.

If a person dies from a work-related illness or injury, their family is entitled to:

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

Making a claim

If you have cancer and you think that it may be work-related, you should look into whether you are entitled to compensation. It’s important to get legal advice from a lawyer who specialises in workers’ compensation matters. You should do this as soon as possible, as time limits may apply.

You may not have to pay upfront legal fees for a workers’ compensation claim. The insurance company may pay your lawyer’s fees at the end of your claim. However, if a court decides that your claim is fraudulent, the insurance company and your lawyer may ask you to pay for their work and any costs.

In South Australia, WorkCover SA pays the compensation. Employers in SA are required by law to have workers compensation insurance to cover their employees for work-related injury and illness.

The lawyer will help you to make a claim. Usually, the first step is to see a doctor to get a WorkCover medical certificate. The medical certificate confirms that your cancer is work-related. You then submit the certificate to the ‘relevant’ employer, who notifies their insurer. The ‘relevant’ employer is the last workplace where you were exposed to cancer-causing substances. The employer’s insurer will then contact you to get more information.



Compensation for work-related cancers

Compensation for asbestos-related cancers

There are three types of claims for asbestos related diseases in South Australia:

- A workers compensation claim through WorkCover SA
- A compensation claim through the Commonwealth statutory scheme (for current or former Commonwealth or Australian Defence Force employees)
- A common law claim brought against a former employer for damages

Diseases caused by exposure to asbestos

- mesothelioma
- lung cancer
- asbestosis
- asbestos related pleural disease.

Workers' compensation claim

A person exposed to asbestos during their employment and who has developed asbestos disease may be entitled to workers' compensation.

The compensation takes the form of weekly payments of your wage.

Commonwealth Statutory Scheme

If you are or were employed by the Commonwealth or the Australian Defence Force, and your exposure occurred at work, you may be able to make a claim for damages.

The compensation takes the form of weekly payments of your wage plus payment of medical expenses.

Former Defence Force personnel may also be able to claim other entitlements. Contact the Department of Veterans' Affairs for more information.

Common law claim

Regardless of where the exposure occurred, a person who develops asbestos disease can sue for lump sum compensation. A specialist court called the Dust Diseases Tribunal of South Australia (the DDT) deals with these claims.

The claim must be made within three years from the date of the injury (that is, the date you developed asbestos disease).

The compensation paid covers pain and suffering, any voluntary help provided to you (such as by a voluntary carer), medical expenses, future needs, income loss and loss of expectation of life. The Court may also consider exemplary damages if the employer was aware that your exposure to asbestos could lead to the dust disease.

If a person has died from the dust disease, a dependent can make a claim if it is made within 3 years of the person's death

You need a lawyer to make a common law claim, as the process can be complicated. Making one type of claim may prevent you from making another type. It is important to get legal advice from a lawyer who specialises in dust diseases compensation claims.

Where to get help and information

- Cancer Council Legal Referral Service 13 11 20

This fact sheet provides general information, which may be relevant to SA only, and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.

Cancer Council SA, 202 Greenhill Road, Eastwood SA 5063

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