

South Australia

Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996

under the *Workers Rehabilitation and Compensation Act 1986*

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Legislative history

1—Short title

These regulations may be cited as the *Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996*.

2—Commencement

These regulations will come into operation on the day on which they are made.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Workers Rehabilitation and Compensation Act 1986*;

different employer, in relation to an injured worker, means an employer of the worker (whether identified or not) who is not the pre-injury employer;

different employment, in relation to an injured worker, means employment that is not pre-injury employment;

injured worker means a worker who has been incapacitated for work by a compensable disability;

plan means a rehabilitation and return to work plan under Part 3 of the Act;

pre-injury employer means the person by whom an injured worker was employed immediately before the occurrence of a compensable disability to which a programme or plan relates;

pre-injury employment means the form of employment which an injured worker performed immediately before the occurrence of a compensable disability to which a programme or plan relates;

pre-injury remuneration means the amount of an injured worker's notional weekly earnings;

programme means a rehabilitation programme under Part 3 of the Act.

4—Standards and requirements—Rehabilitation programmes

Pursuant to section 28C of the Act, a programme for an injured worker must comply with the following standards and requirements:

- (a) it must be in writing;
- (b) it must specify the following details:
 - (i) the worker's full name;
 - (ii) the worker's date of birth;
 - (iii) the claim number;
 - (iv) the employer's name;
 - (v) the nature of the disability;
 - (vi) the date that the disability was suffered;
- (c) it must have as its objectives—
 - (i) the achievement by the worker of the best practicable levels of physical and mental recovery;
 - (ii) the restoration, where possible, of the worker to the workforce and the community;
 - (iii) other specific objectives (not inconsistent with the objectives referred to above) appropriate to the circumstances of the worker specified for that purpose in the programme;
- (d) it must specify, to the extent practicable, action that the worker and the employer of the worker must undertake in pursuance of the objectives of the programme;
- (e) it must specify, to the extent practicable, the services to which section 32 of the Act applies that are to be provided to, and accepted by, the worker;
- (f) it must specify, to the extent practicable, the point of commencement and completion of the programme (expressed either as particular dates, the commencement and expiration of a particular period, or the occurrence of particular activities or circumstances);
- (g) it must specify the method by which the Corporation will review the programme and, where practicable, the times or occasions on which reviews will take place;
- (h) if at the time of the preparation of the programme it has not been practicable to undertake a complete evaluation of—
 - (i) the worker's incapacity arising from the compensable disability; or
 - (ii) the employment that will be suitable employment for the worker given the worker's physical and mental condition as a consequence of the compensable disability,

it must specify that these matters will be evaluated and reported to the Corporation as soon as it becomes practicable to do so;

- (i) it must specify that the programme will come to an end when the Corporation establishes a plan for the worker;
- (j) it must contain the following statements:

(A)—Important Notice to Employers

A failure by an employer to co-operate with respect to the implementation of a rehabilitation programme or to provide suitable employment for an injured worker may be considered by the Corporation as appropriate grounds to impose on that employer a supplementary levy in accordance with section 67 of the *Workers Rehabilitation and Compensation Act 1986*;

(B)—Important Notice to Injured Workers

A refusal or failure by an injured worker to participate in a rehabilitation programme, or participation in a rehabilitation programme in a way that frustrates the objectives of a rehabilitation programme, may lead to the discontinuance of weekly payments pursuant to section 36 of the *Workers Rehabilitation and Compensation Act 1986*.

A refusal or failure by an injured worker to undertake work that the worker has been offered and is capable of performing, or to take reasonable steps to find or obtain suitable employment, may lead to the discontinuance of payments pursuant to section 36 of the *Workers Rehabilitation and Compensation Act 1986*. This may also occur if a worker obtains suitable employment and then unreasonably discontinues the employment.

5—Standards and requirements—Rehabilitation and return to work plans

Pursuant to section 28C of the Act, a plan for an injured worker must comply with the following standards and requirements:

- (a) it must be in writing;
- (b) it must specify the following details:
 - (i) the worker's full name;
 - (ii) the worker's date of birth;
 - (iii) the claim number;
 - (iv) the employer's name;
 - (v) the nature of the disability;
 - (vi) the date that the disability was suffered;
- (c) it must have as its objectives—

- (i) the return of the worker at the earliest practicable time to suitable employment at a level of remuneration which, as near as practicable, is not less than the worker's pre-injury remuneration;
- (ii) other specific objectives (not inconsistent with the objective referred to above) appropriate to the circumstances of the worker specified for that purpose in the plan, but at least including one of the following:
 - (A) the worker's return to the pre-injury employment with the pre-injury employer;
 - (B) the worker's return to different employment by the pre-injury employer;
 - (C) the worker's return to the pre-injury employment but with a different employer;
 - (D) the worker's return to different employment with a different employer;
- (d) in the case of a plan that contemplates the worker returning to different employment—to the extent practicable—it must specify the suitable employment to which the worker should return;
- (e) it must specify action that the worker and the pre-injury employer must undertake in order to meet the objectives of the plan, including (but not limited to)—
 - (i) in relation to the worker—what training or, where applicable, job search functions the worker should undertake;
 - (ii) in relation to the pre-injury employer—what workplace or employment modifications the pre-injury employer should provide or undertake in order to achieve the worker's return to work;
- (f) it must specify, to the extent practicable, the services to which section 32 of the Act applies that are to be provided to, and accepted by, the worker;
- (g) it must specify, to the extent practicable, the point of commencement and completion of the plan (expressed either as particular dates, the commencement and expiration of a particular period, or the occurrence of particular activities or circumstances);
- (h) it must specify the method by which the Corporation will review the plan and, where practicable, the times or occasions on which reviews will take place;
- (i) it must contain the following statements:

(A)—Important Notice to Employers

A failure by an employer to co-operate with respect to the implementation of a rehabilitation and return to work plan or to provide suitable employment for an injured worker may be considered by the Corporation as appropriate grounds to impose on that employer a supplementary levy in accordance with section 67 of the *Workers Rehabilitation and Compensation Act 1986*. An employer may apply for a review of a provision of a rehabilitation and return to work plan on the ground that the provision is unreasonable but such review proceedings do not suspend obligations imposed by the rehabilitation and return to work plan until a review or appeal authority makes a decision to modify the plan, if at all.;

(B)—Important Notice to Injured Workers

A failure by an injured worker to comply with an obligation under a rehabilitation and return to work plan may lead to the discontinuance of weekly payments pursuant to section 36 of the *Workers Rehabilitation and Compensation Act 1986*.

A worker may apply for a review of a provision of a rehabilitation and return to work plan on the ground that the provision is unreasonable but such review proceedings do not suspend obligations imposed by the rehabilitation and return to work plan until a review or appeal authority makes a decision to modify the plan, if at all.

A refusal or failure by an injured worker to undertake work that the worker has been offered and is capable of performing, or to take reasonable steps to find or obtain suitable employment, may lead to the discontinuance of payments pursuant to section 36 of the *Workers Rehabilitation and Compensation Act 1986*. This may also occur if a worker obtains suitable employment and then unreasonably discontinues the employment.

6—Amendment to programmes and plans

A reference in these regulations to a matter to be contained in a programme or plan includes any amendments, alterations or modifications to the programme or plan made by the Corporation in the course of a review of the programme or plan, subject to the Corporation satisfying the requirements of the Act in respect of the implementation of an amendment, alteration or modification.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Revocation of regulations

The *Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996* were revoked by Sch 5 cl 5 of the *Workers Rehabilitation and Compensation Regulations 2010* on 1.11.2010.

Principal regulations

Year	No	Reference	Commencement
1996	9	<i>Gazette 11.1.1996 p122</i>	11.1.1996: r 2