

RETURN TO WORK GUIDELINES:

New South Wales

A Return to Work (RTW) program is the framework that supports an individual to return to work after a work-related injury. Each state has different legislation and regulations to guide employers, workers and other stakeholders through this process.

In New South Wales, the government organisation that regulates and administers the workers' compensation system is called the [State Insurance Regulatory Authority](#), or SIRA. SIRA issues guidelines for employers to let them know their obligations in regard to workers' compensation, and determines the standards for best practice workplace rehabilitation. Workplace health and safety is monitored by [SafeWork NSW](#).

In NSW, all employers must have a RTW program in place within 12 months of starting a business. This must be consistent with the injury management program that the employer's insurance provider has. It's important that the RTW program is written in plain English and is subject to regular review.

There are two categories of employer covered by the guidelines that SIRA issues. These categories are:

Category 1

This refers to employers who have a basic tariff premium over \$50 000 a year. They may be self-insured or insured by a specialised insurer and have over 20 employees.

Category 2

This refers to employers who have a basic tariff premium of \$50 000 or less. They are insured by a specialised insurer and have fewer than 20 employees.

There may be exemptions to this, please see the [SIRA website](#) for more information.

Which category does your business fall into? The next sections detail the requirements specific to each category.

CATEGORY 1 EMPLOYERS

If you're a Category 1 employer, you'll need to do the following activities to implement your RTW program:

1. Appoint a return to work Coordinator

A RTW Coordinator is someone employed to carry out the RTW process and liaise with the employer, the worker and other stakeholders, including doctors and other treatment providers, insurers, union and workplace rehabilitation providers. This person must have relevant skills, training and experience. (Find out more [here](#)). While a RTW Coordinator doesn't have to be a full-time employee engaged solely to perform this function, they do need to have the capacity to fulfil their RTW Coordinator duties as and when they're required.

2. Develop a RTW program

A Category 1 employer must have a RTW program that meets certain minimum requirements. SIRA has a handy [checklist](#) to make sure these employers are covering all their bases, and address the following aspects in their RTW program:

- **Leadership and commitment**

Employers in this category should state their commitment to help workers recover at work as part of their RTW program, and show how they're fostering a culture that is positive about these prospects. Workplaces should also indicate how WHS policies and procedures will be reviewed after any incidents.

- **Workplace arrangements**

The RTW program should outline the RTW Coordinator's role and specify how an approved workplace rehabilitation provider should be engaged. The program should also provide a framework for the relationship between the employer and the rehabilitation provider, and detail a procedure for ensuring unions and workers are consulted about the program.

- **Rights and obligations**

An effective RTW program will also include guidance for communicating the program to staff, training them and informing them of their rights and obligations in this area. The RTW program should also include specifications for how it is to be monitored, reviewed and displayed, including information about who the RTW Coordinator and workers compensation insurer are. Category 1 employers must display and notify the workplace of the program and [WorkCover NSW](#) also requires the 'If you get injured at work' poster to be displayed.

- **After an incident**

The RTW program should also include the procedure to be followed when an incident occurs. When an injury occurs, workers must notify their employers as soon as possible. If a notifiable incident occurs, [SafeWork NSW must also be notified](#) immediately, and the insurer must be notified within 48 hours. SafeWork NSW also requires that the incident site must be preserved until an Inspector attends or the organisation is advised otherwise. Employers must provide easily accessible first aid equipment and trained personnel to administer treatment, and the RTW program should detail these arrangements. Employers must keep a register of all work-related illnesses or injuries, regardless of whether they result in a workers' compensation claim. Notifiable incidents must also be recorded. Workers must be notified about how to report and record incidents. Different WHS notification requirements may apply to mining workplaces.

After an incident, the worker has an obligation to participate and cooperate in the establishment of an injury management plan and carry out the actions it prescribes. The worker needs to consent for information about the management of their injury and recovery at work to be shared between stakeholders, and the worker also must commit to making all reasonable efforts to recover at work. The worker has rights to nominate their own treating doctor and to be employed in a role that is suitable for them and, so far as reasonably practicable, the same or equivalent to their pre-injury employment. The worker has the right to be involved in ascertaining what this suitable employment might be, and in the development of their return to work plan. More information about suitable work and how this should be detailed in the RTW program can be found [here](#).

They also have the right to privacy and confidentiality, and to access the relevant mechanisms to resolve any complaints or disputes

that may arise. More information is available in the following links:

[Injured at work: A recovery at work guide for workers](#)

[Guidelines for claiming workers compensation](#)

- **Support for the worker**

The RTW program must outline the responsibilities, duties and obligations of the worker's support team, including the staff in senior and middle management, the RTW Coordinator, the insurer, the nominated treating doctor, the approved workplace rehabilitation provider and any union representing workers. The RTW program must also outline how effective communication will be facilitated between stakeholders and the injured worker, including measures that ensure the worker provides informed consent when information about them is shared with other parties. More information about informed consent can be found [here](#).

- **Recovery at work**

The employer and insurer must collaborate to write a [RTW plan](#) for an affected worker. The details of this should also be included in the RTW program, including policies and procedures for including the worker in the development of the plan, what the plan should consist of, how appointments should be managed, who should have access to the plan and how to monitor, review and notify stakeholders of changes to the plan. Some workers may not be able to return to the same workplace following an injury, and the RTW program should include the alternatives the employer will offer, such as retraining and job placement options. The RTW program should also include information for the worker about how the employer will inform them of their rights regarding dismissal, as per workers' compensation law. Dispute resolution measures must also be accounted for in the RTW program. As of the 1st January 2019, reforms have been introduced to streamline the NSW Government's workers' compensation dispute resolution systems. Find out more [here](#).

- **Administration**

The RTW program must also include procedures for ensuring that the weekly payments issued to workers are prompt and correct. Employers must advise the insurer of the worker's pre-injury average weekly earnings (PIAWE) and must not delay in passing entitlements to a worker. Employers can be penalised for doing so. More information on this can be found [here](#).

As mentioned earlier, a worker must be able to provide informed consent to the sharing of their information, and workers can also expect confidentiality standards to be upheld. Measures to allow for confidentiality and secure record-keeping procedures should be addressed in the RTW program.

These components of an effective RTW program are designed to minimise the negative impacts of work-related injury or illness for both the worker and the employer, and make sure the worker can be facilitated to return to work in the best possible way.

There may be additional policies and procedures needed to account for the particular operations, work types or practices, work environments and workplace culture of a specific business. NSW [workers' compensation laws](#) should also be consulted when developing a RTW program.

3. Consult workers and unions

It's important for both workers and unions to be consulted in the development of a RTW program, to ensure all stakeholders have a say in policies and procedures, including those workers who do not speak English or have a disability. The RTW program should detail how this will be facilitated.

4. Implement the RTW program

Implementing the program includes taking the aforementioned steps to make sure workers are informed of the program and what it involves. This includes displaying it and informing workers of their rights, obligations and the workplace policies and procedures that must be adhered to.

CATEGORY 2 EMPLOYERS

Category 2 employers must have a RTW program in place within 12 months of becoming a Category 2 employer, and will need to undertake the following activities:

1. Appoint someone to be responsible for recovery at work

Employers in Category 2 don't need to appoint a RTW Coordinator but they do need to have someone who holds responsibility for these duties, either an internal staff member or a contracted Coordinator. Some businesses choose to share a RTW Coordinator. In either circumstance, the person who takes on these responsibilities must have [relevant training, skills and experience](#), and the employer must take steps to ensure the arrangement is suitable. Find out more [here](#).

2. Develop a return to work program

Category 2 employers can use a standard return to work program issued by SIRA, or develop their own program, guided by the template. In either circumstance, consultation with workers and unions is essential, including workers with a disability or those who don't speak English.

3. Implement the return to work program

Implementing the RTW program includes fulfilling the obligation to inform workers about the program and what it involves. This includes the task of informing workers of their rights and obligations as well as the workplace policies and procedures that must be adhered to. Category 2 employers must provide copies of the RTW program to all workers who request it or have a workers compensation claim, and make copies generally available. If these measures are taken, Category 2 employers do not need to display their RTW program. All workplaces must display the ['If you get injured at work'](#) poster, issued by SafeWork NSW.

Employers should review the RTW program in consultation with stakeholders, at least every two years.

Information in this article is correct at the time of publication. While comprehensive, this is not an exhaustive guide to the RTW requirements in New South Wales, and SIRA is the best source of information for this. If you'd like to know more about implementing an effective RTW program in your workplace, get in touch with Recovery Partners by calling 1300 OHS RTW (647 789) or emailing admin@rrp.com.au.