



### COVID 19 and Workers' Compensation in WA – Advice for St John Ambulance Employees

The *Workers' Compensation and Injury Management Act 1981 (Act)* tells us that if a worker suffers an injury by contracting a prescribed disease and the worker is working in prescribed employment when the worker suffers the injury or worked in prescribed employment at any time before suffering the injury, the prescribed employment is, for the purposes of the Act, taken to have been a contributing factor and to have contributed to a significant degree to the prescribed disease, unless the employer proves the contrary<sup>1</sup>.

The *Workers' Compensation and Injury Management Regulations 1982 (Regulations)*<sup>2</sup> further defines what types of workers and/or what types of employment that are covered by the Act, and they are:

- a) Health professionals, being those people who are registered under the *Health Practitioner Regulation National Law (Western Australia)* in a health profession (i.e., Paramedicine); or
- b) health workers employed in a hospital, medical practice, clinic, or facility where persons attend for health-related screening, testing, or treatment; or
- c) employment as an ambulance officer<sup>3</sup>.

As with the PTSD legislation, COVID is now a prescribed disease in the Regulations<sup>4</sup>. This means that there is now a presumption that if a health care worker contracts COVID during the course of their employment, they are entitled to Workers' Compensation unless the employer can prove otherwise.

So that you have every chance of your claim being successful, you need to ensure that you get a diagnosis via a PCR test. In fact, the Regulations are very prescriptive in relation to the types of testing, and we cannot be sure that a mere RAT test would be sufficient. In respect of this, you need to have a formal test conducted by a medical practitioner. The formal tests are either:

- a) detection of SARS-CoV-2 using a SARS-CoV-2 specific nucleic acid test by a *National Association of Testing Authorities (NATA)* accredited laboratory; or
- b) isolation of SARS-CoV-2 in a cell culture, with confirmation using a SARS-CoV-2 specific nucleic acid test, by a NATA accredited laboratory; or
- c) confirmation of SARS-CoV-2 specific antibodies by a NATA accredited laboratory.<sup>5</sup>

If your claim is accepted, you will be entitled to:

- Weekly payments of compensation for the period of incapacity up to a maximum of \$239,179.00;
- Reasonable medical treatment up to \$71,754.00;
- Vocational rehabilitation – or assistance with returning to work.

Your Union fought for this change to the Act/Regulations to protect you, your health, and your livelihood. Not only that, but we also set up a Workers Compensation Law Firm, UV Legal (**UVL**), to assist our members with all of their Workers Compensation matters.

UVL are more than happy to provide legal assistance once you have lodged a claim to ensure you are getting what you are entitled to.

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<sup>1</sup> *Workers' Compensation and Injury Management Act 1981 (Act)*, 49.F.(3)

<sup>2</sup> *Workers' Compensation and Injury Management Regulations 1982 (Regulations)*, 67(1).

<sup>3</sup> Regulations, 67(3).

<sup>4</sup> Regulations, 67(2).

<sup>5</sup> Regulations, 67(6).