

RETURN TO WORK ASSESSMENT
3. POTENTIAL SUITABLE DUTIES WITHIN
THE WORK AREA/EMPLOYER ORGANISATION

CONFIDENTIALITY

Comcare Australia needs the information you provide in this form to carry out its functions under the *Safety, Rehabilitation and Compensation Act 1988* and, at times, its regulatory functions under the *Occupational Health and Safety Act 1991*.

In providing this information, your rights are safeguarded by the *Privacy Act 1988* which prevents the use of this information for other than compensation, rehabilitation and occupational, health and safety purposes. In certain instances, some or all of the information obtained during the course of a compensation claim and rehabilitation program (if required) may be given to:

- * Comcare Australia
- * the employer
- * the Approved Rehabilitation Provider/s
- * treating and/or other medical practitioner (including CMO)
- * the Australian Government Solicitor
- * law enforcement authorities
- * Centrelink
- * Safety Rehabilitation and Compensation Commission
- * Superannuation Boards
- * Courts, Tribunal and/or other Commonwealth agencies where there is an obligation under law to provide it

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REHABILITATION OBLIGATION AND RIGHTS

This notice of obligations and rights applies to employees who have an accepted compensation claim and whose employer (through the Case Manager) determined that they should undertake an assessment for rehabilitation and/or a program under Section 36 and 37 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

A. Assessment

Your Case Manager has determined that your capability to participate in a Return To Work program should be assessed and if required a Return To Work Program devised.

The completion of the Referral sets out in writing the request for assessment and is a determination in accordance with Section 36 of the SRC Act. You will receive a copy of the referral.

B. Your Return To Work Plan

Your return to Work Plan is the rehabilitation program that you and your Case Manager have decided will best enable you to return to work and as a result your Case Manager has determined that you should undertake the program. It contains a stated goal or rehabilitation objective and details action considered necessary to achieve the goal or objective. Your participation in your rehabilitation is essential for the plan to proceed.

Your Return To Work Plan, once signed by your Case Manager, constitutes a notice in writing setting out the terms of the rehabilitation determination. If you are satisfied with the Return To Work Plan you should sign it and take a copy for yourself. The Case Manager will forward a copy to Comcare Australia. If you are not satisfied with the Return To Work Plan, you are entitled to request a reconsideration of the determination.

C. Reconsideration of the Rehabilitation Determination

If you are not satisfied with the assessment determination by your Case Manager you are entitled to request a reconsideration.

If you are not satisfied with your Return to Work Plan you are entitled to request a reconsideration of the determination. You need not sign the plan, but should submit it to Comcare Australia with a written request for review of the determination, setting out the reasons for your request. Your refusal to sign the Return to Work Plan in no way affects your obligations and rights under the SRC Act.

You should lodge a written request for a reconsideration to Comcare Australia state office setting out your reasons. The reconsideration will be carried out by a Review Officer in Comcare Australia who has not been involved in the development of your rehabilitation program. The Review Officer may affirm the determination, revoke the determination and issue a new determination or vary the determination in such a manner as he or she sees fit.

The SRC Act states that a request for reconsideration should be made within 30 days of your receiving the determination. In some cases, an extension of time may be given.

If you decided to have a solicitor help you with the reconsideration process, you should be aware that any legal costs will be your responsibility, regardless of the result of the reconsideration.

It is important that you note a reconsideration must be carried out by

Comcare Australia before you can seek a review by the Administrative Appeals Tribunal.

D. Review by the Administrative Appeals Tribunal

If you are dissatisfied with the outcome of a reconsideration process, you can take the matter to the Administrative Appeals Tribunal. Comcare Australia will advise of how to apply for a review by the Administrative Appeals Tribunal when determination has been reconsidered.

E. Failure to Undertake your Rehabilitation Assessment or Program

If you refuse or fail to undergo the assessment your rights to compensation and your rights to institute or continue proceedings under the *Safety, Rehabilitation and Compensation Act 1988* may be suspended until the assessment takes place.

If you refuse or fail to undertake your Return to Work Plan without reasonable excuse, your rights to compensation under the *Safety, Rehabilitation and Compensation Act 1988* may be suspended until you begin to undertake the program. This may occur even if you have refused to sign the Return to Work Plan.

If your rights to compensation are suspended, compensation is not payable in respect of the period of the suspension.

F. Confidentiality

The Case Management approach to rehabilitation is a consultative process requiring close co-operation and exchange of relevant information between key parties in the process. Effective Return to Work can only succeed where there is an atmosphere of trust between the employee and the Case Manager which enables a free flow of information without compromising your rights to confidentiality. In providing this information your rights are safeguarded by the *Privacy Act 1988* which prevents the use of this information for other than compensation, rehabilitation and occupational, health and safety purposes. The information that is obtained by your Case Manager or Comcare Australia in the assessment for the need for rehabilitation, in the development of or in the course of the Rehabilitation Program may be given to Comcare Australia, the employer, the Approved Rehabilitation Provider, treating and/or other medical practitioner, the Retirement Benefits Office (in the case of recommended invalidity retirement) and, in the case of suspected fraud, to law enforcement authorities.

G. Freedom of Information

You may request copies of documents held by Comcare Australia which relate to your rehabilitation program. Under Section 59 of the *Safety, Rehabilitation and Compensation Act 1988*, Comcare Australia will release to a claimant any document it has which relates to that claimant's claim.

H. General

If you need any further information about your rights, or any other specific issues, please contact Comcare on 1300 366 979.