

What happens if there are disputes between workers and employers relevant to this legislation?

The WCB will attempt to facilitate a successful resolution to any dispute.

What if employers or workers disagree about injured workers' fitness to return to work?

The WCB will decide if injured workers are medically able to perform the tasks of the pre-injury job or suitable work.

The WCB is able to provide resources that help develop and evaluate disability management and return to work programs. Please call the WCB at **954-4321** or toll free **1-800-362-3340** for assistance.

For more information on the Workers Compensation Board of Manitoba please visit our website at **www.wcb.mb.ca**

For help on any part of a WCB claim, injured workers can contact Worker Advisor Offices in

**Winnipeg (945-5787),
Brandon (726-6480) or
The Pas (627-8278)**

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This document is available in large print format. Please call **954-4760**, toll free **1-800-362-3340** or email **info@wcb.mb.ca** for a copy.

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Re-employment Obligations



If you're
hurt at work,
we're
here to help.



Introduction

Effective January 1, 2007, *The Workers Compensation Act* requires employers who have 25 or more full-time or regular part-time workers to re-employ injured workers who were in their employ for at least 12 continuous months prior to their injuries. These obligations apply to injuries that happen on or after January 1, 2007.

Re-employment is intended to return workers to their original positions in the workplace or ones that resemble, as closely as possible, the positions held at the time of their injuries.

What is meant by “12 continuous months prior to their injuries?”

Workers hired one year or more before their injuries are considered to be continuously employed for 12 continuous months unless the year was interrupted by a work stoppage intended to end the employment relationship. Continuous employment may include seasonal workers who may be laid off for a period of time when there is no work available, with the understanding that they will be called back to work when the work becomes available.

What is required by employers affected by the legislation?

When injured workers are medically able to return to the essential duties of the jobs held at the time of their injuries, employers are obligated to offer to reinstate the workers in their original jobs or in alternative jobs that are comparable in tasks and earnings to the original positions.

When injured workers are not able to return to their original jobs, but can safely do other work, employers are obligated to offer their injured workers the first opportunity to accept suitable work that becomes available.

As currently exists in Human Rights Legislation, employers are required to accommodate the work or workplace of injured workers providing it does not cause employers undue hardship. Information on Duty to Accommodate policies and processes is available at www.gov.mb.ca/hrc.

If the WCB determines employers have not met their re-employment obligations, an administrative penalty may be applied.

What is required by injured workers covered by this legislation?

Injured workers must cooperate with the re-employment obligations by accepting reasonable offers of work. If workers decline reasonable offers of work, employers are no longer bound by the obligation.

Injured workers should notify the WCB if they feel their employers have not met the re-employment obligations following a workplace injury.

How long does the re-employment obligation last?

The re-employment obligation is time limited and ends at the earliest of three points:

- the second anniversary of the date of injury
- six months after the worker is medically able to perform the pre-injury job or other suitable work
- the date the worker would have retired.

What happens if injured workers go back to work, but are terminated within six months?

Employers who terminate re-employed injured workers within six months of the return to work are presumed to have breached the re-employment obligation. Employers may disprove the presumption by showing that the termination was not related to the injury.

The legislation recognizes that business decisions made in good faith that are not affected by workers being injured, such as layoffs, can impact the workers' employment status.

What happens if this legislation conflicts with a collective agreement?

If the employers' re-employment obligations provide injured workers with better re-employment terms than a collective agreement, this legislation prevails over the collective agreement.

