

What if suitable employment is not provided?

If an employer is unable to provide suitable employment, they should raise this with their claims agent immediately as failure to comply with the obligations set out in the *Return to Work Act 2014* may result in financial penalties.

Where suitable employment is not provided, a worker can ask ReturnToWorkSA to investigate whether or not the employer has an obligation to provide employment for them.

The worker can also write to the employer asking for suitable employment. If the employer does not provide suitable employment within one month, the worker may apply to the South Australian Employment Tribunal for an order for the employer to provide employment.

Termination of employment

Generally, an employer must give 28 days notice of proposed termination of employment to their claims agent and the injured worker.

There are exceptions to this requirement. Talk to your claims agent if you want more information about these.

When ReturnToWorkSA is aware an employer has terminated, or proposes to terminate a worker's employment, it reviews the case to assess whether the employer has an obligation to provide suitable employment or if an exception applies. ReturnToWorkSA may contact the employer to request information.

Support for you

Your claims agent

Your claims agent EML or Gallagher Bassett can help you to identify suitable duties in your workplace and help you to understand your obligations. Contact your claims agent directly for support.

Employer Education Advisors

ReturnToWorkSA can provide you with support and advice to identify suitable employment and understand your obligations as an employer. Our Employer Education Advisors can:

- help you understand your obligations
- provide strategies to identify suitable employment
- educate leadership about the health benefits of work and the role they play in return to work
- provide guidance about how to overcome barriers to return to work.

For support email coordinators@rtwsa.com

Employer Regulation Officers

Our Employer Regulation Officers:

- educate employers, including self-insured, about their suitable employment and termination obligations
- review instances where an employer cannot provide suitable employment or has provided notice of termination of a worker's employment
- investigate alleged breaches of the obligation to provide suitable employment.

For support email enforcement@rtwsa.com

Official



Guide to providing suitable employment

Returning to work safely after a work injury.



Return to **work.**
Return to **life.**



Benefits of providing suitable employment

Providing employment following a work injury has many benefits for workers and employers beyond simply complying with legislative requirements.

Work is good for health and wellbeing

Supporting your worker to remain at or return to work promotes physical activity, keeps them socially connected, and maintains structure and daily routine. It also allows them to remain financially independent during and after their claim.

Quicker return to pre-injury role

Offering suitable employment as early as possible shows the worker and their doctor that you are committed to supporting return to work in a safe and sustainable way. This results in a quicker return to pre-injury employment or other suitable employment.

Retain skilled workers

Providing suitable employment helps workers to maintain or even increase their skills, knowledge, experience and relationships within the organisation. Retaining staff also reduces the costs of recruitment and training.

Reduces impact on premiums

The longer someone is away from work, the less likelihood they have of returning to work at all. By offering suitable employment you reduce the need for income support, which in turn minimises impact on your insurance premium.

Reduces stigma

Workers can be nervous about reporting injuries and submitting claims for fear it may jeopardise their employment. Providing work sends a positive message to all staff that return to work is supported, resulting in early reporting and improved outcomes.



Duty to provide work

The *Return to Work Act 2014* states that when a worker is unable to return to their pre-injury duties because of a work injury, then the employer must provide suitable employment which the worker is medically fit to do and is the same or similar to the work they were completing prior to the work injury.

The obligations to provide suitable employment is also expected when the worker is medically unable to return to their pre-injury role and when a worker can only return on reduced/alternate hours and/or modified/alternate duties for a short timeframe.

There are exceptions to the requirement to provide suitable employment, however every effort must be made by the pre-injury employer to provide.

The worker has an obligation to participate in suitable employment offered by the pre-injury employer, as outlined in the *Return to Work Act 2014*.

What is suitable employment?

Suitable employment is work that the worker is fit and able to do, taking into account

- their capacity for work and medical information about their work injury
- their employment history
- their age, education, skills and experience
- where they live
- any recovery and return to work plans or return to work services being provided for the worker.

The employer may need to identify a different role for the worker, which could mean modifying their current role or creating a new role for them within the organisation.

Helping a worker return to work as soon as possible after injury by providing suitable duties is necessary for the worker's recovery and safe return to work.

In exceptional circumstances, the worker may need to seek suitable employment with a new employer.

Tips to identify suitable employment

- talk to the worker about what they feel they can do, including additional skills and experience they may have
- engage the worker and their supervisor/manager in discussions
- review the entire workplace to identify suitable work
- ask the claims manager to consider a workplace assessment and develop a graduated return to work schedule
- engage with the worker's medical team and claims manager to identify long-term, sustainable return to work goals
- consider re-training options to prepare a worker for a different role in your workplace.