

Injury Management Obligations – Employer

The *Workers Compensation and Injury Management Act 2023 (WCIMA23)* sets out an employer's return to work and injury management obligations including obligations to maintain a worker's pre-injury position or provide suitable employment.

Key Points

Act ref: ss. 5, 166, 168

- An employer's obligations with respect to injury management systems and return to work programs are set out in Part 3 of the *WCIMA23*.
- Return to work programs assist workers to return to work in a timely, safe and durable way. Return to work programs must be in the approved form as published on the WorkCover WA website: IM1 *Return-to-work program*.
- The *WCIMA23* requires an employer to make the worker's pre- injury position available (unless it is not reasonably practicable to do so) or provide a suitable position for the worker.
- A suitable position is a position for which the worker is qualified, capable of performing and is comparable in pay and status to the worker's previous position.
- A worker cannot be dismissed solely or mainly due to the worker's incapacity for work and cannot be dismissed for any reason unless the employer has given the worker notice in the approved form at least 28 days before the dismissal takes effect.

Questions & Answers

Q. Does an employer need to establish a return to work program for a worker who has returned to work with full capacity?

A. No. Return to work programs are only necessary where the worker is partially incapacitated for work.

Q. What is the employment obligation period that applies to making employment available?

A. The employment obligation period is the period of 12 months beginning on the day on which the worker first has an incapacity for work as a result of the injury.

Q. In some cases it is not practicable to provide a worker with their pre-incapacity position or a worker may not have capacity to work in their position. What is the employer's obligation?

A. If a worker cannot carry out duties in the pre incapacity position or it is not practicable to do so, another suitable position must be provided.