

LEGISLATIVE BRIEFING

A Regional Employers Services Publication

Vol. 57, October 24, 2023

RETROACTIVITY AND UPCOMING POLICIES ON NEW RETURN-TO-WORK REQUIREMENT UNDER THE WORKERS COMPENSATION ACT

Further to the Legislative Briefing titled [New Return-to-Work requirements under the Workers Compensation Amendment Act \(No.2 2022\)](#) WorkSafeBC has issued additional guidance on the return-to-work requirements under the [Workers Compensation Act \(Act\)](#).

What's New

As per the previous update, the legal duty to cooperate and the duty to maintain employment will come into effect on January 1, 2024. In WorkSafeBC's recent [announcement](#), they advised that these legal duties will be retroactive in certain circumstances and apply to claims with injury dates before January 1, 2024. The **duty to cooperate** will apply to claims with injury dates up to two years before the January 1 effective date, while the **duty to maintain employment** provision will apply to claims with injury dates up to six months before the effective date.

The return-to-work requirements apply to both employers and employees. WorkSafeBC recognizes that many employers and employees already know the importance of return-to-work and are currently engaged in effective practices. However, in the rare case where an employer or an employee is not taking steps to comply with their obligations under the Act, or in addressing issues associated with return-to-work, WorkSafeBC will contact them to learn more, discuss the issues with them and the potential barriers to cooperation, and offer their support. In some cases, further escalation or penalties may be required, as laid out in the legislation. If an employer remains non-compliant, WorkSafeBC may apply an administrative penalty based on the amount of the wage-loss or other benefits being paid to the employee, and if an employee is non-compliant, WorkSafeBC may reduce or suspend compensation payments.

What's Next

WorkSafeBC completed two months of public consultations on September 1, 2023, where they received input from employers and workers on four new policies to support the new return-to-work duties. The Board of Directors will consider the feedback received before making a decision on the proposed policies. RES will continue to monitor this and will provide further updates on these policies when they are published, or as other advancements are made.



QUESTIONS?

If you have any comments or questions about this update, please e-mail RES360@metrovancover.org or call 604-451-6558.

SOURCES

Employers: Duty to cooperate and duty to maintain employment - WorkSafeBC -

<https://www.worksafebc.com/en/law-policy/workers-compensation-law/amendments/bill-41-amendments-to-the-workers-compensation-act/employers-duty-to-cooperate-duty-to-maintain-employment>

Workers: Duty to cooperate and duty to maintain employment - WorkSafeBC -

<https://www.worksafebc.com/en/law-policy/workers-compensation-law/amendments/bill-41-amendments-to-the-workers-compensation-act/workers-duty-to-cooperate-duty-to-maintain-employment>