

Dependants of Deceased Workers Claim Form

Workers Compensation Tasmania

This form is required to make a claim for compensation by a dependant of a worker who has died as a result of a work related injury or disease.

We understand it is a difficult time after losing a family member. You may ask someone else to help you or to complete this form on your behalf.

If you have questions about the claim process you can phone WorkSafe Tasmania on 1300 366 322 or visit worksafe.tas.gov.au. You can also talk to the deceased worker's employer. Worker Assist Tasmania provides free, independent and confidential advice about workers compensation. You can call them on (03) 62 167677 or visit their website, www.workerassist.org.au.

CLAIMANT SECTION

Who can claim and entitlements

Dependants of a deceased worker

- When a worker dies from a work-related injury or disease, their dependants may be entitled to compensation. Compensation can include:
 - » weekly wage payments
 - » lump sum payment
 - » compensation for the worker's medical expenses
 - » compensation for counselling costs
 - » compensation for burial or cremation costs.
- For more information on entitlements see the additional information section of this form (on page 5 & 6).

Non-dependent family members

- When a worker dies from a work related injury or disease and there are no dependants, family members who are not dependent can claim for burial or cremation costs. Non-dependent family members can also claim for reasonable counselling costs.
- For more information on entitlements see the additional information section of this form (on page 5 & 6).

How to claim

- If completing by hand, please ensure answers are legible and use a dark pen. Use an X when selecting options.
- Complete this form and forward it to the deceased worker's employer as soon as possible but within six months of the worker's death.
- You can email the completed form to the worker's employer if you have the appropriate email address, or you can post or hand deliver it. If in doubt, post it to the employer's usual business address.
- The claimant can include details of other dependants/non-dependent family members on this form in sections 4 and 5. That is, one claim form can be completed for multiple dependants/non-dependent family members.
- Keep a record of your submitted claim form and other relevant paperwork and correspondence.
- The worker's employer must complete their section of the form and forward it to their insurer* within 5 working days.
- The worker's employer or its insurer must notify you of the status of your claim within 28 days, and has up to those 28 days to make its final decision to accept liability or dispute the claim.
- You may ask someone else to help you fill in this form if you wish.

* Unless your employer is a self-insurer or State Government, who manage the claims internally.

1. Claimant's details (the person who is making this claim)

Given name(s):

Surname:

Email:

Contact phone number:

Date of birth: | |

Residential address:

Suburb:

State:

Postcode:

Postal address:

Same as above

Different:

Suburb:

State:

Postcode:

Do you consent to receive communication about your claim electronically?

You will need to monitor emails regularly as time limits apply to claiming compensation.

Yes

No

Preferred language (if not English):

Do you require an interpreter? Yes

No

2. Deceased worker's details

Given name(s):

Surname:

Date of birth:

/ /

Residential address
prior to death:

Suburb:

State:

Postcode:

How do you describe the worker's gender?

Gender may be different to sex recorded at birth and may be different to what is indicated on legal documents.

Woman or female

Man or male

Non-binary

Prefer not to answer

They used a different term. Please specify:

Name of employer:

Worker's occupation at time of injury/disease:
eg. welder, primary school teacher.

At the time of injury/disease did the worker have any other paid work?

Yes

No

Unknown

Details:

3. Relationship to the deceased worker

What is your (the claimant's) relationship to the deceased worker?

4. Dependants' details

In this section include details of all dependants of the deceased worker. This includes:

- the claimant (the person listed in Section 1) if they are a dependant.
- any children (including unborn children) of the worker. In the case of unborn dependants, date of birth should be left blank, and relationship to the worker should be listed as 'unborn child'.
- any other dependant of the worker.

For the definition of a dependant, refer to the additional information section on page 5 of this form.

If non-dependent family members of the worker are claiming for burial/cremation costs and/or counselling costs, complete Section 5 of this form.

If you do not have enough space you can attach extra documents to this form.

Separate claims can be made if there are claimants who are not known to each other, for example, a current partner and a former partner.

Dependant 1

Same as claimant details (section 1)

Different to claimant details (section 1). *Fill out below.*

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

Dependant 2

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

Dependant 3

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

Dependant 4

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

Dependant 5

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

5. Non-dependent family members details

If there are no dependants, family members of the deceased worker who are not dependent on the deceased worker can use this section to claim for burial or cremation costs. This section can also be completed if non-dependent family members are claiming for reasonable counselling costs. Include details of all non-dependent family members including the claimant (who is completing this form) if they are a non-dependent family member. If you need more space attach extra documents to this form.

Family member (non-dependent) 1

Same as claimant details (section 1)

Different to claimant details (section 1). *Fill out below.*

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

What is being claimed?

You can choose one or both of the options.

Burial or cremation costs

Reasonable counselling costs

Family member (non-dependent) 2

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

What is being claimed?

You can choose one or both of the options.

Burial or cremation costs

Reasonable counselling costs

Family member (non-dependent) 3

Given name(s):

Surname:

Date of birth: / /

Relationship to worker:

Contact number:

Email:

Residential address:

Suburb:

State:

Postcode:

What is being claimed?

You can choose one or both of the options.

Burial or cremation costs

Reasonable counselling costs

6. Your declaration (required)

I declare that the information I have provided in this claim form and any supporting documents is true and correct to the best of my knowledge.

I acknowledge that it is an offence to make a false and misleading statement in connection with my claim (under section 153 of the *Workers Rehabilitation and Compensation Act 1988*).

Signature:

Full name:

Date:

/ /

Next steps

- Make sure you have completed the claimant section and signed your declaration.
- Forward this form to the deceased worker's employer. You can email, post or hand deliver it. If in doubt, post it to the employer's business address.
- It is recommended you check that the employer has received your claim form.
- Keep records of any documents and correspondence including dates.
- Forward any invoices for medical, funeral or counselling expenses to the employer as soon as you receive them.
- The employer must start making weekly payments to you on the next pay day, after the claim is lodged, or if that is not possible, no later than 14 days after receiving the claim. However, if the worker's pay day is more than 14 days after the claim was lodged, they must start weekly payments on that pay day to the dependent spouse or caring partner (see additional information section of this form for more information).
- The employer or their insurer may contact you to seek further information/documents such as:
 - » death certificate
 - » marriage certificate
 - » details about de-facto relationship
 - » children's birth certificate
 - » children's education enrolment details
 - » documents that show the dependency on the earnings of the deceased worker at the time of death.
- Contact WorkSafe Tasmania or Worker Assist Tasmania if you need help.

Additional information

Compensation to dependants of deceased workers ('death benefits')

When a worker dies from a work-related injury or disease, their dependants may be entitled to compensation. This may include:

- weekly wage payments
- lump sum payment
- compensation for the worker's medical expenses
- compensation for counselling costs
- compensation for burial or cremation costs.

Definition of a dependant

Dependants are members of the deceased worker's family who:

- would have been wholly or partially dependent on the earnings of the worker, had the worker not have died from a work-related injury or disease.

This includes the worker's spouse or caring partner. A spouse is a person who was in a significant relationship with the worker at the time of his or her death within the meaning of the *Relationships Act 2003*. A caring partner is a person who was in a caring relationship with the worker which was the subject of a deed of relationship registered under the *Relationships Act 2003*.

A dependent child is a person who is:

- a family member of the worker
- under the age of 16 years, or
- 16 years of age or more, but less than 21 years of age and is a full time student and who is partially or totally dependent on the worker.

Weekly payments: dependent spouse or caring partner

A dependent spouse or caring partner is entitled to weekly payments, paid as,

- 100% of the deceased worker's normal weekly earnings/ordinary time rate of pay for the first 26 weeks following the date of death, then;
- 90% of the deceased worker's normal weekly earnings/ordinary time rate of pay for the period over 26 weeks

and up to 78 weeks from the date of death, then;

- 80% of the deceased worker's normal weekly earnings/ordinary time rate of pay for the period over 78 weeks and up to 2 years from the date of death.*

* If the worker dies more than 78 weeks after sustaining the work-related injuries that caused their death, their dependent spouse or caring partner will be entitled to 80% of the deceased worker's normal weekly earnings or ordinary time rate of pay, from the date of death, and up to 2 years from the date of death.

A dependent spouse or caring partner has no further entitlement to weekly payments after 2 years from the date of death.

The employer must start making weekly payments to a dependent spouse or caring partner upon receiving a claim, regardless of whether the employer disputes the claim. These payments are not considered an admission of liability.

Weekly payments: dependent children

Dependent children are entitled to weekly payments paid on a different basis. Instead of being paid a proportion of the deceased worker's normal weekly earnings or ordinary time rate of pay, they are entitled to weekly payments of 15% of the basic salary.

These weekly payments start 13 weeks from the date of the worker's death and continue until the child reaches 16 years of age (or 21 years of age if a full-time student). They are paid to the child's parent or guardian where the child is under 18.

Lump sum compensation to dependants

Dependent spouses, caring partners and children may also be entitled to lump sum compensation. When a worker dies as the result of a work-related injury, the total maximum amount of lump sum compensation available to the dependants is 415 units (one unit is equal to the basic salary).

The amount of the lump sum and the way it is distributed depends upon the dependants of the deceased worker and their degree of dependency on the deceased worker. The

distribution of the lump sum is set out in accordance with section 67(2) of the *Workers Rehabilitation and Compensation Act 1988*.

In a situation where the deceased worker had no dependent spouse, caring partner or children, another family member or members may be entitled to lump sum compensation if the worker had been contributing towards the maintenance of that family member's home immediately before suffering the work-related injury. The amount of the lump sum the family member/s is/are entitled to is calculated on the basis that they were partially dependent on the deceased worker.

Compensation for medical expenses

The worker's dependants are entitled to compensation to cover expenses incurred for any of the following services that the worker received as a result of the work-related injury:

- medical services
- hospital services
- nursing services
- constant attendant services
- rehabilitation services
- household services
- road accident rescue services
- ambulance services.

These expenses must be both reasonable and necessary.

Compensation for counselling costs

When members of a deceased worker's family require counselling services following the worker's death, they are entitled to payment of reasonable costs up to a maximum set out in the *Workers Rehabilitation and Compensation Regulations 2021*.

Counselling services are services provided to a person to help them cope with the psychological impact of the death of a worker. These services must be provided by a counselling

professional: a medical practitioner, registered psychologist, social worker or a counsellor who is a member of or has qualifications recognised by the Australian Counselling Association.

Compensation for burial or cremation costs

When a worker has died as a result of a work-related injury or disease, their dependants are entitled to compensation for reasonable expenses for the worker's burial or cremation. When there are no dependants, family members who are not dependants can claim for burial or cremation costs. The maximum amount of compensation available is defined in the *Workers Rehabilitation and Compensation Regulations 2021*.

Disputing liability to pay weekly payments to dependants

An employer or insurer has 28 days from the date of receiving a claim for compensation to dispute liability to pay weekly payments to dependants.

If the employer or insurer disputes liability, they must, within the 28 days:

- serve the dependants with a written notice indicating that liability is disputed and the reasons why, and
- refer the matter to the Tasmanian Civil and Administrative Tribunal.

TASCAT will then determine whether there is a reasonably arguable case that the employer is not liable. If TASCAT determines that there is a reasonably arguable case, TASCAT must find that weekly payments are not payable to the dependant/s. It is then up to the dependant to refer the matter back to TASCAT for determination.

If the employer does not dispute liability in accordance with the above processes, the employer is taken to have accepted liability.

Personal and health information

The deceased worker's employer and/or their employer's insurer need to collect, use and share personal and health information about the deceased worker and dependants to assess, manage, investigate and otherwise deal with this claim, subject to the limitations provided in Section 158 of the *Workers Rehabilitation and Compensation Act 1988*.

Personal and health information may be **collected** from current, previous and future employers of the deceased worker, medical practitioners, health service providers, other service providers, government agencies, and any other person or organisation authorised by you, or by law.

The deceased worker's employer/employer's insurer may **disclose** personal and health information with medical practitioners, other health service or service providers, legal practitioners, any other party providing services to the

insurer or any agent of these, insurance intermediaries, or another insurer in relation to this claim, and any other person, organisation or government agency authorised by you, or by law.

In addition, the deceased worker's employer/employer's insurer are required under the *Workers Rehabilitation and Compensation Act 1988*, to **provide information** about all workers compensation claims to WorkCover Tasmania, who may **use and disclose** this information in accordance with *Workers Rehabilitation and Compensation Act 1988* for regulatory monitoring, reporting and research purposes.

All parties who handle your information have obligations to comply with privacy laws that deal with the collection, use, storage and disclosure of personal and health information, and the *Workers Rehabilitation and Compensation Act 1988*.

END OF CLAIMANT SECTION.

The deceased worker's employer needs to complete the next section..

EMPLOYER SECTION

This section needs to be completed by the deceased worker's employer.

Completing this form

- You will need to know the details of your workers compensation insurance company.
- Review the claimant's section, ensuring they have completed all relevant questions.
- Complete all questions in the employer section.
- If completing by hand, please ensure answers are legible and use a dark pen. Use an X when selecting options.

1. Employer details

Employer's legal name:

eg. registered company name, State Government agency, partnership, sole trader's name.

Employer's trading name or State Government division:

Australian business number (ABN):

Workers compensation insurance policy number (if known):

Employer's business address:

Suburb:

State:

Postcode:

Contact person

This should be someone who is able to discuss and make decisions about the claim.

Name:

Position:

Phone no.:

Email:

2. Details relating to the death of the worker

Date of fatal injury:

/ /

Time of fatal injury (if known):

:

AM

PM

Date of death (if different):

/ /

In the case of a disease:

Date of diagnosis (if known):

/ /

Date of death:

/ /

Date when the worker became totally or partially incapacitated, that is, unable to do some or all of their job (if applicable/known):

/ /

Where did the fatal injury or disease occur?

eg. warehouse, mining site, government offices, primary school, farm. If you are unsure where the injury occurred (for example in the case of a disease) enter your usual business address.

Address where the fatal injury or disease occurred:

Describe what happened and how the fatal injury or disease occurred. Include:

- What happened
- What was involved, including objects, chemicals, people and physical environment
- What was the cause of the fatal injury/disease (if known)

3. Claim details

Date you notified your insurer of the injury/death:	/	/
Date you notified your insurer of the claim:	/	/
Date you received the completed claim form from the claimant:	/	/
Date you sent the claim form to your insurer (if applicable):	/	/
Do you consent to receive communication about the claim electronically? You will need to monitor emails regularly as time limits apply.	Yes	No

4. Worker's employment details

Date the worker started working with your organisation:	/	/	
At the time of fatal injury or disease what was the worker's position/title?			
At the time of fatal injury or disease what was the worker's employment type (select one option from each of the three sections below)?			
Direct employee	Working director	Contractor	Employee of contractor
Sub-contractor	Labour hire worker	Apprentice/trainee	Volunteer
Visa worker	Other, give details:		
Permanent	Temporary	Casual	Other, give details:
Full-time	Part-time		
At the time of fatal injury or disease, what was the worker's:			
Normal weekly earnings:	Average hours worked each day:		
Ordinary time rate of pay:	Average days worked each week:		
<i>Guidance on calculating weekly payments is provided at the end of this form.</i>			

5. Employer declaration

I acknowledge that it is an offence to make a false and misleading statement in connection with my claim (under section 153 of the *Workers Rehabilitation and Compensation Act 1988*).

Signature:

Full name:

Date:

/ /

Next steps

- Make sure you have completed all questions in the employer section and signed your declaration.
- Forward this form to your workers compensation insurer within 5 working days of receiving it. Also forward any invoices for medical, funeral or counselling expenses to your insurer as soon as you receive them.
- Keep records of any documents and correspondence including dates.
- Provide a copy of the completed form to the claimant.
- Contact your insurer if you have concerns or believe further information is required to assess the claim.
- Keep in contact with the claimant (as appropriate) and provide them with the support they need.

Your responsibilities

- You must start making weekly payments on the next pay day after the claim is lodged, or if that is not possible, no later than 14 days after receiving the claim. However, if the pay day is more than 14 days after the claim was lodged, you must start weekly payments on that pay day to the dependent spouse or caring partner (see additional information section of this form starting on page 5 for more information).
- You must start making payments to a dependent spouse or caring partner upon receiving a claim regardless of whether you dispute the claim. These payments are not considered to be an admission of liability.
- You have 28 days from the date of receiving a claim for compensation to dispute liability to pay weekly compensation to dependants. You should discuss this with your insurer. If you decide to dispute liability, you must, within the 28 days:
 - » serve the dependants with a written notice indicating that liability is disputed and the reasons why
 - » refer the matter to the Tasmanian Civil and Administrative Tribunal.
- You must not obstruct or prevent the person from making a claim. This is an offence and employers may be subjected to a fine.
- You have the right to discuss the claim with your insurer.
- You have the responsibility to submit the claim form to the correct insurer and you must submit it within 5 working days of receiving it

Calculating weekly payments

Where a spouse or caring partner of a deceased worker is wholly or partially dependent on that worker, they are entitled to weekly payments from the date of the worker's death. These payments should be based on the normal weekly earnings or the ordinary time rate, **whichever is the greater amount** (see below).

Normal weekly earnings is the worker's earnings averaged over the 12 months of continuous employment prior to the start of the date of the fatal injury/disease.

- If the worker has been employed for less than 12 months, then the earnings should be averaged across the period they have been employed.
- If the worker has been employed for less than 14 days, the normal weekly earnings should be calculated as the normal

weekly earnings of another worker performing the same role. If there is no other worker, the injured worker's expected salary excluding overtime or allowances.

Normal weekly earnings include any regular allowances, but not travel or accommodation allowances. Overtime is excluded unless it is part of a regular pattern of employment.

Ordinary time rate is the rate of pay for the employment (as set by an Award or other industrial instrument such as a workplace agreement) that the worker was engaged in immediately before the date of the fatal injury or when the disease began. If you have any queries about calculating weekly payments, please contact your insurer for further assistance.



For more information contact:
WorkSafe Tasmania
Phone: 1300 366 322 (within Tasmania)
(03) 6166 4600 (outside Tasmania)
Email: wstinfo@justice.tas.gov.au