

8 September 2021

What happens if I get sick from COVID-19 at work?

The PSA has negotiated with the NSW Government to enable workers who have to isolate to get special leave through the Premiers Circular C2021-14 Employment Arrangements during COVID-19. If you are sick with COVID-19, you can access sick leave as normal and if you exhaust your sick leave, under the Circular you can apply for special sick leave which is considered on a case by case basis.

Recent amendments to the Workers Compensation Act 1987 which mean that if a worker, during a time when they are engaged in prescribed employment contracts COVID-19, then for the purposes of the Act it is presumed that the disease was contracted by the worker in the course of employment and the employment is either the substantial contributing factor to contracting the disease or the main contributing factor to contracting the disease. Pursuant to the Act, "**prescribed employment**" means employment in any of the following:

- (a) the retail industry (other than businesses providing only on-line retail),
- (b) the health care sector, including ambulance officers and public health employees,
- (c) disability and aged care facilities,
- (d) educational institutions, including pre-schools, schools and tertiary institutions (other than establishments providing only on-line teaching services),
- (e) police and emergency services (including fire brigades and rural fire services),
- (f) refuges, halfway houses and homeless shelters,
- (g) passenger transport services,
- (h) libraries,
- (i) courts and tribunals,
- (j) correctional centres and detention centres,
- (k) restaurants, clubs and hotels,
- (l) the construction industry,
- (m) places of public entertainment or instruction (including cinemas, museums, galleries, cultural institutions and casinos),
- (n) the cleaning industry.

The presumption applies to casual workers in prescribed employment only if they have performed casual work in the prescribed employment on 1 or more of the 21 days prior to the date of injury.

What happens if I have an adverse reaction to the COVID-19 vaccine?

There are several dozen workers across NSW who have had adverse reactions to the vaccine who have made a workers compensation claim, which should cover workers to weekly payments compensation. All compensation claims are different and will be determined as such, however, at minimum the following should be present in a claim:

- the worker's employment must be a substantial or main contributing factor to the injury or illness. Relevant considerations to establish this include, whether there is a Public Health Order in place that requires you be vaccinated or if your employer permitted or directed employees to get the vaccine during work hours (it is important to note that the circumstances of each employee's claim will be determined on the individual circumstances); and
- an adverse reaction that requires medical support or time off work.

If you have an adverse reaction, you can make a claim through the usual workers compensation process.

COVID-19 Vaccine Claims Scheme

The Federal Government announced the COVID-19 Vaccine Claims Scheme on 28 August, which it purports will offer protection to Australians who receive a TAG approved vaccine, irrespective of where that vaccination occurs. You can read the announcement [here](#).

The Scheme has not been established as of yet, but will be administered by Services Australia. There is scant detail, but the media release noted that the Scheme will cover the costs of injuries above \$5,000 due to a proven adverse reaction. Claims will be assessed by independent experts and compensation will be based on those recommendations.

From 6 September, individuals can register their interest in making a claim due to suffering injury and loss of income due to a vaccine, from 6 September at [here](#).

The PSA CPSU NSW is recommending that people should seek medical advice prior receiving a vaccination, and for people with medical conditions that prevent them to receive a vaccination to get their doctor to complete a medical contraindication [exemption form](#).