

# Know your obligations after a workplace injury

## (effective Sept. 1, 2018)

Every successful return to work starts with a great plan. New legislation effective Sept. 1 makes it even more important for all Alberta employers and their workers to work together to have a solid return-to-work plan in place when injuries happen.

The concepts of modified work and accommodation are not new. In 2017, 93 per cent of injured workers returned to their date-of-accident employment, and 80 per cent of injured workers were placed in modified duties while they recovered.

What is changing is that under the new legislation, your employer has to offer you modified work, it's no longer optional. Your employer also has to hold your job for you while you recover. WCB will continue working with you and your employer to help ensure you get back to work safely.

### What the new legislation means for you if you're injured at work

This legislation applies to claims with a date of accident on or after Sept. 1, 2018. Under the new legislation, employers and workers are expected to work together towards a return to the same job or an alternative job after a workplace accident, unless it impacts the employer's ability to run his or her business.

It's assumed that you will go back to work:

- As soon as you are able to perform your essential job duties in the same job or a job of equal value and pay
- When you are fit for modified work or alternative work in the first available job.

This new legislation applies to most, but not all, employers and workers. There are some exceptions like short-term or seasonal employees, subcontractors, and people with personal coverage. [Find out more.](#)

### Here's what you need to know about the new legislation if you're hurt at work:

#### 1. What's my obligation in this process?

Both you and your employer are required to cooperate with each other and WCB in a safe return-to-work. This means maintaining communication throughout your recovery period,

taking an active role in your return-to-work planning, and working with your employer to identify suitable job duties for you to do while you recover. [Find out more](#) about how you can achieve your best recovery.

#### 2. What if I don't cooperate in the process?

Our goal is to get you back to work safely. You play an important part in the return-to-work process. If you decide not to cooperate, WCB may reduce or suspend your compensation.

It's not considered non-cooperation if you raise a health and safety concern under the *Occupational Health and Safety Act* or the *Canadian Labour Code*.

We won't reduce or suspend compensation if you have a valid reason for not cooperating (e.g., strike/lockout, death in the family, unexpected illness or accident, etc.)

#### 3. How long does my employer's obligation to reinstate last?

An employer's obligation to reinstate ends when an employee declines to return to work. If you're terminated within six months of returning to work, WCB will presume that your employer did not meet his or her obligation to reinstate, unless there's evidence that there was an appropriate and valid business reason, unrelated to the work injury (e.g., work shut-down, lay-offs, performance issues, etc.) If that can't be proven, your employer may be penalized.

#### 4. What if I don't think the job offer is suitable?

Ideally, the goal is for you to return to the same work you were doing before the accident. That may not always be possible due to your work restrictions or valid business reasons.

If you don't think the alternate position is suitable, please discuss with your employer and WCB case manager. WCB can support new skill development or training when permanent work restrictions are identified.

## 5. What if my employer isn't able to provide me with suitable modified work?

Our primary focus after an injury is to help you return to work with your employer, and we will explore all possible options. In some cases though, this may not be possible.

We may then offer you vocational services to help you find another job, depending on the nature of your work restrictions.

## 6. Who's responsible for paying my salary during my recovery?

Normally WCB provides wage replacement benefits until you're able to return to work. In some cases, your employer may cover your pay while you recover. In those cases, WCB reimburses your employer for the wages paid while you're unable to work.

If you have restrictions and an accommodation is required at fewer hours or a lower salary, WCB can also pay a wage top-up benefit until you've recovered.

## 7. What if there's a conflict with my collective agreement?

Your employer must first attempt to offer employment within your collective agreement. If that isn't possible, then your employer must then consider employment opportunities outside of the collective agreement—the *Workers' Compensation Act* takes precedence over the collective agreement.

[Click here](#) for more information about your health care benefits after a workplace accident.

**Still have questions?** Please contact us toll-free at 1-866-922-9221.

