

QUICKLAW

ANSWERS YOUR QUESTIONS

WORKPLACE INJURIES

What is an "occupational injury"?

- An "occupational injury" means an accident arising in the course of an employee's employment resulting in temporary or permanent disablement.
- This means that you must have been injured while you were working but does not have to mean that the injury happened on your employer's premises. eg. If you were driving a motor vehicle for work purposes and you were involved in an accident in which you were injured.

What happens if you are injured at work?

You can claim compensation from the Compensation Fund.

What is the Compensation Fund?

- The Compensation Fund is a trust fund controlled by the Compensation Commissioner.
- All employers should contribute money towards the fund every month.
- Employees will be paid even if the employer does not exist anymore, eg. if the employer dies or becomes bankrupt.

What must be reported to the Compensation Fund?

All accidents that occur at work resulting in doctor's bills and/or absence from work for more than 3 days.

What is the procedure I must follow?

1. Report the accident to your employer as soon as possible.
2. Consult with a doctor or registered medical practitioner. The doctor must complete a medical report and send it to the Commissioner within 14 days of the accident.

3. Your employer must also report the accident to the Commissioner within 14 days after he or she becomes aware of the accident. It is a criminal offence for an employer to delay the reporting of an accident.

What if my employer does not report the accident?

- Lodge the claim yourself within 12 months after the date of your work accident.

Can the Compensation Commissioner refuse to pay compensation?

Yes, if:-

1. The employee gives false information about the accident or disease.
2. The person's condition deteriorated because he or she refused medical treatment, before or after the accident.
3. The Compensation Commissioner decides that the injury did not occur during the course and scope of the employment.
4. The injury lasted for 3 days or less.
5. Your employer is not registered with the Compensation Fund and does not pay levies.

What must I do if my employer is not registered with the Compensation Commissioner?

You may have a civil claim against your employer.

Can I recover money from a co-worker?

Yes, if you can prove your co-worker was responsible for the accident.

How do I claim money from the co-worker?

You should still claim compensation from the Fund as well as sue your co-worker for damages. The employer or Commissioner may also institute action against the co-worker to claim compensation.

What are the legal rules on compensation (the money I receive from the fund)?

- The compensation may not be set off against any debt.
- It may not be taxed.
- You can spend the money you receive from the Fund in any way you like.

What happens if an employee dies because of an injury on duty or during the scope of his / her employment?

If the employee dies, the following documents must be submitted to the Compensation Commissioner by his/her dependents without delay:

- The Death Certificate.
- A marriage certificate, if applicable.
- Birth certificates of widow / widower and children, if applicable.
- A claim for compensation.
- A statement by the widow / widower / mother / father / children.
- The funeral costs.

Who is a dependent?

A dependent of an employee includes:

- A widow or widower.
- A widow or widower who was married according to customary and/or religious law.
- If there is no widow or widower, a person with whom the employee was at the time of the employee's death, living as husband and wife.
- His or her child under the age of 18 years. This also includes a child born after it's fathers death, step-child, an adopted child and a child born out of wedlock; and
- Any other person who was in the opinion of the Director-General at the time of the employee's death financially dependent upon the employee.

KEY:

1. EMPLOYEE - a person who works for another in return for wages
2. EMPLOYER - a person or firm that employs people
3. EMPLOYMENT - having a job
4. COMPENSATION - a suitable payment in return for loss/damage
5. WIDOW - a woman whose husband has died
6. WIDOWER - a man whose wife has died
7. LOSS OF SUPPORT - a claim for money from someone who supported you.