

Compensation for work-related cancers

If your work has caused or partly-caused your cancer, you may be able to claim compensation. Whether or not workers compensation is payable is dependent upon the strength of the association between the workplace exposure and the cancer type.

Is work-related cancer common?

In 2011 about **3.6 million** Australians were exposed to at least one cancer-causing agent (carcinogen) in their workplace. These exposures are 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. Plus about 200 melanomas and 34,000 other skin cancers per year, in Australia, are caused by occupational exposures to UV radiation.

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 types of cancer 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 their related cancers please view Table 2.1 on page 21 of SafeWork Australia's [Deemed Disease in Australia \(August 2015\)](#) report.

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 if still studying)
- 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 safety state or territory 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. However the nature of employment must have caused a significantly greater risk of developing a related type of cancer than if exposure did not occur.

Unlike a statutory claim, a common law claim will require the worker to prove in court that the cancer was caused by the negligence of their employer. Common law damages are not open to all workers with a workers compensation claim. There are legislative provisions, time frames and conditions that need to be met in order to claim for damages at common law; 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 workers compensation claims about which would be best for you.

Generally the first step in making a claim 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 would be 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.

Presumptive Cancer Legislation

The compensation process for specific work exposures and cancers can vary between jurisdictions. In some jurisdictions there are schemes that simplify the compensation process for specific workplace exposures and related cancers. These schemes allow the presumption that the workplace exposure was the cause of the cancer and the onus then lies on the employer to disprove the connection.

The Deemed Disease List

Most states and territories in Australia have a version of the 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 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 simplifies the process to make certain claims on the assumption that there is a high likelihood that the cancer is a result of workplace exposures. You can still apply for workers compensation for cancers that are not included on the list using the normal approach. However, there will need to be sufficient evidence that the workplace exposure significantly contributed to the cancer.

Asbestos-related cancers

Generally, a person diagnosed with an asbestos-related cancer as a result of exposure 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 depending on your jurisdiction (please see Table 1). Your legal entitlements will depend on the state or territory in which you were exposed to asbestos.

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 sped up.

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.*

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 visit Cancer Council Victoria's '[making a claim](#)' page.

Firefighters' compensation

Research suggests that firefighters have an increased risk of developing certain types of cancers related to their work exposure to carcinogens. However, proving causation is difficult as exposure is difficult to measure due to multiple firefighting events and uncertainty about the level and the intensity of carcinogens present. As a result most jurisdictions now have firefighters' compensation laws, however variations exist in the cancers addressed and the time frames you must work to receive compensation (see Table 1).

Table 1: Specific jurisdictional workplace cancer compensation information

					Special arrangements		
	Who to contact	Time to start a claim	Forms to submit	Time frames	Deemed diseases	Asbestos	Firefighters
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 acceptable 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"> Workers' Compensation Claim Form. Medical certificate <p>This must include the precise diagnosis and indicate how the condition is related to employment.</p> <p>Either submit online or give both documents to your employer. They will fill out 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>Under subsection 7(1) of the Safety, Rehabilitation and Compensation Act 1988 the Safety, Rehabilitation and Compensation (Specified Diseases and Employment) Instrument 2017 is listed. This instrument lists and explains the covered deemed diseases.</p>	<p>Comcare has two schemes: 1.Commonwealth Workers' Compensation Scheme (Safety, Rehabilitation and Compensation Act 1988). 2.common law claims (Asbestos-related Claims (Management of Commonwealth Liabilities) Act 2005).</p> <p>All are claimed using the same process. However timeframes may vary.</p>	<p>The Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Act 2011 simplifies compensation for firefighters who develop a listed cancer (on or after 4 July 2011) as a result of their employment.</p> <p>See 'Information for Firefighters on the Firefighters Act' for more information.</p>
	<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. Both completed forms are given to the employer. 	<ul style="list-style-type: none"> The worker must give notice to their employer as soon as possible. The employer must give notification 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>The list of 'diseases related to employment' can be found on page 53 of the Workers' Compensation Regulation</p>	<p>All employment related cancers are claimed via the same process.</p> <p>For imminently fatal workplace asbestos-related diseases (under Section 166AA) the Default Insurance fund must meet the costs of compensation.</p>	<p>ACT Government firefighters are covered by the same Act as the Commonwealth (see above).</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 workers' compensation certificate of capacity. Workers' injury claim form. 	<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 provisional liability within seven days from receiving the workers injury claim form. 	<p>Workers' compensation is governed by the Workers' Compensation Act 1987 (NSW) and the Workplace Injury Management and Workers' Compensation Act 1998 (NSW). Schedule 1 of the Workers' Compensation Regulation 2016 outlines diseases taken to be work related. This list contains limited cancers.</p>	<p>All dust diseases such as mesothelioma are handled by Dust Disease Care within icare (see row below).</p>	<p>The NSW government is currently drafting presumptive legislation bill (August 2018), similar to the Acts that have been adopted in other states and territories.</p>
	<p>icare Dust Disease Care (DDC) icare is responsible work-related compensate-able dust cancer claims (this includes asbestos). w: www.icare.nsw.gov.au e: DDAenquiries@icare.nsw.gov.au p: (02) 8223 6600 or 1900 550 027</p> <p>Applying for compensation with DDC 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 dependant 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 dependants will be restricted to the one off lump sum and weekly benefits. 	<ul style="list-style-type: none"> If you have been diagnosed with a dust disease: complete DDC's, request for a medical examination form. If you have not been diagnosed with a dust disease: complete DDC's application for compensation form. If you have opted to see your local doctor, include a doctor's report from a qualified respiratory specialist stating that you have or are suspected to have a compensable disease. Include pathology reports if you are living with cancer. Sign the 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, DDC aims to process all applications within 60 working days.</p>		<p>Claims are managed by two separate organisations, which process claims separately. If exposure occurred at work, you can make a claim through icare DDC and make a separate claim for lump sum compensations through the Dust Disease Tribunal (DDT).</p> <p>Note: DDC also provides compensation for non-cancer dust diseases, e.g. asbestos related pleural disease, asbestosis, and non-asbestos related dust diseases e.g. silicosis.</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 handicapped 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>The Northern Territory prescribed diseases list can be found in the Northern Territory of Australia – Return to Work Regulations under Schedule 2, regulation 5AB on page 13.</p>	<p>All employment related cancers are claimed via the same process.</p>	<p>The list of cancers and qualifying periods can be found on page 4 under regulation 5B and 5C in the Northern Territory of Australia – Return to Work Regulations.</p>

	Who to contact	Time to start a claim	Forms to submit	Time frames	Deemed Diseases	Asbestos	Firefighters
Queensland	<p>WorkCover Queensland w: worksafe.qld.gov.au e: info@workcover.qld.com.au p: 1300 362 128</p> <p>Further information</p> <p>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>The compensation scheme for Queensland is outlined by the Workers' Compensation and Rehabilitation Act 2003. Queensland currently does not have a list of 'deemed diseases'.</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 	<p>Queensland firefighters are covered by the Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2015. More information and a list of specific cancers can be found on the WorkCover Queensland website.</p>
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 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 the circumstances of the claim. 	<p>Under the Return to Work Act 2014, Schedule 2 (page 158) lists the injuries presumed to arise from general employment.</p>	<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. 	<p>Schedule 2A of the South Australia Workers' Rehabilitation and Compensation (Firefighters) Amendment Act 2013 lists the injuries presumed to arise from employment as a firefighter.</p>
Tasmania	<p>WorkSafe Tasmania w: worksafe.tas.gov.au e: wstinfo@justive.gov.au p: 1300 366 322</p> <p>Workers' Compensation guidelines</p> <p>Asbestos compensation information</p> <p>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 worker is aware of their incapacity and decides to leave their employment, this must be done before they leave. If the cancer causes death, the person claiming on their behalf has six months after becoming aware of the worker's death. 	<ul style="list-style-type: none"> A worker's claim for compensation form (obtained from the employer). A workers' compensation medical certificate signed by a medical practitioner. Both completed forms are given to your employers; either in 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>A list of presumptive occupations and diseases can be found in Schedule 1 of the Workers Rehabilitation and Compensation (Deemed Diseases) Notice 2017.</p> <p>More information can be found on WorkCover Tasmania's website under deemed diseases.</p>	<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. <ul style="list-style-type: none"> Use form, Asbestos-Related Diseases Claim for Compensation (worker). Seek a referral to a medical specialist, within the field of asbestos-related diseases, and have them use form 9a (initial medical certificate for asbestos-related diseases compensation). 	<p>Under the Workers Rehabilitation and Compensation Act 1988 there is a presumption that specific cancers developed by firefighters are work related. Information can be found under Schedule 5 and Regulation 5.</p>
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 Injury 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>Victoria's list of 'proclaimed diseases' can be found under Section 51 of the Workers Injury Rehabilitation and Compensation Act 2013.</p>	<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>	<p>Currently there is no presumptive legalisation that specifically covers firefighters (August 2018).</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). 	<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. 	<p>A list of compensable industrial diseases is outlined in the Workers Compensation and Injury Management Act 1981, Part III, Division 3. The description of the disease and related process is explained in Schedule 3.</p>	<p>It is recommended workers obtain legal representation or seek information from an asbestos cancer organisation.</p>	<p>The Workers' Compensation and Injury Management Amendment Act 2013 implements presumptive workers' compensation laws for career firefighters. Schedule 4A contains information about the specific cancers covered.</p>

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.

Call us on 13 11 20
cancer.org.au/workcancer

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