

# **Workcover information**

## **WorkCover Certificate of Capacity**

### **WorkCover Certificate of Capacity**

If an injured worker can not do their normal job, they will need a WorkCover Certificate of Capacity, which is similar to a medical certificate. The certificate needs to give details of the injury or illness, how long the worker might be off work and possible alternative duties. The first certificate must come for a medical practitioner and can be for up to 14 days.

If after 14 days the worker still can not do their normal job, they will need further certificates. These can be for up to 28 days each and can be obtained from medical practitioners, chiropractors, physiotherapists or osteopaths.

The worker must give an employer their certificate/s so the employer knows what weekly payments are to be made.

## **WorkCover Certificate of Capacity**

### **WorkCover Certificate of Capacity**

If an injured worker can not do their normal job, they will need a WorkCover Certificate of Capacity, which is similar to a medical certificate. The certificate needs to give details of the injury or illness, how long the worker might be off work and possible alternative duties. The first certificate must come for a medical practitioner and can be for up to 14 days.

If after 14 days the worker still can not do their normal job, they will need further certificates. These can be for up to 28 days each and can be obtained from medical practitioners, chiropractors, physiotherapists or osteopaths.

The worker must give an employer their certificate/s so the employer knows what weekly payments are to be made.

## **Return To Work Frequently Asked Questions**

[What does "Return to Work" mean?](#)

[As an employer what can I do to assist an injured worker?](#)

[How can injured workers be assisted to return to work?](#)

[Can a worker return to work early after a workplace injury?](#)

[Who can help the worker get back to work?](#)

[What is a Return to Work Plan?](#)

[What is an Offer of Suitable Employment?](#)

[What if an injured worker has no capacity for work?](#)

[Does a Return to Work Co-ordinator have to be appointed?](#)

[What are the Return to Work Co-ordinators responsibilities?](#)

[Is training available for Return to Work Co-ordinators?](#)

### **What does “Return to Work” mean?**

Return to work means helping injured workers get back to work or stay at work while they recover from an injury. This involves employers providing modified or alternative jobs for workers to do that won't aggravate the injury until they can return to their regular job. Experience shows that the best way to keep productivity and moral in the workplace up and premiums down is to return injured workers to work safely and as soon as possible.

### **As an employer what can I do to assist an injured worker?**

As the employer, your attitude, support and understanding following an injury will affect the relationship between you and your injured worker. Maintaining regular contact with your injured worker is crucial in helping them return to work, reducing staff down time and additional costs to the business.

### **How can injured workers be assisted to return to work?**

It's important to remember that most injured workers will recover quickly with little more than first aid or medical treatment. However, some injured workers may require more help.

Three key components to facilitating a return to work are:

- Appointing a Return to Work Co-ordinator
- Developing and implementing a Return to Work Plan
- Supporting and monitoring the worker.

Employers need to ensure that constructive lines of communication are maintained between the injured worker, the worker's treating health professional and others involved in the return to work process to establish an agreed return to work plan and to ensure that changes to the worker's status are responded to promptly. The Return to Work Plan should set out the assistance the injured worker needs to return to work and the duties the worker will be able to do so they can remain at work or return to work as safe and as quickly as possible.

### **Can a worker return to work early after a workplace injury?**

If possible, workers should try to stay at work during their recovery period doing duties that will not aggravate their injury and are suited to their capacity. The worker's treating health professional has an important role in helping to determine the workers capacity for work.

If a worker is unable to return to work immediately after their injury, the earlier a worker can get back to work the faster and more lasting their recovery is likely to be.

Treating a workplace injury is much like treating a sports injury. Doctors know that the earlier they can get an injured sportsperson back into training, the faster the recovery.

### **Who can help the worker get back to work?**

Getting back to work after an injury requires teamwork involving the worker, the worker's treating healthcare professional, the employer and possibly a VWA authorised agent. Communication between all parties is the key to a successful return to work.

The worker's treating healthcare professional can help in the worker's recovery by discussing suitable work options with the worker's employer so that the worker can stay at work and return to normal duties as soon as possible.

An employer can help the worker by providing suitable duties that suit the worker's level of work capacity and informing the worker and treating healthcare professional of any changes in the workplace.

And most importantly the worker can help by ensuring communication lines are kept open between the employer by keeping their employer informed of recovery progress and any difficulties they may experience along the way.

The Agent can assist by reiterating and confirming the roles each party plays in the process, advising of the obligations and ensuring the important lines of communication are well maintained.

### **What is a Return to Work Plan?**

A return to work plan is an employer's written action plan, explaining how they will help an injured worker stay at work while they recover, or return to work as soon as possible. The injured worker has a better opportunity for an early return to work if the employer develops and implements the plan promptly.

A Return to Work Plan is an easy to read document that can be used as a communication tool between all parties.

The Return to Work Plan's key functions are to:

- enable early planning for return to work;
- set goals and expectations for all parties involved, and;
- outline a course of action for how that will be achieved.

A Return to Work Plan should always be developed together by the employer, injured worker and the injured worker's treating healthcare professional, where possible.

### **What is an Offer of Suitable Employment?**

If the injured worker has some capacity for work, but cannot return fully to their normal role, the Return to Work Plan must include an Offer of Suitable Employment. An Offer of Suitable Employment is a written job offer based on duties the injured worker can do, taking into account the injured worker's current work capacity and medical advice. These duties will need approval from the injured worker's treating healthcare professional.

Suitable employment could mean the injured worker does different duties to their normal work or that changes are made to equipment or tools they would normally use. It could mean the injured worker works reduced hours whilst they recover. Suitable employment usually consists of duties that have a relationship to the injured worker's previous role and should be structured to accommodate an increase in duties as the injured worker's health improves.

### **What if an injured worker has no capacity for work?**

An employer must still develop a Return to Work Plan within 10 calendar days from the date the injured worker's claim for weekly payments is accepted or the date the employer becomes aware the injured worker will be off work for more than 20 calendar days.

The employer should keep checking the injured worker's *Certificate of Capacity* and liaise with their Agent so the employer is ready to act when the injured worker's situation changes. In the meantime, the employer cannot terminate an injured worker's

employment. The employer must keep the injured worker's job open for them for 52 weeks. An employer may elect to continue employing an injured worker beyond this time.

### **Does a Return to Work Co-ordinator have to be appointed?**

If an employer's annual pay roll is less than \$1 million, at the outset of each claim the employer must appoint a Return to Work Co-ordinator and tell everyone involved who that person is.

If an employer's pay roll is greater than \$1 million, the employer should have a Return to Work Co-ordinator appointed at all times. The employer should inform all their staff who this person is.

The Return to Work Co-ordinator could be a Manager, the injured workers supervisor or someone else in the company.

### **What are the Return to Work Co-ordinators responsibilities?**

The Return to Work Co-ordinator is responsible for dealing with injured workers in a supportive and effective way, maintaining good relationships with them, as well as managing the return to work process.

The Return to Work Co-ordinator should have the ability to liaise with all parties as part of the return to work process. These parties include: injured workers, treating healthcare professionals and other relevant staff.

The Return to Work Co-ordinator is responsible for monitoring the progress of the injured worker and to ensure a Return to Work Plan and Risk Management Program are developed and implemented.

### **Is training available for Return to Work Co-ordinators?**

VWA approved training is available and we encourage all Victorian Employers to send their Return to Work Co-ordinators for training to assist them to fulfill their obligations and responsibilities effectively.

Click here to find out more about [Return to Work Co-ordinator training](#)

## **Employer Rights and Responsibilities**

**By law, you must provide a safe and healthy workplace for your workers and contractors.**

This includes:

- providing and maintaining safe plant (such as machinery and equipment) and safe systems of work (such as controlling entry to high risk areas, controlling work pace and frequency and providing systems to prevent falls from heights)
- implementing arrangements for the safe use, handling, storage and transport of chemicals (such as dangerous goods and other harmful materials)
- maintaining the workplace in a safe condition (such as ensuring fire exits are not blocked, emergency equipment is serviceable, and the worksite is generally tidy)
- providing workers and contractors with adequate facilities (such as clean toilets, cool and clean drinking water, and hygienic eating areas)
- making sure workers have adequate information, instruction, training and supervision to work in a safe and healthy manner.

You must also:

- adequately monitor your workers' health (such as providing hearing tests for workers exposed to high noise levels, providing blood tests for workers exposed to lead and monitoring fatigue levels of transport and other workers)
- keep information and records relevant to your workers' health and safety (such as records of biological monitoring, asbestos assessments, first aid records and relevant medical information)
- employ or engage people with the necessary qualifications or expertise to advise you on health and safety issues affecting your workers
- consult with employees on matters that may directly affect their health, safety or welfare. Where the employees are represented by a health and safety representative (HSR), the HSR must also be involved in the consultation
- nominate a senior management representative (or yourself) to deal with workers and their health and safety representatives in resolving health and safety issues at the workplace
- provide your workers with information in the appropriate languages about your workplace health and safety arrangements, including the names of those to whom the workers can make an inquiry or complaint.

**Previous injuries**

- When hiring new employees you should inform them, in writing, of the nature of the work and ask if they have any pre-existing injury or illness that may be affected by the work.
- You should also inform them, in writing, that failing to notify or hiding a pre-existing injury or illness which might be affected by the nature of the proposed employment, could result in that injury or illness being ineligible for future compensation claims.

### **Other health and safety obligations**

You must ensure that other people (such as your customers, visitors and the general public) are not endangered by the conduct of your business (for example, by providing protection from falling debris around construction sites, controlling traffic access to your workplace and limiting public access within your workplace).

You have additional specific obligations if your business involves the:

- manufacture, importation, transportation, supply, storage, handling or use of dangerous goods
- design, manufacture, importation, supply, erection or installation of plant
- manufacture, importation, or supply of substances.

You also have obligations to:

- meet particular licensing, registration and certification requirements
- immediately notify WorkSafe of certain dangerous incidents
- co-operate with WorkSafe Inspectors
- comply with Inspector's Notices and Written Directions issued by [WorkSafe Victoria Inspectors](#).

### **Penalties**

Penalties for breaches of the Occupational Health & Safety Act 2004 were substantially increased. The maximum penalties are now \$943,290\* for companies and \$188,658\* for individuals.

### **Workplace Injury Insurance**

- Take out a WorkCover Workplace Injury Insurance policy with a VWA Agent of your choice (unless your annual financial year payroll is expected to be \$7500 or less).
- If you employ apprentices or trainees, you must have a WorkCover policy regardless of your annual payroll.
- Notify your VWA Agent of workplace or business activity changes (these changes can affect your classification and premium).
- Notify your VWA Agent if the address of your workplace changes or if you change your legal business operating name.
- Check your annual estimate of remuneration (and, if you have any claims, your claims statement) sent to you by your insurer before the calculation of your premium each year.
- Notify your VWA Agent within 28 days if your remuneration increases or is likely to increase by 20% or more, above your last estimate of remuneration for the financial year.
- Certify your remuneration at the end of each financial year by the due date.
- Pay your premium by the due date shown on your invoice.

## Claims

- “If you are injured” poster must be displayed in every workplace otherwise you could be liable for a fine of up to \$2,096. The poster must be displayed where all workers can read it - view [more information on the poster](#).
- You have to keep a Register of Injuries to keep track of work-related injuries and illnesses.
- For workplace incidents that cause or could have caused serious injury or death you must notify WorkSafe on 13 23 60.
- When an injured worker records an injury or illness in the Register of Injuries, you must acknowledge this registration in writing to the worker.
- If required the worker may visit a doctor. The doctor may call you to discuss possible return to work/alternative duties options.
- Stay in touch with the injured worker - it is advisable that you maintain contact with the injured worker as it can be beneficial to their recovery to feel that they have not been forgotten.
- Upon receipt of a claim for compensation, you must complete the employer section of the Worker's Claim Form and acknowledge the receipt of the claim in writing as soon as reasonably practicable.
- You cannot refuse to take a Worker's Claim Form from a worker and you cannot dismiss a worker for making a claim.
- Complete an Employer's Claim Report if you receive:
  - a Worker's Claim Form for weekly benefits
  - a Worker's Claim Form for medical and like expenses more than your employer excess
  - a Dependant's Claim for Compensation.

(Employer's Claim Reports are available from post offices, your VWA agent or by calling the WorkCover Advisory Service on 1800 136 089 or 03 9641 1444.)

- Forward claims to your VWA Agent within the required timeframe. You must forward your Employer's Claim Report with:
  - the completed Worker's Claim Form
  - any Workcover Certificate(s) of Capacity for time off work
  - other relevant documents such as medical and like accounts, investigation reports, etc.
- You are required by law to forward to your VWA Agent:
  - all claims for weekly benefits (regardless of the number of days lost) within 10 days of receiving it from the injured worker
  - claims for medical and like services only, which do exceed the first \$531\* of your employer excess must be forwarded within 10 days of receiving it from the injured worker
  - claims for medical and like services only, which do not exceed the first \$531\* of your employer excess, can be forwarded at 3 month intervals.
- Additional liability and penalties may be applied if you forward any claim for time loss outside the legislative timeframes. In addition, if you forward a claim

for time loss and it is received by your VWA Agent or the VWA more than 38 days after it was served on you by the worker, the claim is deemed accepted.

- If you accept a claim you are liable for payment of the first 10 days that the injured worker misses from work and also the first \$531\* of medical and like services (referred to as the employer excess), unless you have selected the Excess Buyout option. If you are not accepting liability at this point, you do not have to pay anything at this stage. Simply forward the claim forms and certificate/s to your VWA Agent and await the Agent's decision.
- Once a claim for weekly benefits is accepted you will be advised by your VWA Agent and you will be required to make payment of weekly compensation to the worker on their regular pay day while an entitlement exists.
- [Further claim lodgement information](#)

### **Return to work**

- If you have an annual payroll of \$1 million or more, appoint a return to work coordinator and develop an occupational rehabilitation program with your workers and display it in your workplace or give each worker a copy.
- Prepare a return to work plan and nominate a return to work coordinator for any injured worker with an incapacity for work no later than 10 days after a claim is accepted or determined in the worker's favour, or you become aware that the worker's period of incapacity is likely to exceed 20 days (whatever the size of your business).
- Within 3 months after a claim was accepted or determined in the worker's favour, all employers must establish and then maintain an occupational rehabilitation program, and put in place a risk management program to reduce the risk of other subsequent injuries.
- Offer pre-injury equivalent or suitable employment to an injured worker within 12 months of the claim being accepted or determined in the worker's favour.
- Failure to comply with the return to work and rehabilitation requirements can result in substantial fines

## **Worker Rights and Responsibilities**

Workers don't have to be full-time - they can be part-time or casual workers or employment arrangements.

A worker may be a:

- person who applies for WorkCover benefits
- person (including a domestic servant or an outworker) who has entered into or works under a contract of service or
- apprenticeship or otherwise with an employer and under that contract does manual labour, clerical work, or otherwise
- person who is deemed to be working under a contract of service

- person who is deemed to be a worker
- pupil attending a school who is employed under a work experience arrangement
- student of a TAFE provider who is employed under an agreement.

### [Labour Hire Workers:OHS Rights & Responsibilities](#)

## **Representation**

Employees can initiate the formation of a Designated Work Group (DWG) which is the mechanism for electing Health & Safety Representatives (HSR).

- [Employee Representation](#)

## **Worker Duty Of Care**

All workers have a duty of care to ensure that they work in a manner that is not harmful to their own health and safety and the health and safety of others.

- [Information for employees on health and safety](#)

## **Injury/Illness**

You must notify your employer of any injury or illness within 30 days of you becoming aware of it.

- [if you are injured poster.](#)

## **Making A Claim**

If you need medical treatment or time off work because of your injury or illness, you need to make a claim.

- [How to make a WorkCover Claim](#)