Summary of Legislation

WORKERS' REHABILITATION AND COMPENSATION ACT 1988

Summary to be Posted up at Workplaces

Entitlement to Compensation

A worker is entitled to claim compensation if he/she suffers an injury or disease which arises out of and in the course of his/her employment and in the case of diseases, to which his/her employment has contributed to a substantial degree.

Injury includes the recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease where employment was the major or most significant contributing factor to that recurrence, aggravation, acceleration, exacerbation or deterioration.

Injuries occurring whilst the employee is travelling to or from work, on a meal/rest break and away from the workplace or during a social or sporting activity away from the workplace are not generally compensable unless undertaken at the request or direction, or with the authority of the employer.

Notice of Injury

Notice of the injury should be given to the employer as soon as practicable after the injury happens and before the worker has voluntarily left the employment in which he/she was at the time of the injury.

The notice may be given orally or in writing to the employer, or any person designated for the purpose by the employer, or any person under whose supervision the worker is employed. If there is more than one employer, the notice may be given to any one of those employers. The notice shall include the name and address of the person injured, the nature of the injury, the date on which it occurred and the cause of the injury.

Claim for Compensation

A claim for compensation shall be made on a claim form approved by Workcover Tasmania Board and be accompanied by an approved medical certificate from an accredited medical practitioner. The claim may be personally given to the employer or a person designated by the employer for that purpose. If there is more than one employer, the claim can be given to one of the employers. A claim may be posted to the employer, or one of the employers at the employer's usual or last known place of business or residence in a properly addressed envelope.

A claim should be made within six months of the date of the injury or in the case of death, within six months of the date of death. In the latter case, the claim may be lodged by the legal personal representatives or by the dependent of the deceased worker. Failure to make a claim within six months is not a bar to the recovery of compensation if the failure was occasioned by mistake, absence from the State or other reasonable cause. There are substantial penalties for the making of fraudulent claims.

Disputed Claims

An employer has 84 days from receiving a claim to refer any dispute relating to a claim for compensation to the Workers Rehabilitation and Compensation Tribunal for determination. In the first instance, advice may be sought from the Information Officer, Workers' Rehabilitation and Compensation on 1300 366 322. A Tribunal Registrar may attempt to resolve the matter by consultation or conciliation between the parties.
Weekly Payments

Weekly payments of compensation must commence, if it is reasonably practicable on the first pay after receipt of a claim for compensation was received by the employer, or, in any other case, not later than 14 days after receipt of the claim. In the event that the claim is to be disputed these payments are made on a “without prejudice” basis and must continue until the claim is accepted or the Tribunal finds that there is a genuine dispute.

A worker who is entitled to compensation as a result of an injury should receive weekly payments equal to the normal weekly earnings (NWE) averaged over the 12 months preceding the date of incapacity or his ordinary time weekly rate of pay in the employment in which he was engaged immediately prior to the commencement of incapacity - whichever is greater. Note that the calculation of NWE generally will include only overtime paid on a regular and uniform basis. Weekly compensation benefits will step down to 90% after the first twenty six weeks and to 80% after 78 weeks.

Payments of weekly compensation expire 9 years after the date of the initial incapacity.

Injury Management

The Act provides for the payment of all reasonable and necessary medical expenses incurred by a worker as a result of injury. If deemed unreasonable the employer must formally dispute liability to pay them through the Tribunal.

Rehabilitation

The Act imposes a responsibility on injured workers to undertake or participate in rehabilitation programs or suitable duties provided for them. An employer is obliged to hold open a position for 12 months following an injury except where the job no longer exists or it is not reasonably practicable to do so. In addition, employers are now required to provide suitable alternative duties for 12 months following incapacity unless it can be shown not to be reasonably practicable.

An employer is required to prepare a return to work plan for any employee who is incapacitated for more than 14 days. This plan is prepared in consultation with the injured employee within 5 days of the 14 day limit being reached and sets out steps proposed to assist the return to work.

Employers with more than 20 staff must develop a rehabilitation policy and display this in the workplace and employers of more than 50 workers must provide a rehabilitation coordinator, a person who is responsible for coordinating the timely and safe return to work of a worker in accordance with the employer's rehabilitation policy.

Worker's Right to Information

The employee is entitled to obtain details of an employer's insurer and workers' compensation insurance policy

Further Information

For the purpose of the Act Mrs Cheryl Hughes is the person designated by the University of Tasmania to receive all workers' compensation claims and Lyndall Hannaford from Hannaford Allen has been appointed as the rehabilitation coordinator. Workers may contact Cheryl in Human Resources at the University of Tasmania on (03) 6226 7877.

(This summary satisfies the requirements of Section 152 of the Act)

Last Updated
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