

ACC — First week compensation

If an employee suffers a work-related personal injury, ACC's liability to pay weekly compensation begins only after their first week of incapacity. During that first week, you must pay your employees compensation for their loss of earnings if they suffer a work-related personal injury under your employment.

When am I liable to pay first week compensation?

You must pay all the first week compensation an incapacitated employee is entitled to if, while under your employment, they suffer a:

- Work-related personal injury; or
- Work-related personal injury that is a motor vehicle injury.

This means that if your employee has more than one job, and suffered a loss of earnings in all their jobs in their first week of incapacity, you as the employer in whose employment they suffered the injury, will be responsible to pay all of their first week compensation.

Before paying their first week compensation, you may require the employee to meet reasonable requirements.

For example, you can require them to produce a medical certificate from a registered health professional stating that they're unfit to work.

What is a work-related injury?

Work-related injury includes:

- Injury suffered while the employee is at any place for the purposes of their employment.

This means an injury suffered by an employee at a place outside their usual place of employment will be considered a work-related injury, as long as they were at that particular place for the purposes of their employment.

For example, it has been held that the injury an employee suffered in his employer's car park after finishing his work was a work-related injury.

- Injury suffered during a break for a meal, rest, or refreshment at the employee's place of employment.
- Injury suffered while travelling to or from the place of employment at the start or finish of the day's work, but only if it's in transport provided by the employer and driven by the employer or by a nominated employee.
- Injury suffered while travelling on the most direct route to get treatment for a work-related injury.
- Heart attack or stroke suffered as a result of excessive physical strain in performing employment tasks.
- Personal injury caused by a work-related gradual process, disease, or infection.

- Injury suffered as a result of treatment for a work-related injury.

What if the injury is not a work-related injury?

If the employee's injury is not a work-related injury, you are not liable to pay their first week compensation.

They can use their sick leave entitlement under the Holidays Act 2003.

If they aren't entitled to paid sick leave, you can (but are not compelled to) allow them to use their annual leave entitlement, if they have any.

Checklist: Do I have to pay first week compensation?

Answer the follow questions to guide you in determining whether you must pay an employee's first week compensation:

- Did the injury arise out of, and in the course of, your employment? Make sure that the injury happened at work and that it was not a non-work injury. If the injury occurred while the employee was working for a different employer, you are not liable to pay.
- Did the injury prevent the employee from working?
- Has a medical certificate been produced showing that the employee is unfit to work and for how long?
- Does the doctor who issued the certificate know enough about the job requirements to be able to judge correctly whether the employee is unfit to do their job?

Note: If you are not satisfied with the medical certificate provided by the employee, you may (at your expense) have the employee examined by your nominated doctor who can provide you with another medical certificate.

How much do I have to pay?

Once you are satisfied that you have to pay the injured employee first week compensation, you must pay them 80% of the amount of earnings they lost during their first week of incapacity.

In order to calculate the amount owed, check what the employee earned during the 7 days immediately before the day on which the incapacity commenced (this may not be the day of the accident). Earnings include:

- Ordinary time;
- Overtime;
- Allowances;
- Bonuses; and
- Income from other employment.

Subtract the amount they earned (if anything) in their first week of incapacity. The remainder is their lost earnings. Pay 80% of this amount.

For example, an employee earned \$600 in the week before she hurt her back at work. She was off work for 3 days due to this injury, then returned to work. In the 2 days that she worked that week, she earned \$240, so her lost earnings were \$360. Her first week compensation for the 3 days that she had off work will be 80% of this amount, ie \$288.

When does ACC start paying?

ACC starts paying weekly compensation after the first week of incapacity. You need to send an Employee Earnings Certificate (ACC3).

For example, an employee is injured at work on Thursday afternoon and continues working to the end of the shift. The next day the injury is worse, so he visits his doctor, who gives him a medical certificate stating he is unfit for work for 14 days, starting immediately. The following table shows who has to pay the employee's compensation:

| | | |
|------|---------------------|-------|
| Fri | Employer pays | Day 1 |
| Sat | Not a working day | Day 2 |
| Sun | Not a working day | Day 3 |
| Mon | Employer pays | Day 3 |
| Tues | Employer pays | Day 4 |
| Wed | Employer pays | Day 5 |
| Thur | Employer pays | Day 6 |
| Fri | ACC starts payments | Day 7 |

Note that the law can and does change quickly. The latest on accident compensation can be found on www.acc.co.nz.

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