



Employee's guide to workers' compensation



Your employer's reconsideration

If you request a reconsideration of your employer's decision, your employer has 60 days from the receipt of your request to reconsider your claim for workers' compensation.

As part of this process, your employer must arrange to have Comcare or an Industry Panel assist them with their reconsideration decision (at present, no Industry Panels operate in the Seacare jurisdiction).

Your employer must then provide you with:

- a notice in writing setting out the terms of the reconsideration
- the reasons for the decision
- a statement indicating that you may apply to the Administrative Appeals Tribunal (AAT) for review of the decision.

Review by the AAT

If you disagree with your employer's reconsideration decision, you can apply to have the reconsideration reviewed by the AAT.

The AAT provides an independent review of your employer's reconsideration decision based on all the facts and evidence and will provide a legally binding and enforceable decision. A review by the AAT involves a number of steps to resolve your dispute. This can include pre-hearing conferences, conciliation and where necessary a hearing.

Request for documents relevant to your claim

You are entitled to obtain any documents held by your employer that relates to your claim at any time. To do so, you must make a written request to your employer for documents in their possession that relate to your claim. Your employer must provide you with the requested documents unless they have a reasonable excuse not to.

If your claim is accepted

Payment of compensation

If your employer accepts your claim for workers' compensation, your employer should pay your compensation as soon as possible. If an employer accepts a claim for permanent impairment or death benefits, compensation must be paid within 30 days of the decision. If not, interest is payable on the compensation amount from the end of the 30 day period until the day the compensation is paid.

How much compensation will you receive?

In general, workers' compensation is designed to keep you in the same financial position you would have been if you hadn't suffered an injury at work. This means that you will be entitled to receive compensation for the costs and expenses reasonably incurred as a result of your injury, including loss of income, medical expenses and the cost of rehabilitation.

If you are permanently injured, you may be entitled to receive a lump sum payment that is determined by your degree of impairment.

Please refer to *Seacare brochure 1—Workers' Compensation Guide* for details of entitlements under the *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act).

Getting back to work

If, as a result of your injury, you are unable to work, your employer has an obligation to assist you to safely return to work as soon as practicable. If your injury lasts, or is expected to last, 28 days or more, your employer must arrange for an assessment of your capacity to undergo rehabilitation. Rehabilitation may include vocational rehabilitation and retraining.

If you are assessed as capable of undertaking a rehabilitation program, your employer must arrange for you to undertake an appropriate rehabilitation program provided by a Comcare approved rehabilitation provider. Prior to doing so, your employer must speak to you about the selection of the rehabilitation provider and the development of an appropriate rehabilitation program. The cost of any rehabilitation program must be paid by your employer.

You are required to attend both the examination of your capacity to undergo rehabilitation and any subsequent rehabilitation program. If you do not, without a reasonable excuse, your right to compensation may be suspended.

If you are undergoing or have completed a rehabilitation program, your employer must take all reasonable steps to provide you with suitable employment or to help you find suitable employment.

Please refer to the *Seafarers Rehabilitation and Return to Work Guide* for more information on rehabilitation and returning to work.

Alternatives to workers' compensation

One alternative to making a workers' compensation claim is to take common law action. This is the process of suing an employer for damages in relation to your injury.

In the Seacare scheme, you may only take common law action against your employer where a permanent impairment benefit is payable. That is, in circumstances where you are assessed as suffering from a whole person impairment of 10 per cent or more.

If you decide to take this option, the decision is irrevocable. That is, once you notify your employer in writing of your decision to take common law action you cannot claim any further compensation under the Seafarers Act. The maximum amount of damages that can be awarded to you for a common law action is \$138,570.52.

Further Information

Further information is available from:

The Seacare Authority
GPO Box 9905
CANBERRA ACT 2601

Telephone: (02) 6275 0070
Email: seacare@comcare.gov.au
Website: www.seacare.gov.au

Purpose of this guide

This brochure provides an outline of the workers' compensation process in the Seacare scheme and details the rights and responsibilities of employees.

What to do if you injure yourself at work

- 1. Report your injury to your employer immediately

You should provide written notice to your employer of any accident, injury or illness as soon as possible. If your employer does not have an incident report form for this purpose, you can provide written notice by letter or email.

- 2. Seek medical attention

As soon as possible after an accident, injury or illness you should seek medical attention and, where appropriate, obtain a medical certificate from a qualified medical practitioner which gives a diagnosis of your injury and details all other relevant information.

- 3. Make a claim for workers' compensation

In general, you can make a claim for workers' compensation if your injury or illness occurred:

- while you were on board a vessel on which you were employed; or
- while you were temporarily absent from that vessel on an ordinary break in your employment; or
- while you were travelling between your place of residence and workplace; or
- while undergoing a required course of training.

You will be entitled to workers' compensation payments if your injury or illness was materially caused by or contributed to by your employment.

How to make a claim for workers' compensation

Workers' compensation benefits and entitlements

If you have suffered an injury or illness at work, workers' compensation benefits are available for:

- medical treatment and related expenses
- loss of earnings where a seafarer is incapacitated for work
- permanent impairment
- non-economic loss
- household and attendant care services
- the cost of replacing or repairing an artificial limb or similar aid
- hospital maintenance
- death benefits
- funeral expenses.

Please see *Seacare brochure 1—Workers' Compensation Guide* for further details.

How to make a claim

To make a claim for one or more of the above benefits, you must give your employer, as soon as possible after you suffer an injury:

1. a completed *Seacare Claim form*
2. a medical certificate from a qualified medical practitioner stating the nature of your injury or illness
3. if you are claiming against multiple employers, a notice setting out the details of the other employers against whom you are also making a claim.

Seacare claim forms

You can obtain Seacare claim forms from your employer (on board or on shore), your union, or the Seacare Authority. The following Seacare forms are available:

- *Claim for workers' compensation*
- *Claim for permanent impairment and non-economic loss*
- *Claim for compensation for a work-related death.*

Claim forms are also available at the Seacare Authority's website at www.seacare.gov.au.

If your employer no longer exists

If your employer has gone out of business or no longer operates and there is no insurance cover for your claim, the Seafarers Safety Net Fund will take the place of your employer.

In these circumstances, all information should be provided to the Seafarers Safety Net Fund (care of the Seacare Authority) which will take on your employer's role and responsibilities to decide and manage your claim.

After you have made a claim for workers' compensation

Making a decision

In the Seacare scheme, your employer is responsible for determining your claim for workers' compensation and paying your compensation entitlements. This means that after receiving your claim, your employer must decide:

- whether you have suffered an injury or illness
- if so, whether your injury or illness was caused by or contributed to by your employment.

To correctly make this decision, your employer may need further information. Accordingly, your employer is entitled to:

- ask you to provide any additional information or documents you may possess that are relevant to your claim
- require you to undertake a medical examination (an employer however is responsible for the costs associated with the examination, including reasonable travel).

In the Seacare scheme employers are required to have workers' compensation insurance. This means that insurance companies are also often involved in deciding and managing your claim for workers' compensation.

Time limits for decisions

Your employer must decide your claim for workers' compensation within the following time limits:

Claim type	Time limit for decision
Incapacity	12 days from the day your employer receives your claim
Loss of, or damage to, property	12 days from the day your employer receives your claim
Medical treatment	12 days from the day your employer receives your claim
Permanent impairment	30 days from the day your employer receives your claim
Death benefit	60 days from the day the employer receives the claim

All references to 'days' in this brochure mean calendar days.

These time frames may be extended where, within that time limit, your employer notifies you in writing that further information is required.

If your employer has not decided your claim within the above time limits, your claim is taken to have been rejected.

Your employer's decision

After deciding your claim, your employer must determine your claim within the above time limits. Once determined, your employer must notify you of the decision. Your employer must provide you with:

- a notice in writing setting out the terms of the decision
- the reasons for the decision
- a statement indicating that you can request a reconsideration of the decision.

If you disagree with your employer's decision

Request for reconsideration

If you disagree with your employer's decision in relation to your claim for workers' compensation you can request a reconsideration of the decision.

Also, if you do not receive a decision from your employer, or do not hear from your employer, within the time limits outlined above, your claim is taken to have been rejected. At this time you are also entitled to request a reconsideration.

A request for reconsideration must be in writing and must be provided to your employer within 30 days from the day you receive your employer's decision. It must set out the reasons for your request.