

# Know your obligations after a workplace injury

(for claims with a date of accident from September 1, 2018 up to and including March 31, 2021)

Legislation in place beginning September 1, 2018 up to and including March 31, 2021 requires employers to reinstate their worker after a workplace injury. If you were injured during this time period, your employer has to offer you modified work. 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.

The concepts of modified work and accommodation are not new. In 2019, 94 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 the legislation means for you if you're injured at work

This legislation applies to claims with a date of accident from September 1, 2018 up to and including March 31, 2021. **It does not apply to new claims with a date of accident on or after April 1, 2021.**

Under this 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 their business.

If you have worked with your company for 12+ months, 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 legislation applies to most, but not all, employers and workers. There are some exceptions like short-term employees, subcontractors, and people with personal coverage.

## Here's what you need to know about the legislation if we're hurt at work between September 1, 2018 and March 31, 2021:

### 1. What's my obligation in the 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 work with you and your employer to get you back to work safely. You play an important part in the return-to-work process. If you are not able to cooperate, we'll determine if there is a valid reason for not cooperating (e.g., strike/lockout, death in the family, unexpected illness or accident, etc.) If there isn't a valid reason, we may reduce or suspend your compensation benefits.

### 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 their obligation to reinstate, unless there's evidence that there was an appropriate and valid business reason, unrelated to the your 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 alternative 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, this may not be possible. We may then offer you re-employment 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.

#### 8. Does the obligation to reinstate apply to new claims with a date of accident on or after April 1, 2021? Does it apply to older claims with a date of accident before September 1, 2018?

No. Your employer's obligation to reinstate is based on legislation in place at the time of your injury, however both you and your employer have a duty to cooperate in all aspects of your recovery and return to work. [Learn more](#) about your duty to cooperate.

[Learn more](#) about your health care benefits after a workplace accident.

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

