

# Overview of the Duty to Cooperate and Duty to Maintain Employment Amendment

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# Projected outcomes of duty to cooperate and duty to maintain employment amendment

- Eliminates the waiting game
- Removes WorkSafeBC from initial conversation
- Establishes collaboration
- Leads to better outcomes

“

People injured on the job need to know that there is a workers' compensation system that meets their needs ... With these changes, we're making sure that workers are properly supported when they need it the most.”

Harry Bains, Minister of Labour

# Duty to cooperate

- 1 Duty to cooperate** – Adds legal duty for workers and employers to cooperate in the worker's early and safe return to work (RTW), or continuation of work
- 2 Duty to maintain employment
- 3 Consequences of non-compliance

## Duties

### Employer

- Maintain contact.
- Identify suitable work options.
- Make available suitable work.

### Worker

- Maintain contact.
- Identify suitable work options.
- Not unreasonably refuse suitable work.

### WorkSafeBC

- Facilitate communication.
- Assist with RTW planning.
- Intervene and resolve disputes in a timely way.
- Determine compliance.

# Application of the duty to cooperate

What claims are impacted?

All **accepted** claims where the worker is disabled from earning full wages.

When does duty to cooperate start?

Begins from the date of the worker's injury, date of psychological change, or date of disablement.

When does the duty to cooperate apply?

All claims with a date of injury after January 1, 2022; and, All decisions **after** January 1, 2024.

Duration of the obligations

Continues throughout the entire claim or as long as the employment relationship exists.

When doesn't the duty to cooperate apply?

Health care only claims or preliminary determinations.

# True or False

You must obtain medical approval to offer suitable work.

# True or False

Once it's determined that suitable work is not available, the DTC has been met?

# Duty to maintain employment (DTME)

- 1 Duty to cooperate
- 2 **Duty to maintain employment** – Adds legal duty for eligible employers to maintain employment of an injured worker
- 3 Consequences of non-compliance

## Duties

### Employer

- Offer and provide suitable work in accordance with worker's abilities.
- Accommodate worker (to point of undue hardship).

### Worker

- Update employer on abilities.
- Participate in suitable or accommodated work offer.
- Inform WorkSafeBC if terminated due to injury.

### WorkSafeBC

- Perform essential duties.
- Assess in determining functional abilities.
- Assist with RTW planning.
- Resolve disputes.
- Determine compliance.

# Application of the duty to maintain employment

## What claims are impacted?

All **accepted** claims where employers and workers meet the eligibility criteria, and the worker is disabled from earning full wages.

## When do the obligations start?

Begins from the date of the worker's injury, date of psychological change, or date of disablement.

## When does the DTME apply?

All claims with a date of injury after July 1, 2023, and all decisions **after** January 1, 2024.

## Duration of the obligations

As long as the employment relationship exists: Obligation to offer RTW varies based on the worker's RTW status. And obligation to make changes to the work or workplace to accommodate worker is ongoing.

## When doesn't the DTME apply?

Terminations occurring before January 1, 2024, health-care care only claims, or preliminary determinations.

# True or False

The duty to maintain employment resets after every contract.

# True or False

If an external applicant is a stronger candidate for a job, we don't have to give it to the injured worker.

# Consequences of non-compliance

- 1 Duty to cooperate
- 2 Duty to maintain employment
- 3 **Consequences of non-compliance** – Adds legal authority to impose administrative penalties, reduce or suspend wage-loss equivalency benefits, and entitle worker benefits

## Impacts

### Employer

- Administrative penalties for employer if they fail to cooperate or maintain employment.

### Worker

- Workers' benefits may be reduced or suspended for failing to cooperate.
- Entitlement to specialized benefits where employer failed to comply.

### WorkSafeBC

- Adjudicate failure to comply with law and policy.
- Determine and impose penalty amounts.
- Payment of benefits.

# RTW Consultation and Education Services

## Self-help tools

Online tools to help guide employers in managing RTW and developing RTW programs

## Short-term interventions

Focused assistance to address employers' issues and to improve their RTW performance

## Early access to physio program

Direct access to physiotherapy clinic with treatment and RTW planning for qualified employers

## RTW training and education

- RTW for leaders
- RTW for supervisors
- RTW coordinator workshop

## Employer RTW support

Help line and email to provide employers with RTW support and advice: 1.877.633.6233  
rtw-ces@worksafebc.com

## Engagements

Partnership with employers to provide RTW program consultations

**Questions?**

# Contacts

## **RTW Consultation and Education Services Support**

- 1.877.633.6233
- [rtw-ces@worksafebc.com](mailto:rtw-ces@worksafebc.com)