

We have specialist solicitors for each area of law in which you might require assistance including:

- Car Accident Injury Claims
- Commercial Litigation
- Criminal Law
- Employment Law (Unfair Dismissal & Underpayment Claims)
- Equal Opportunity / Discrimination Claims
- Estate Disputes & Inheritance Claims
- Family Law
- Migration Law
- Personal Injury / Public Liability Claims
- Probate & Letters of Administration
- Traffic Charges
- Victims of Crime Claims
- Wills / Powers of Attorney & Advance Care Directives
- Workers Compensation



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## WORKERS COMPENSATION IN SOUTH AUSTRALIA



Established in South Australia, our professional, friendly and supportive team is committed to providing you with the highest standards of service.

Our goal is to relieve the stress of your situation by providing sound advice and professional legal assistance.

To this end our Service Charter is based on six fundamental principles:



### Respect

We work for you and acknowledge that as our client you deserve our attention and respect at all times.



### Quality Service

We listen to your needs and ensure that you are fully informed and properly advised at all key stages.



### Professionalism

We have the experience, competence and skill necessary to provide the legal service you need.



### Knowledge

Through continuous and ongoing research and training we are up to date on all aspects of our areas of speciality.



### Honesty & Integrity

At all times we will be open and honest and follow through on our commitments to you.



### Best Outcomes

We work hard to achieve the best outcome for you in the circumstances of your case.

We look after our clients and build a relationship of trust so that they are confident to come back whenever they need a lawyer.

In South Australia, the Return to Work scheme is a no-fault compensation scheme. This means that a worker does not have to establish negligence on the part of the employer in order to apply for compensation for a work-related injury.



### Who is a “worker”?

To be able to claim workers compensation you have to be a “worker” under the Return to Work legislation.

A “worker” is anyone who is employed to perform work under a contract of service on a full time, part time, or casual basis. A contract of service can be express or implied and a written or verbal arrangement.

Whether you are a “worker” will depend on the nature of your relationship with the person or business that employs you. The term “worker” has a broad definition and can apply even if there is no clear employer or employee relationship.

A person who is an independent contractor is generally not considered a “worker”. However, even if you believe that you are an independent contractor, if you are treated in a manner that is inconsistent with that arrangement, you may still be considered a “worker”.

Even if you are a contractor, but you perform a certain type of work that is of a “prescribed class” under the Return to Work legislation, then you may also be deemed to be a “worker” and therefore still entitled to compensation.



This can include building work, cleaning, taxi driving, driving a vehicle for a local government and paid by the local government, driving a vehicle other than a commercial vehicle for payment, or working as an entertainer.

There are a number of factors that need to be taken into account to determine whether you can claim workers compensation. Whatever arrangement you are engaged under, if you have been injured at work you should seek legal advice.

### What can you claim?

If your claim for compensation is accepted, you will be eligible for some, or all, of the following entitlements depending on the circumstances of your claim:

1. Income maintenance for the period you are unfit to return to work or fit to return to modified duties;
2. Reasonable medical expenses for treatment of your work-related injuries;
3. Rehabilitation assistance
4. Job seeking assistance
5. Retraining assistance
6. Assistance at home (for example, a hired carer, gardener, cleaner to assist in your daily activities if you are unable to perform them due to your injury
7. Lump sum compensation for loss of income and/or pain and suffering

Under the Return to Work Act an injured worker is entitled to income maintenance payments for a period of 2 years from the date of injury (where they are incapacitated for work) and medical treatment expenses for 3 years from the date of injury.

At the end of the 2 year and 3 year periods a worker’s entitlements cease unless they are classified as a “seriously injured worker”. In a situation where a worker’s income maintenance entitlements stop prior to the end of 2 years then they would receive ongoing medical treatment for a further 12 months after that point.



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### Seriously injured workers

A “seriously injured” worker is a person with an accepted claim and where their permanent impairment is assessed at being 30% Whole Person Impairment or more.



If you are classified as a “seriously injured worker”, you will be eligible for income maintenance (where you are incapacitated for work) and reasonable medical expenses paid to retirement.

One of the most significant decisions that a “seriously injured worker” has to make is whether to pursue ongoing income maintenance and medical expenses until retirement or to seek redemption of future entitlements. A redemption payment is a lump sum paid to you now that means you can no longer claim further compensation for the injury.

### Review proceedings

If there is an unreasonable delay by Return to Work SA in making a decision to accept your claim for compensation, or to accept some other entitlement, you are able to apply to the South Australian Employment Tribunal to compel a decision.

If you are unhappy with a decision made by Return to Work SA, you may be able to have the decision reviewed in the South Australian Employment Tribunal.

The new process in the South Australian Employment Tribunal is complex and involves strict time limits and rules.

It is advisable that you seek legal advice immediately if you receive a decision that is unfavourable to you to find out if your decision is reviewable, and to receive more detailed information about the process in the South Australian Employment Tribunal.

### Other types of claims

Where it can be proved that your injury occurred because of the negligence of someone else you might also be able to claim damages in addition to workers compensation.

You are only able to sue your employer for being negligent if you are classified a “seriously injured worker”.

If you are employed by a person or business, but are contracted out to work for another person or business, you are potentially able to sue that third party for negligence if you are injured while performing work duties for them.

It is important to obtain advice from an experienced injury lawyer to identify any other claims that you might be able to make. If you have been injured at work, Websters Lawyers can assist you to make sure that you obtain the full amount of compensation to which you are entitled.



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