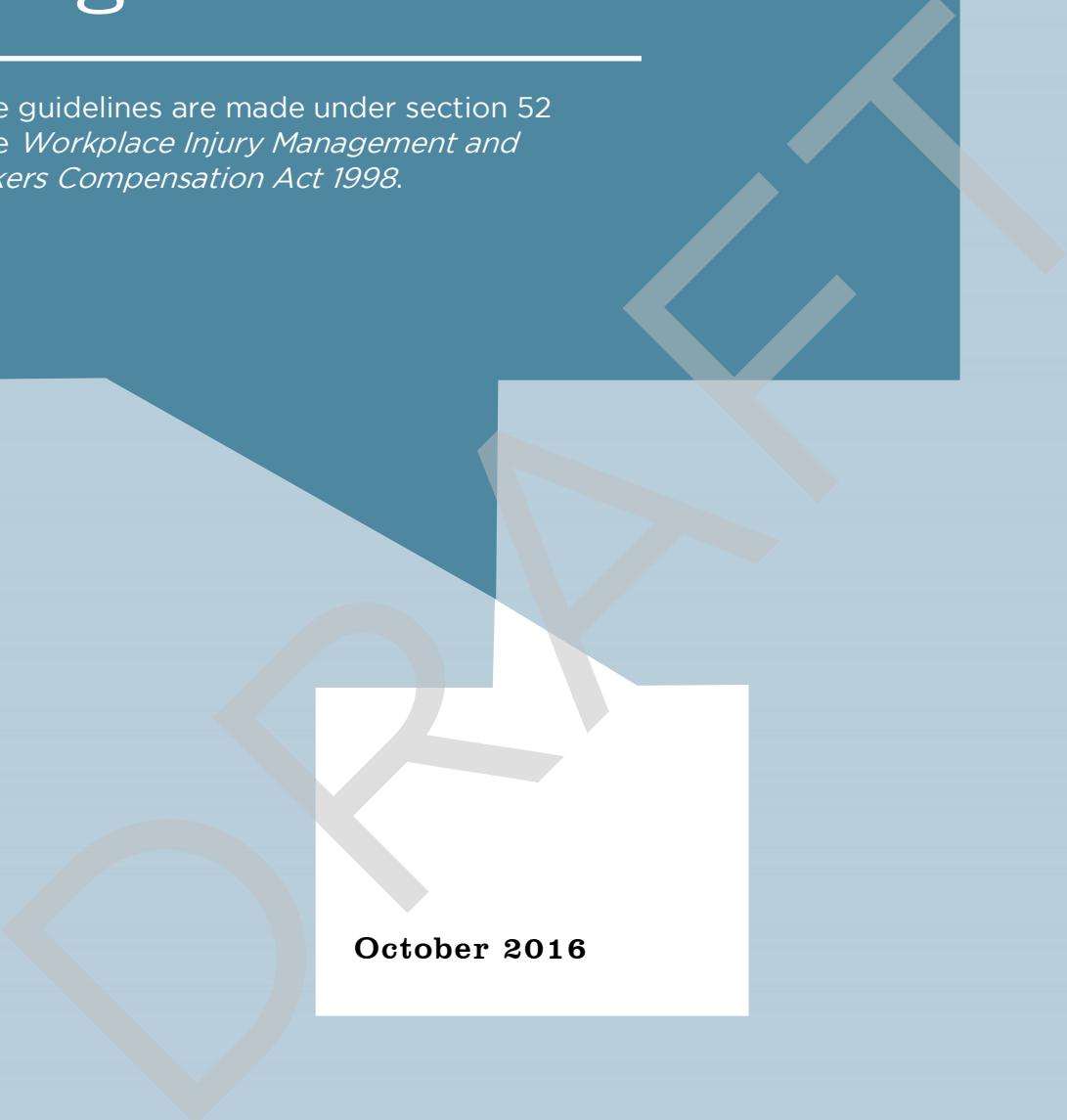


# Draft guidelines for workplace return to work programs

---

These guidelines are made under section 52  
of the *Workplace Injury Management and  
Workers Compensation Act 1998*.



**October 2016**

# Contents

<b>About these guidelines .....</b>	<b>3</b>
Scope .....	3
Transitional provisions.....	4
Information for the reader .....	5
Substantial compliance .....	5
Find out more.....	5
<b>Category 1 employers.....</b>	<b>6</b>
1.    Appoint a return to work coordinator .....	6
Training, skills and experience .....	6
Transitional provisions.....	7
Role and functions.....	7
Employment arrangements.....	7
2.    Develop a return to work program .....	8
Leadership and commitment.....	8
Workplace arrangements.....	9
Rights and obligations.....	9
After an incident.....	10
Support for the worker.....	11
Recovery at work.....	12
Dispute prevention and resolution.....	13
Administration.....	13
3.    Consult workers and unions .....	13
4.    Implement the program .....	14
<b>Category 2 employers.....</b>	<b>15</b>
1.    Appoint the person responsible for recovery at work.....	15
2.    Develop a return to work program .....	16
3.    Implement the program .....	16
<b>Appendix - templates .....</b>	<b>17</b>
Return to work program checklist for Category 1 employers .....	17
Requesting consent to release and exchange personal information .....	19
Standard consent form for release of personal information.....	20
Return to work program for Category 2 employers.....	21

# About these guidelines

- 1 The State Insurance Regulatory Authority (SIRA) is the New South Wales government
- 2 organisation that regulates and administers the state's workers compensation system.
- 3 SIRA has developed these Guidelines for workplace return to work programs
- 4 (guidelines) in line with the legislation to support, inform and guide employers, workers
- 5 and other stakeholders in developing a return to work program for their workplace.
- 6 A return to work program is the foundation supporting an organisational culture of
- 7 recovery at work. These guidelines give SIRA's requirements and expectations for
- 8 employers' return to work programs and coordinators under the following NSW laws:
  - 9 • Workers Compensation Act 1987 (the 1987 Act)
  - 10 • Workplace Injury Management and Workers Compensation Act 1998 (the 1998 Act)
  - 11 • Workers Compensation Regulation 2016 (the 2016 Regulation).
- 12 SIRA issues these guidelines under section 52 of the 1998 Act and they operate by force
- 13 of law as delegated legislation. Specific sections of the workers compensation
- 14 legislation that place obligations on employers and provide guideline-making powers
- 15 are referenced throughout the document. Where these obligations and powers are
- 16 referenced, the term 'must' has been adopted.
- 17 These guidelines also outline SIRA's expectation of best practice workplace
- 18 rehabilitation. Where these guidelines express SIRA's expectations but there is no
- 19 specific legislative obligation, the term 'should' has been adopted.

## 20 Scope

- 21 All NSW employers must have a return to work program in place within 12 months of
- 22 starting a business, and it must be consistent with the insurer's injury management
- 23 program.

24  Clause 15 of the 2016 Regulation and section 52(1) of the 1998 Act

25 These guidelines cover Category 1 employers (see [page 3](#)) and Category 2 employers  
26 (see [page 12](#)), as defined in the 1998 Act and 2016 Regulation. The categories are based  
27 on the following criteria:

Category	Criteria	Return to work program requirements
1	<ul style="list-style-type: none"><li>• Basic tariff premium over \$50,000 a year.</li><li>• Self-insured.</li><li>• Insured by a specialised insurer and has over 20 employees.</li></ul>	Must follow the four steps in these guidelines and comply with the regulations.  <a href="#">Clauses 18 and 23(1) and (5) of the 2016 Regulation and section 52(1) of the 1998 Act</a>
2	<ul style="list-style-type: none"><li>• Basic tariff premium of \$50,000 a year or less.</li><li>• Insured by a specialised insurer and has under 20 employees.</li></ul>	Can adopt SIRA's standard return to work program in these guidelines or develop their own program based on this.  <a href="#">Clause 17 of the 2016 Regulation</a>

28 These guidelines do apply to coal mine employers in NSW.

29 These guidelines do not apply to domestic or similar workers engaged by employers  
30 (including bodies corporate for strata or strata (leasehold) schemes), unless these  
31 workers are for the employer's trade or business.

32 They do not apply to employers that:

- 33 • hold owner-builder permits under the *Home Building Act 1989* (NSW) (for workers  
34 employed for the work the permits relate to)
- 35 • are corporations that only employ workers who are directors of the corporation
- 36 • only employ workers who are their family members
- 37 • only employ workers who work outside NSW
- 38 • have a written exemption from SIRA (to the extent specified in the exemption).

39 These guidelines do not address injury prevention. For information on employers' work,  
40 health and safety obligations please contact SafeWork NSW on 13 10 50 or visit  
41 [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au).

## 42 Transitional provisions

43 These guidelines take effect on [date] 2016. Employers have two years from this date  
44 to review and update their return to work program to ensure it complies.

45 These guidelines apply to all workplace rehabilitation and return to work coordinator  
46 activities, and replace the *Guidelines for workplace return to work programs*,  
47 *September 2010*. Any SIRA document that refers to the 2010 guidelines now refers to  
48 these guidelines.

## 49 Information for the reader

50 Words defined in the NSW workers compensation legislation have the same meaning in  
51 these guidelines. References to applicable legislative provisions are made throughout  
52 the document where further information can be obtained.

## 53 Substantial compliance

54 If an employer provides information or takes action that is substantially compliant with  
55 these guidelines, but is a technical breach of these guidelines, then the information or  
56 action remains valid unless a party has, as a result of that breach:

- 57 • been misled
- 58 • been disadvantaged, or
- 59 • suffered procedural unfairness.

60 This does not affect the obligations on workers, employers or insurers to fully comply  
61 with all applicable workers compensation legislation.

## 62 Find out more

63 Employers, workers or unions with queries about these guidelines should contact SIRA's  
64 Customer Service Centre on 13 10 50 or email [contact@sira.nsw.gov.au](mailto:contact@sira.nsw.gov.au).

65 SafeWork NSW has specialist Return to Work Inspectors who can advise and guide  
66 employers. Contact SafeWork on 13 10 50 or email [contact@safework.nsw.gov.au](mailto:contact@safework.nsw.gov.au).

# Category 1 employers

67 Category 1 employers meet one of the following criteria:

68 • The employer has a basic tariff premium over \$50,000 a year.

69 • The employer is self-insured.

70 • The employer is insured by a specialised insurer and has over  
71 20 employees.

## Return to work program

A summary of the system the employer will use to manage workers with work related injuries or illnesses.

72 All employers must have a return to work program in place within  
73 12 months of starting a business.

74  Clause 15(2) of the 2016 Regulation

75 The program must align with the employer's insurer's injury  
76 management program and be reviewed at least every 2 years. It  
77 should be written in plain English and the documented policies,  
78 procedures, roles, responsibilities and communications must  
79 support timely, safe and durable recovery at work.

## Injury management program

An insurer-developed strategy for managing all aspects of work related injuries and illnesses.

80 Establishing a return to work program doesn't need to be  
81 complicated, but it takes commitment from the employer and  
82 their workers to do things right.

83 For Category 1 employers, implementing a successful return to work program involves  
84 four main activities:

- 85 1. Appoint a return to work coordinator (below)
- 86 2. Develop a return to work program (see [page 5](#)).
- 87 3. Consult workers and unions (see [page 10](#))
- 88 4. Implement the program (see [page 11](#)).

## 89 1. Appoint a return to work coordinator

90 The return to work coordinator carries out the day-to-day duties of the return to work  
91 program, and is the link between the worker and the recovery at work team. The  
92 employer must employ the coordinator or engage them to do this (see [page 4](#)).

### 93 Training, skills and experience

94 Category 1 employers must appoint a return to work coordinator with the relevant  
95 training, skills and experience. The coordinator must:

- 96 • have experience with NSW workers compensation legislation
- 97 • understand the roles and responsibilities of all stakeholders
- 98 • know and understand the legal obligations of NSW employers
- 99 • be experienced in supporting workers to manage injuries and recover at work
- 100 • have strong written and verbal communication skills
- 101 • be able to consult and negotiate with stakeholders
- 102 • have conflict resolution experience
- 103 • be organised and skilled in time management.

104  Clause 23(1) of the 2016 Regulation

105 **Transitional provisions**

106 The workers compensation authority no longer trains return to work coordinators and  
107 does not specify a course that they must complete.

108 Existing return to work coordinators meet the role's training, skills and experience  
109 requirements if they hold any of the following documents from SIRA or WorkCover:

- 110 • a certificate of attendance at the SIRA-approved 2-day course Introduction to return  
111 to work coordination  
112 • a certificate of attendance at a WorkCover-approved 2-day course for rehabilitation  
113 coordinators from February 1995 or before  
114 • a letter exempting them from the requirement to attend training.

115 **Role and functions**

116 The return to work coordinator must have enough seniority to help the employer meet  
117 their obligations under the workers compensation legislation. The level of seniority  
118 required will depend on the employer's circumstances, but the coordinator must have  
119 authority to represent and make decisions for the employer on the functions below. The  
120 coordinator does not make decisions on claim liability or treatment – this is the insurer's  
121 responsibility.

122 The return to work program must outline the coordinator's role in planning for recovery  
123 at work and managing workers with a work related injury or illness. These duties must  
124 include:

- 125 • confirming the injury type and severity with the injured worker and compiling initial  
126 notification data  
127 • coordinating the worker's recovery at work, including identifying suitable  
128 employment opportunities  
129 • preparing, monitoring and reviewing a recovery at work plan that documents the  
130 worker's capacity and the duties available, in consultation with key parties  
131 • liaising with external stakeholders, such as the nominated treating doctor, insurer,  
132 treatment providers, union and workplace rehabilitation provider  
133 • implementing the return to work program  
134 • helping to redeploy workers (internally or externally) into suitable employment  
135 when they cannot return to their pre-injury duties  
136 • keeping injury and recover at work statistics  
137 • keeping confidential case notes and records in line with laws and guidelines  
138 • educating the workforce and promoting the health benefits of work  
139 • developing policies to improve systems.

140 **Employment arrangements**

141 A return to work coordinator does not have to be a full-time worker who is dedicated  
142 solely to the role. But, if the coordinator has other roles within the organisation,  
143 employers must ensure the coordinator can carry out the functions listed above and  
144 there is no conflict of interest between roles.

145 Employers should appoint an in-house coordinator, as they will have well-established  
146 relationships with workers and a good understanding of all aspects of the workplace.

147 However, employers may outsource this role or engage a return to work coordinator  
148 under a work arrangement or contract. In these cases, employers must ensure:

- 149 • the appointed person has the required training, skills and  
150 experience (see [page 8](#))  
151 • the arrangement will not disadvantage workers  
152 • they consult the workforce before proceeding with the  
153 arrangement  
154 • there is no perceived or actual conflict of interest for the  
155 person being engaged  
156 • the return to work program details the arrangements,  
157 including the person's name, qualifications and experience  
158 • the suitability of these arrangements is reviewed every 2 years as part of the  
159 program review.

**Conflict of interest**  
A situation where a person's official duties conflict with their private wishes or needs, which may prevent them from fulfilling those duties impartially.

- 160 The employer must pay the cost of engaging a return to work coordinator. It is not a  
161 claims cost.

## 162 2. Develop a return to work program

163 Category 1 employers must ensure their return to work programs cover the following  
164 aspects:

- 165 • leadership and commitment  
166 • workplace arrangements  
167 • rights and obligations  
168 • after an incident  
169 • support for the worker  
170 • recovery at work  
171 • dispute prevention and resolution  
172 • administration.

173 They can then use SIRA's checklist (see [page 16](#)) to ensure the program complies with  
174 these guidelines.

175 These guidelines set out the minimum requirements for a return to work program.  
176 Employers should add any other relevant policies or procedures that reflect the  
177 business practices, culture and environment of their workplace, and refer to the NSW  
178 workers compensation laws to ensure compliance. Employer associations or approved  
179 workplace rehabilitation providers can help to develop a program, but employers must  
180 pay any associated costs.

### 181 Leadership and commitment

182 The program must **state the employer's commitment to helping workers recover at**  
183 **work**. This statement should reflect the organisation's structure and operating  
184 environment.

185 The program must **show its connection to work health and safety (WHS) policies and**  
186 **procedures** under the NSW *Work Health and Safety Act 2011* (the 2011 WHS Act) and  
187 Work Health and Safety Regulation 2011 (the 2011 WHS Regulation). Employers must  
188 detail how, following an injury, they will review their WHS policies and procedures to  
189 identify gaps and opportunities for improvement.

190 The program must detail how the organisation will **develop a positive culture that**  
191 **promotes recovery at work**. This includes:

- 192 • fostering positive attitudes towards workers recovering at work  
193 • promoting the health benefits of work.

## 194 Workplace arrangements

195 The program must **list the return to work coordinator's name and contact details**. It  
196 must explain the coordinator's role and identify what authority and resources they have  
197 to negotiate, develop and implement activities. The coordinator must have reasonable  
198 access to injured workers and their workplace. See [page 8](#) for more on the  
199 coordinator's role.

200 Employers must **nominate an approved workplace rehabilitation provider** or providers  
201 in the return to work program. Visit [www.sira.nsw.gov.au](http://www.sira.nsw.gov.au) for a list of approved  
202 providers.

### 203 ━ Clause 20 of the 2016 Regulation

204 While employers or insurers usually recommend a workplace rehabilitation provider for  
205 each situation, workers must have the opportunity to refuse or request a change in  
206 provider. The program must outline this procedure, including how workers will be told  
207 of this opportunity.

208 The program must also document how the organisation will:

- 209 • cooperate with the workplace rehabilitation provider  
210 • ensure reasonable access to injured workers.

211 Employers must **consult with workers and any industrial union representing them** when  
212 developing their return to work program. The program must then outline how this was  
213 done.

### 214 ━ Section 52(2)(b) of the 1998 Act

215 The return to work program must **include communication and training arrangements**  
216 **for telling staff about the program**. These could include induction training, toolbox  
217 talks, intranet pages, staff development and other training programs.

218 It must also **outline monitoring, review and display arrangements**, including  
219 reviewing the program every 2 years in consultation with workers and any union  
220 representing them.

221 Category 1 employers must display and notify the workplace of the return to work  
222 program – failing to do so is an offence. The program must explain how the employer  
223 will do this.

### 224 ━ Clause 21 of the 2016 Regulation

## 224 Rights and obligations

225 Employers must **inform workers of their rights and obligations**. The return to work  
226 program must detail how these will be communicated to workers throughout the  
227 recovery at work process.

- 228 Workers are obliged to:
- 229 • notify their employer as soon as possible after a work related injury happens  
230 • participate and cooperate in establishing an injury management plan  
231 • carry out the actions that such a plan requires of them  
232 • consent for information about their injury management and recovery at work to be  
233 shared between the insurer, employer, nominated treating doctor, treating  
234 practitioners, workplace rehabilitation providers and the regulator  
235 • make all reasonable efforts to recover at work.
- 236 Workers have the right to:
- 237 • nominate their own treating doctor  
238 • employment that is both suitable and, so far as reasonably practicable, the same as  
239 or equivalent to their pre-injury employment  
240 • be consulted and involved in identifying suitable employment and developing their  
241 recover at work plan  
242 • confidentiality  
243 • access mechanisms for resolving disputes.
- 244  [Sections 44\(1\), 47\(1-3\) and \(5\), 48\(1\) and 49\(2\) of the 1998 Act](#)
- 245 The program must also **outline the responsibilities and obligations of the recovery at work team**, including the:
- 247 • organisation's senior and middle management  
248 • return to work coordinator  
249 • insurer  
250 • nominated treating doctor  
251 • approved workplace rehabilitation provider  
252 • any union representing workers.
- 253 

## After an incident
- 254 Employers must **provide first aid equipment** for the workplace. They must ensure all workers can access the equipment and there is sufficient access to facilities for administering first aid. The return to work program must detail the organisation's first aid arrangements, or refer to these procedures if documented elsewhere.
- 258  [Clause 42\(1\) of the 2011 WHS Regulation](#)
- 259 Employers must **keep a register of injuries** detailing all work related injuries or illnesses, whether or not they result in a workers compensation claim. They must also keep a record of each notifiable incident. The register may be written or electronic but, if it is electronic, the employer must also provide training and facilities for all workers to use it. The return to work program must describe the register and how the employer will inform workers about procedures for completing it.
- 265  [Section 63 of the 1998 Act and clauses 45\(1\) and \(2\) of the 2016 Regulation](#)
- 266 An injured worker must **report the injury to their employer** as soon as possible after sustaining it. Employers must then notify the insurer within 48 hours of receiving report of a work related injury. The return to work program must include procedures for early reporting by workers and to the insurer, and describe how the employer will inform workers of these procedures.

271 ━ Sections 44(1) and (2) of the 1998 Act

272 Employers must **report any notifiable incidents to the WHS regulator**. The return to work program must explain how the employer will inform the WHS regulator of any notifiable incidents, or refer to this procedure if documented elsewhere.

276 ━ Section 38 of the 2011 WHS Act

**Notifiable incident**  
A death, serious injury or illness, or dangerous incident that results from a business's conduct or an action at a workplace.

277 Support for the worker

278 Understanding a worker's situation and offering them support will positively affect the worker's response to their injury and enable successful recovery at work. The return to work program must document how the organisation will **maintain positive communication with injured workers and the recovery at work team**, and who will be responsible for ensuring this.

283 The program must detail how the employer will **request the worker's informed consent** to gather and exchange information about the worker's health and recovery at work. To give informed consent, a worker needs to understand the implications of agreeing or refusing.

287 The program must describe:

- 288 • how the employer will request consent to release and exchange information about a worker's recovery at work
- 290 • what kind of information will be exchanged
- 291 • who is authorised to exchange this information
- 292 • how the worker will be informed of the benefits of information exchange and their associated rights, obligations and potential penalties for noncompliance.

294 For more on consent, see [page 17](#). Employers may use SIRA's standard form (see [page 17](#)) to request consent.

296 To **ensure workers' weekly payments are prompt and correct**, the return to work program must include procedures for:

- 298 • advising the insurer of the worker's pre-injury average weekly earnings
- 299 • making weekly payments at the usual times wages are paid
- 300 • passing payments on to the worker as soon as practicable after receiving them from the insurer.

302 ━ Section 264(2) and (3) of the 1998 Act and section 84 of the 1987 Act

303 Employers must not refuse or delay passing on entitlements to a worker. They may incur a penalty if they do so.

305 ━ Section 69(1)(c) of the 1998 Act

306 As soon as possible after being notified of a significant work related injury or illness, the employer must **participate and cooperate while the insurer writes an injury management plan** for the affected worker. The return to work program must detail how the employer will work with the insurer to develop this plan,

**Significant injury**  
An injury likely to make the worker unable to work for more than seven continuous days, whether or not those are work days, and whether or not the worker's incapacity is total, partial or a combination of both.

311 including an offer of suitable employment.

312 ■ Sections 46(1) and 42 of the 1998 Act

### 313 Recovery at work

314 Employers must **offer workers suitable employment**, where reasonably practicable, so  
315 they have the opportunity to recover at work. The employment may be either full time  
316 or part time and, where reasonably practicable, the same as or equivalent to the  
317 worker's pre-injury employment.

318 Employers must provide suitable employment even when a claim is in dispute. This may  
319 be the same job with different hours or modified duties, a different job at the same or a  
320 different workplace, training opportunities or a combination of these. It is also referred  
321 to as suitable, alternate, modified or light duties.

322 ■ Sections 41A and 49 of the 1998 Act and section 32A of the  
323 1987 Act

324 The return to work program must document the policies and  
325 procedures for providing suitable employment, including:

- 326 • who is responsible for identifying suitable employment, and  
327 how they will do so
- 328 • how the employer will consult with the worker
- 329 • in what circumstances the employer would engage a  
330 workplace rehabilitation provider
- 331 • the process for resolving disputes if parties disagree
- 332 • strategies to manage instances where no suitable employment can be identified.

**A workers compensation guide for employers: When a worker is injured**  
A step-by-step guide to identifying suitable employment and developing a recover at work plan, available at [www.sira.nsw.gov.au](http://www.sira.nsw.gov.au).

333 Tailored planning is essential to a successful work outcome for both employer and  
334 worker. This involves **developing and maintaining a recover at work plan**. The return to  
335 work program must detail the employer's policies and procedures for:

- 336 • including the worker in developing the plan
- 337 • what each plan should contain
- 338 • managing the worker's appointments for treatment and  
339 rehabilitation
- 340 • who should have a copy of the plan
- 341 • monitoring and reviewing the plan
- 342 • notifying relevant parties of changes to the plan.

**Recover at work plan**  
An individual plan that the employer develops, in consultation with the worker, to manage recovery at work.

343 Some workers will not be able to return to their pre-injury workplace. The return to  
344 work program must outline the support and steps the employer will offer, including  
345 retraining and job placement.

346 The program must also describe how the employer will **manage the dismissal of injured  
347 workers** within the law.

348 An employer cannot legally dismiss a worker for 6 months (or the length of any  
349 accident pay in the worker's award or agreement) after the worker becomes unfit for  
350 employment due to a work related injury. If an employer dismisses a worker because of  
351 a work related injury at any stage in the claim, the worker may apply to the employer to  
352 be reinstated. If the employer then replaces the worker within 2 years of dismissing  
353 them, the employer must inform the replacement worker that the dismissed worker  
354 may be entitled to be reinstated to the role.

355 ━ Sections 241(1), 247 and 248 of the 1987 Act

## 356 Dispute prevention and resolution

357 To prevent and resolve disputes, employers' return to work programs must detail:

358 • how they will prevent disputes

359 • what processes they will use to resolve disputes about injury management, suitable  
360 employment or recover at work planning

361 • how they will advise workers of the workplace dispute resolution arrangements and  
362 formal dispute mechanisms available through the workers compensation system.

## 363 Administration

364 Employers should familiarise themselves with their legal obligations when collecting,  
365 using, and disclosing an individual's personal and health information. Particular caution  
366 should be exercised when dealing with an individual's health information, including any  
367 medical advice or opinions about the person. Such information should only be  
368 collected and retained when necessary, and should only be disclosed after careful  
369 consideration of applicable privacy principles, including whether the individual has  
370 consented to the disclosure.

371 ━ Section 243 of the 1998 Act, *Privacy Act 1998* (Cwlth), Australian Privacy Principles  
372 and *Health Records and Information Privacy Act 2002* (NSW)

373 The return to work program must include confidentiality and record keeping  
374 procedures for:

375 • obtaining the worker's informed consent to exchange information

376 • establishing and maintaining a confidential file for each injured worker

377 • restricting access to the files and storing them securely.

## 378 3. Consult workers and unions

379 Effective and successful return to work programs involve consultation with workers on  
380 rehabilitation and injury management. Consultation promotes a positive culture around  
381 recovery at work and workers compensation, and gives everyone an opportunity to  
382 influence policies and procedures. It is in the employer's interest to give workers clear  
383 information to avoid misunderstandings and uncertainty.

384 Employers must consult their workers and any industrial union that represents them  
385 when developing their program, and should accommodate the needs of workers who  
386 do not speak English so they can participate equally. Consultation can be facilitated  
387 through health and safety committees or their representatives, unions or other agreed  
388 means.

389 The return to work program must explain how the employer meets this requirement.

390 ━ Section 52(2)(b) of the 1998 Act

391 4. Implement the program

392 After considering feedback gathered during consultation, the employer must finalise  
393 the return to work program and arrange for it to be implemented.

394 This includes informing workers of their rights, obligations and the procedures for  
395 workplace rehabilitation and recovery at work. Employers may do this through  
396 induction programs, training courses, staff meetings, newsletters and noticeboards, and  
397 should consider the needs of workers who do not speak English.

398 Employers must display and notify the workplace of the return to work program –  
399 failing to do so is an offence.

400  [Section 21 of the 2016 Regulation](#)

401 Employers should then continually review the return to work program, in consultation  
402 with the relevant parties, to ensure it is effective. The program must specify review  
403 dates that suit the workplace's circumstances. Employers must review their programs  
404 at least every 2 years.

# Category 2 employers

405 Category 2 employers are any employers that are not Category 1 employers (refer to  
406 page 1):

407 All employers must have a return to work program in place within 12 months of starting  
408 a business.

409  Clause 15(2) of the 2016 Regulation

410 Establishing a return to work program doesn't need to be  
411 complicated, but it takes commitment from the employer and  
412 their workers to do things right. Employers must consult with their  
413 workers and any industrial union that represents them when  
414 developing and reviewing their program.

## Return to work program

A summary of the system the employer will use to manage workers with work related injuries or illnesses.

415  Section 52(2) of the 1998 Act

416 For Category 2 employers, implementing a successful return to work program involves  
417 three main activities:

- 418 1. Appoint the person responsible for recovery at work
- 419 2. Develop a return to work program
- 420 3. Implement the program

## 421 1. Appoint the person responsible for recovery at work

422 Category 2 employers do not need to appoint a return to work coordinator, but they  
423 must appoint someone to manage any workers compensation and recovery at work  
424 activities that arise. This may be an existing employee or a return to work coordinator  
425 who is engaged through a work arrangement or contract.

426 They may also set up a shared arrangement with other employers. In such an  
427 arrangement, an employer association, a union or a group of employers in the same  
428 business or location share a return to work coordinator.

429  Section 25 of the 2016 Regulation

430 Employers that choose engaged or shared arrangements must  
431 ensure:

- 432 • the appointed person has relevant training, skills and  
433 experience (see [page 3](#))
- 434 • they provide reasonable access to workers and the workplace
- 435 • the arrangement will not disadvantage workers
- 436 • they consult the workforce before proceeding
- 437 • there is no perceived or actual conflict of interest for the appointed person
- 438 • the other employers in a shared arrangement are in the same business or location
- 439 • the return to work program details the arrangements, including the person's name,  
440 qualifications and experience

## Conflict of interest

A situation where a person's official duties conflict with their private wishes or needs, which may prevent them from fulfilling those duties impartially.

- 441 • the suitability of these arrangements is reviewed every 2 years as part of the return  
442 to work program review.
- 443 Employers must pay the cost of engaging or sharing a return to work coordinator. It is  
444 not a claims cost.

## 445 **2. Develop a return to work program**

446 Category 2 employers can meet their legal obligations by customising SIRA's standard  
447 return to work program (see [page 19](#)) for their workplace. This program outlines  
448 general procedures for handling work related injuries and illnesses, and represents an  
449 employer's commitment to the health, safety and recovery of workers following a work  
450 related injury or illness.

451  [Section 17\(2\) of the 2016 Regulation and section 52\(2\) of the 1998 Act](#)

452 Category 2 employers can also develop their own return to work program, using the  
453 standard program as a guide.

454 Employers must consult their workers and any industrial union that represents them  
455 when developing their program, and should accommodate the needs of workers who  
456 do not speak English so they can participate equally. Consultation can be facilitated  
457 through health and safety committees or their representatives, unions or other agreed  
458 means.

## 459 **3. Implement the program**

460 When Category 2 employers implement their return to work program, they must inform  
461 workers of their rights, obligations and the procedures for workplace rehabilitation and  
462 recovery at work.

463 Employers must make copies of the return to work program available to their workers,  
464 and provide a copy to any worker who requests it or has a workers compensation  
465 claim. If these arrangements are in place, Category 2 employers are not required to  
466 display their program.

467  [Section 22 of the 2016 Regulation](#)

468 Employers should then continually review the return to work program, in consultation  
469 with the relevant parties, to ensure it is effective. The program should specify review  
470 dates that suit the workplace's circumstances. Employers must review their programs  
471 at least every two years.

# Appendix – templates

## 472 Return to work program checklist for Category 1 employers

473 Employers developing, implementing or reviewing a return to work program can use  
474 this checklist to ensure their program:

- 475 • covers the required content as outlined in these guidelines  
476 • complies with workers compensation laws.

### Leadership and commitment

State employer's commitment to helping workers to recover at work

Show program's connection to WHS policies and procedures

Detail how organisation will develop a positive culture that promotes recovery at work

### Workplace arrangements

List return to work coordinator's name, contact details, role, resources and authority

Nominate approved workplace rehabilitation provider and give their details

Describe arrangements for consulting workers and their unions

Outline communication and training arrangements for the program

Detail monitoring, review and display arrangements

### Rights and obligations

Describe how workers will be informed of their rights and obligations

Outline obligations for recovery at work team

### After an incident

Detail organisation's arrangements for providing first aid

Describe register of injuries and how workers will be trained to use it

Include procedures for workers to report an injury and employer to notify the insurer

Explain process for reporting notifiable incidents to the WHS regulator

### **Support for the worker**

Outline plan to maintain positive communication with injured workers and recovery at work team

Describe how employer will request worker's informed consent

Give procedures for managing weekly payments

State employer's commitment to participating and cooperating in developing injury management plan

### **Recovery at work**

Describe plan for identifying and providing suitable employment

Outline procedures for developing and maintaining a recover at work plan

Describe how employer will manage the dismissal of injured workers within NSW law

### **Dispute prevention and resolution**

Detail plan for preventing and resolving disputes

Explain how employer will advise workers of formal and informal mechanisms for resolving disputes

### **Administration**

Include procedures for keeping records and maintaining confidentiality

477 Requesting consent to release and exchange personal  
478 information

479 Workers compensation, information privacy and health records laws regulate the  
480 exchange of personal and health information. Employers should understand what these  
481 laws require when handling confidential health and personal information about a  
482 worker's work related injury and recovery.

483 **What is health information?**

484 Health information includes any electronic or paper-based information or opinion about  
485 a worker's:

- 486 • physical or psychological health
- 487 • treatment
- 488 • rehabilitation
- 489 • retraining
- 490 • claims
- 491 • injury or employment management practices to aid their recovery at work.

492 **Why is consent important?**

493 By law, employers must gain consent from a worker to exchange and receive  
494 information about their health, injury and recovery. But, more importantly, this  
495 promotes good communication and transparent decision making between the worker,  
496 the employer and the recovery at work team. Good communication can increase  
497 adherence to treatment, improve long-term outcomes, hasten recovery and reduce  
498 emotional distress.

499 **What is informed consent?**

500 Informed consent is where a worker is given all the relevant information before  
501 consenting to the release and exchange of information. It ensures the worker  
502 understands the benefits of providing consent and risks of not doing so.

503 A worker's consent is only genuine and valid if they have been given this information  
504 and can understand, provide and communicate their consent. This includes  
505 accommodating the needs of workers who do not speak English.

506 When requesting a worker's written consent, employers should ensure the worker  
507 knows and understands:

- 508 • their rights and obligations
- 509 • what type of information will be exchanged
- 510 • who will be authorised to exchange and release information
- 511 • the importance and benefits of the recovery at work team being able to exchange  
512 information
- 513 • possible penalties for not providing their consent.

## 514 Standard consent form for release of personal information

Claim  
number

---

### Worker details

Title

---

Family name

---

Given name

---

### Employer details

Organisation

---

Contact  
name

---

Title

---

Phone

---

Email

---

## 515 Worker's declaration

516 I have discussed this consent form with my employer. I understand that any information  
517 collected will be kept in a confidential case file, with access restricted to those who are  
518 directly responsible for coordinating and monitoring my recovery at work.

519 I understand that my employer will:

- 520 • only collect health information that is relevant and necessary to manage my  
521 recovery at work and coordinate the workers compensation claim  
522 • only use and disclose information for the purpose for which it was collected  
523 • keep any information collected separate from my other personnel records  
524 • take reasonable steps to protect my information by ensuring it is stored securely,  
525 kept no longer than necessary and disposed of appropriately  
526 • allow me to access my information without unreasonable delay, unless providing  
527 access would be unlawful or pose a serious threat to another person's life or health.

528 Considering the above, I authorise and consent to the collection, use and disclosure of  
529 personal and health information relevant to managing my injury and workers  
530 compensation claim. This information may be exchanged between my employer, my  
531 treating doctor(s), the insurer, the workplace rehabilitation provider and the workers  
532 compensation authority.

533 I understand that my workers compensation entitlements may be affected if I withdraw  
534 my consent.

### Worker

Signature

---

Date

---

### Employer's representative

Signature

---

Date

---

### Interpreter

Signature

---

Name

---

## 535 Return to work program for Category 2 employers

536 This document describes the steps that we, [name of organisation], will take if a worker  
537 sustains a work related injury or illness in our workplace.

### Person responsible for recovery at work in our business

Name \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### Our workers compensation insurer

Name \_\_\_\_\_

Phone \_\_\_\_\_ Website \_\_\_\_\_

## 538 Our commitment

539 From injury prevention to when an injury occurs, through the insurance claims process  
540 and as our workers recover at work, we will:

- 541 • provide a safe and healthy working environment for all workers
- 542 • promote positive attitudes towards workers compensation claims and recovery at work
- 543 • consult our workers and, where applicable, unions to ensure this program is implemented successfully
- 544 • review this program at least every 2 years to ensure it remains current
- 545 • have procedures to help workers achieve the best health, work and recovery outcomes.

549 Our workers compensation policy covers all of our workers in case they suffer a work related injury or illness.

551 The procedures we will use to fulfil our commitments are outlined below.

## 552 After an incident

553 We will:

- 554 • provide immediate first aid (where appropriate) and medical treatment (if required) when a worker becomes injured or ill at work
- 555 • require all injuries to be reported as soon as possible and recorded in the register of injuries
- 556 • notify [name of insurer] of all work related injuries and illnesses within 48 hours
- 557 • immediately notify SafeWork NSW on 13 10 50 if an incident either involves a death, serious injury or illness, or is a dangerous incident.

## 561 Support for the worker

562 We will:

- 563 • contact the worker regularly throughout their recovery
- 564 • inform the worker of their rights and obligations, and give them our workers compensation insurer's details

- 566 • make early contact with the worker's doctor to discuss the worker's normal duties,  
567 suitable work that is available, and opportunities for workplace modifications or  
568 assistive equipment
- 569 • contribute to the worker's injury management plan, which will be written by our  
570 insurer, and meet our obligations stated in the plan
- 571 • arrange for an approved workplace rehabilitation provider to help the worker to recover  
572 at work, if necessary
- 573 • not dismiss a worker for 6 months after they become unfit for employment because  
574 of a work related injury, as the law requires.

575 If we dismiss a worker because they are unfit for employment due to the injury, the  
576 worker may apply to us within 2 years to be reinstated.

577  [Sections 241 and 248 of the Workers Compensation Act 1987 \(NSW\)](#)

## 578 Recovery at work

579 We will provide suitable full-time or part-time employment for workers with the  
580 capacity to recover at work, as far as reasonably practicable. This work will be  
581 consistent with medical advice, productive and appropriate for the worker's physical  
582 and psychological condition. It may be parts of the same job, the same job with  
583 different hours, or modified duties, a different job at the same or a different workplace,  
584 training opportunities or a combination of these.

585 We will also:

- 586 • provide other support, such as equipment, workplace modifications or changes in  
587 practices to reduce work demands, if necessary to aid a worker's recovery at work
- 588 • begin planning for the worker's recovery at work as soon as we are notified of a  
589 work related injury or illness
- 590 • consult the worker, insurer, doctor (where possible) and workplace rehabilitation  
591 provider (where applicable) to write a tailored recover at work plan
- 592 • monitor the worker's progress and update the plan as required
- 593 • keep all documents about the workers compensation claim in a confidential file.

## 594 Dispute prevention and resolution

595 We will:

- 596 • seek help from the insurer or an approved workplace rehabilitation provider if the  
597 worker's recovery at work is difficult or progress is stalled
- 598 • work with the worker and their representative to resolve any disputes, and seek help  
599 from the insurer if necessary.

600 If there is a dispute, we will give the worker the insurer's contact details and the  
601 following contacts:

### 602 SIRA Customer Service Centre

603 Phone 13 10 50 or visit [www.sira.nsw.gov.au](http://www.sira.nsw.gov.au).

### 604 Workers Compensation Independent Review Officer

605 Phone 13 94 76 or visit [www.wiro.nsw.gov.au](http://www.wiro.nsw.gov.au).

### 606 Workers Compensation Commission

607 Phone 1300 368 040 or visit [www.wcc.nsw.gov.au](http://www.wcc.nsw.gov.au).

608 These parties have consulted and understand the procedures detailed in this return to  
609 work program:

**Employer representative**

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Worker representative**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

610 Employers must review their programs at least every 2 years. This program will be  
611 reviewed on \_\_\_\_\_

DRAFT

#### **Disclaimer**

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

This material may be displayed, printed and reproduced without amendment for personal, in-house or non-commercial use.

Return to Work Operations, Workers and Home Building Compensation Regulation, SIRA

92-100 Donnison Street, Gosford NSW 2250

Customer Service Centre 13 10 50

Website [www.sira.nsw.gov.au](http://www.sira.nsw.gov.au)

© Copyright State Insurance Regulatory Authority NSW 0916