

Accident and Safety Legislation

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Accident Compensation Act (WorkCover)

The Victorian *Accident Compensation Act 1985*, or WorkCover legislation, sets out a statutory method of compensation for employees suffering injuries or illness arising out of their employment. Employers pay a levy to the Victorian WorkCover Authority based on a fixed percentage of wages and salaries paid to all employees. The funds generated from these levies are applied by the Authority to fund payments to injured employees. An employee who sustains injury arising out of, or in the course of, his or her employment in circumstances where employment is a significant contributing factor to the injury is entitled to weekly payments at a rate determined by the extent of incapacity, the pre-accident earnings and the period of incapacity. Medical and like expenses are also covered. In addition, the *Accident Compensations Act* provides for a lump sum compensation for certain injuries which result in permanent impairment.

Disputes over an employee's entitlements are dealt with by the WorkCover Conciliation Service, the County Court or the Magistrates' Court. An injured employee who sustains a 'serious injury' within the meaning of the *Accident Compensation Act* may also be entitled to bring a common law claim in respect of an injury arising out of or in the course of employment.

The employer has the obligation to fulfil a number of matters under the *Accident Compensation Act*. These legal obligations include:

- Taking reasonable steps to prevent injuries to employees;
- Paying WorkCover premiums at specified intervals;
- Managing a register of injuries;
- Acknowledging in writing receipt of notice of injury;
- Displaying the WorkCover Authority's 'If You Are Injured' poster;
- Forwarding within ten days of receipt any claim for workers compensation, together with the employer report form, to the WorkCover insurer;
- Paying benefits to injured employees on usual pay days upon notification of acceptance of the claim by the insurer;
- Notifying the insurer of any 'minor' claims on a quarterly basis;
- Offering suitable employment to an injured employee as soon as possible;

- Establishing an occupational rehabilitation program and a risk management program and appointing a 'return-to-work' coordinator;
 - Preparing a 'return-to-work' plan for an injured employee who has been off work for at least twenty days;
 - Notifying the WorkCover insurer when an injured worker returns to work.
- **For assistance with management details, contact your WorkCover Insurer and/or the Catholic Education Office.**
 - **For further information about occupational health and safety legislation, regulations and codes of practice, refer to the website of the [Victorian WorkCover Authority](#):**

Dangerous Goods Act

The *Dangerous Goods Act 1985* (Vic.) seeks to control the use of dangerous goods in the community with a view to increasing security over dangerous goods and avoiding accidents. It contains procedures for accident reporting, security of premises and the rights and duties of dangerous goods inspectors.

The Act imposes the duty on the occupier or person in charge of the premises where the dangerous goods are located, and on persons who use, handle and transfer dangerous goods, to take all reasonable precautions for the prevention of:

- tampering, theft or unauthorised access
- any fire or explosion
- any leakage
- any damage to property or danger to the public

Dangerous goods must not be abandoned, discarded or neglected. They must be disposed of safely.

The Dangerous Goods (Prescribed List) Regulations lists more than 120 pages of prescribed and classified dangerous goods. Schools may use dangerous goods in faculties as diverse as the Arts, Health, Physical Education and Science.

Employees who work in maintenance and grounds will also handle dangerous goods which may include pesticides, petrol, paints, varnish, batteries and other substances.

All staff who use dangerous goods should be familiar with current regulations. Catholic schools, along with other educational institutions in Victoria, have been granted a conditional exemption from some provisions of these regulations in regard to the storage of dangerous goods. More information is available from the website of the [Victorian WorkCover Authority](#).

Environment Protection Act

The *Environment Protection Act 1970* (Vic.) seeks to regulate the discharge or emission of waste and noise from premises by granting works' approvals and licences. Premises only need such works' approvals or licences if they fall into one of the categories contained in the Environment Protection (Scheduled Premises and Exemptions) Regulations, published by the Environmental Protection Authority, 1996. Schools do not fall into any of these categories and, therefore, do not need to be licensed. However, in addition to offences related to the failure to obtain or comply

with works' approvals or licences, the Act also contains independent offences dealing with causing or permitting pollution to occur. This could relate to schools in the context of burning-off or noise pollution. There is also the possibility that schools with a litter problem could be caught by the litter provisions of the *Litter Act 1987* (Vic.).

Transport Accident Act

The *Transport Accident Act 1986* (Vic.) sets out a scheme for persons injured in motor accidents. Under the scheme, all registered motor vehicle owners are required to pay a levy. The levy is then used to fund compensation to victims of motor accidents. The compensation payable covers all medical and related expenses and loss of wages/income.

A person injured in a motor accident may only sue in negligence for pain and suffering and loss of enjoyment of life if the injuries are serious. However, the Act provides for the Transport Accident Commission to indemnify the owner and driver of a vehicle in respect of such liability.

Where a teacher transports students in a school bus or his/her own car and an accident occurs resulting in injury to students, the students would be compensated by the Transport Accident Commission. The teacher may be sued for negligence in cases of serious injury, but if found liable would be indemnified by the Commission.

Students should not be permitted under any circumstances to transport other students in private cars in travelling to activities associated with a school program during school hours or at other times.

The Victims of Crime Assistance Act

The *Victims of Crime Assistance Act 1996* (Vic.) establishes a scheme by which victims of crime can apply to the Victims of Crime Assistance Tribunal for financial assistance. The Tribunal has a general power to award assistance to a victim of crime where the criminal act or omission is punishable on conviction by imprisonment and involves offences such as an assault or threat to injure a person, sexual offences, stalking, kidnapping or conspiracy or incitement to commit one of these offences.

The Act provides assistance to the victim of the act of violence for counselling and medical expenses and loss of earnings. It also provides assistance to persons who witnessed the crime or parents of a victim who was under 18 years-of-age at the time. Assistance is also available to close family members, dependents and persons with an intimate personal relationship with the victim of crime who died as a result of the act of violence, and for the funeral expenses of a victim who died as a result of the crime.

The scheme does not provide assistance for loss or damage to personal property. Nor does it provide assistance for pain and suffering. Only the criminal sentencing court has power to award compensation for pain and suffering and for the loss or destruction of property as a result of the offence. This is to be paid by the convicted offender.

The Act also sets out procedures for applications for assistance and review of the decision of the Tribunal.