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**Workplace Injury Rehabilitation and Compensation Act 2013**

## MINISTERIAL DIRECTION

## Return to Work Direction

## Issue Resolution Process

I, Robin Scott MP, Minister for Finance, make the following direction under section 118(b) of the **Workplace Injury Rehabilitation and Compensation Act 2013** and hereby revoke the ‘Ministerial Direction Return to Work Direction No. 1 of 2010’, Victoria Government Gazette, No. G 25, 24 June 2010, 1304.

Dated 6 June 2016

ROBIN SCOTT MP  
Minister for Finance

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**1. Purpose**

The purpose of this direction is to set out the procedure to facilitate the resolution of issues that arise at a workplace between an employer and a worker concerning the worker’s return to work if there is no relevant agreed procedure for resolution of those issues.

**2. Authority**

This direction is given pursuant to section 118(b) of the **Workplace Injury Rehabilitation and Compensation Act 2013** (the Act).

**3. Commencement**

This direction comes into operation on the day after it is published in the Government Gazette.

**4. Definitions**

Unless the context otherwise requires, or the contrary intention appears, terms in this Ministerial Direction have the same meaning as defined in the Act.

In this Direction:

‘**the Act**’ means the **Workplace Injury Rehabilitation and Compensation Act 2013**.

‘**Return to work co-ordinator**’ means the person nominated by the employer to assist the employer to meet the employer’s obligations under Division 2 of Part 4 of the Act, as required by section 106 of the Act.

‘**Return to work issue**’ means an issue about a worker’s return to work but excludes a complaint about the Authority (unless the Authority is the employer of the injured worker), the authorised agent, claim liability, payment of a benefit or entitlement, termination or suspension of a claim, reimbursement of an expense, a conciliation application or outcome and also excludes general matters of policy and practice applying across the workplace and not directly and particularly related to the worker’s return to work.

**5. Persons who can raise return to work issues**

A return to work issue may be raised for resolution at the workplace in accordance with the procedure set out in this direction by –

- a) the worker;
- b) a representative of the worker;
- c) the worker's manager or supervisor;
- d) the return to work co-ordinator;
- e) the provider of occupational rehabilitation services to the worker; or
- f) the worker's treating health practitioner.

**6. Procedure for reporting issues**

1. A worker who wishes to raise an issue for resolution in accordance with the procedure set out in this direction may do so by reporting the issue to the employer, the worker's manager or supervisor, or the return to work co-ordinator.
2. A worker's representative, treating health practitioner, return to work co-ordinator, manager, supervisor or provider of occupational rehabilitation services may raise an issue on behalf of the worker by reporting the issue to the employer.

**7. Procedure for resolving issues**

1. As soon as possible but no longer than 20 days after a return to work issue has been reported the following persons must meet and try to resolve the issue –
  - a) the employer;
  - b) the return to work coordinator; and
  - c) the worker.
2. If a person referred to in clause 6(2) raises a return to work issue, the employer must also invite that person to participate in the issue resolution process.
3. The issues resolution procedure must be conducted in a manner and in a language that is agreed by the parties referred to in clause 7(1) to be appropriate.
4. For the purpose of resolving the return to work issue, the parties referred to in clause 7(1)(a) and 7(1)(b) must liaise directly with the worker, however a worker may be represented, assisted and supported during the return to work issue resolution process, including at all meetings referred to in clause 7(1).
5. For the purpose of resolving the return to work issue as quickly and effectively as possible the persons referred to in clause 7(1) and any person referred to in clause 7(2) who is participating in the issue resolution process must have regard to –
  - a) return to work planning for the worker;
  - b) the worker's progress in recovering from the injury;
  - c) the employer's return to work obligations as set out in the Act; and
  - d) the worker's return to work obligations as set out in the Act.
6. If a person referred to in clause 6(1) or 6(2) requests the employer to set out in writing details of the return to work issue, and matters relating to its progress, resolution or outcome, the employer must do so, within 14 days of the request, in a manner and a language that is agreed by the parties referred to in clause 7(1) to be appropriate and must provide a copy of the document to each of the parties referred to in clause 7(1)(b) and (c) and to each person referred to in clause 6(2) who has raised the return to work issue or any part of it.

**8. Other procedures**

Nothing in this direction limits the rights of any worker or employer under the Act to pursue other dispute resolution mechanisms.

ROBIN SCOTT MP  
Minister for Finance