

Rehiring Worker / Obligation to re-employ and Duty to Accommodate



Rehiring Worker / Obligation to re-employ and Duty to Accommodate

The following tables summarize rehiring workers, obligation to re-employ and the duty to accommodate in each jurisdiction.

Click on one of the links below to go directly to:

- [Rehiring Worker / Obligation to Re-Employ](#)
- [Duty to Accommodate](#)

You may also be interested in:

Comparative Tables:

You may also be interested in the following comparative tables found on our [Rehabilitation and Return to Work](#) page:

- “Rehabilitation – Links to Legislation, Policy and Additional Info”.
- “Rehabilitation Services”.

Statistics:

You may also be interested in the following statistics found on [AWCBC’s website](#):

- Percentage of Lost-Time Claims Receiving Wage-loss Benefits
- Percentage of Wage-Loss Claims off Compensation at X days
- Health Care and Vocational Rehabilitation Benefit Costs
- Health Care and Vocational Rehabilitation Benefit Payments
- Health Care and Vocational Rehabilitation Benefit Liabilities

Source: Association of Workers' Compensation Boards of Canada – 2024

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Rehiring Worker / Obligation to Re-Employ

The following tables describe rehiring workers and obligation to employ in each jurisdiction.

Click the links below to go directly to:

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Newfoundland and Labrador

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Newfoundland and Labrador.

Newfoundland and Labrador	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	Legislation took effect January 1, 2002, regarding employers' duty to cooperate in early, safe RTW and re-employ obligations. Employers with less than 20 workers are exempt from re-employment obligations, and workers must have been employed by the injury employer for at least one year at the time of the injury. Similar provisions for the construction industry took effect January 1, 2003. Employers who have a re-employment obligation must accommodate the work or the workplace to the extent that the accommodation does not cause undue hardship.
Section of Act:	Workplace Health, Safety and Compensation Act (sections 89 to 89.4)
Policy (if any):	<ul style="list-style-type: none">• Policies RE-01 – RE- 11;• Procedures 33.00 - 43.00
Related Links (if any):	N/A

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Prince Edward Island

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Prince Edward Island.

Prince Edward Island	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	Prince Edward Island requires the worker to have been employed by the accident employer for at least one year prior to the injury before the employer is required to re-employ. The obligation to re-employ does not apply to an employer who regularly employs fewer than 20 workers.
Section of Act:	Workers Compensation Act (sections 86.1 – 86.12)
Policy (if any):	POL-93, Return to Work
Related Links (if any):	N/A

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Nova Scotia

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Nova Scotia.

Nova Scotia	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	Nova Scotia will exempt employers with less than 20 workers, and will require the worker to have been employed by the accident employer for at least one year before the employer is required to re-employ. Nova Scotia exempts the construction industry. In Nova Scotia, the employer is not bound to re-employ the worker if the worker refuses a suitable job.
Section of Act:	Workers' Compensation Act (sections 89-101)
Policy (if any):	N/A
Related Links (if any):	N/A

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New Brunswick

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in New Brunswick.

New Brunswick	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>For the employer, it is their legislated obligation to re-employ if:</p> <ul style="list-style-type: none"> • The employee has been employed with them for at least 12 continuous months on the date of the injury; and • The injured worker is medically able to return to pre-accident employment or suitable work <p>The re-employment obligation applies for one year, from the date the injured worker is entitled to compensation, for employers who regularly employ fewer than twenty workers; or two years, from the date the injured worker is entitled to compensation, for employers who regularly employ twenty or more workers. To facilitate re-employment, the employer must accommodate the work, the workplace or both for an injured worker to the extent that the accommodation does not cause the employer undue hardship.</p> <p>When a worker is medically able to perform the essential duties of the worker's pre-injury job, the employer must offer to re-employ the worker in their pre-injury job or provide alternative employment of a nature and earnings comparable to the pre-injury employment.</p>
Section of Act:	<u>Workers' Compensation Act</u> (section 42.3 - 42.6)
Policy (if any):	<u>Policy No. 21-413 Return to Work – Responsibilities and Re-employment Obligations (English)</u> (<u>French</u>)
Related Links (if any):	N/A

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Quebec

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Quebec.

Quebec	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>The worker is entitled to be re-employed in his employment, an equivalent job or a suitable job available with his employer.</p> <p>The re-employment obligation is time-limited: one year following the date of the injury in an establishment with 20 workers or less. Two years in establishment with more than 20 workers or before the expiration of the period provided for in a collective agreement.</p> <p>Re-employment must be without loss of seniority or benefits.</p> <p>When no rehabilitation measure can make the worker capable of carrying out his job or an equivalent job, CNESST may set up other measures which do not distort the job (e.g. adjustment of tasks, modification of the schedule, modification of the organization of work) to make the worker capable of carrying out suitable employment with his employer.</p> <p>An employer can provide a temporary work assignment which accommodates the worker's disability until he is fully able to resume the pre-accident job. CNESST can also offer a gradual return to work with financial support to the employer.</p> <p>The employer must collaborate to the return-to-work process and reinstate the worker in accordance with the CNESST decision under a financial administrative penalty. He cannot dismiss, suspend, layoff, discipline, discriminate or refuse to rehire a worker because of a work injury.</p>
Section of Act:	<p><u>Act respecting Industrial accidents and occupational diseases</u> (sections 32, 167, 167.2, 169, 170, 170.1, 170.2, 170.3, 170.4 and 234 to 251)</p>

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Quebec	Rehiring Worker / Obligation to Re-Employ
Policy (if any):	<ul style="list-style-type: none"> • Politique 3.01 Le droit au retour au travail • Politique 3.02 Le droit au retour au travail pour un travailleur de la construction • Politique 3.03 La détermination de la capacité du travailleur à exercer son emploi ou un emploi équivalent • Politique 3.05 La détermination de l'emploi convenable • Politique 3.07 Les sanctions administratives pécuniaires : l'obligation de collaboration et de réintégration • Politique 4.08 L'adaptation d'un poste de travail • Politique 4.16 Le retour progressif au travail
Related Links (if any):	N/A

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Ontario

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Ontario.

Ontario	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>Employers are obligated to re-employ their injured workers if the worker was continuously employed for at least one year prior to the date of injury, and the employer regularly employed 20 or more workers.</p> <p>Employers who fail to re-employ may be found to be in non-compliance unless it can be shown that the non-compliance was not due to the work-related injury, treatment for the work-related injury, or the claim for benefits. Employers must make accommodations to the work or to the workplace to allow an injured worker to resume duties, unless such actions cause the employer undue hardship.</p> <p>Employers can provide suitable work which accommodates the worker's disability until the worker is fully able to resume the pre-accident job or an alternative job comparable in nature and earnings. (Note: different re-employment obligations apply to the construction industry).</p>

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Ontario	Rehiring Worker / Obligation to Re-Employ
Section of Act:	<ul style="list-style-type: none"> • Workplace Safety and Insurance Act, 1997 (section 41) • Ontario Regulation 35/08 Return to Work and Re-employment Construction Industry
Policy (if any):	<ul style="list-style-type: none"> • 19-02-07 RTW Overview and Key Concepts • 19-02-08 RTW Co-operation Obligations • 19-02-09 Re-employment Obligations <p>Construction Industry:</p> <ul style="list-style-type: none"> • 19-05-02, Re-employment Obligations in the Construction Industry - Threshold, Duration and Specific Employer Requirements • 19-05-03, Compliance with the Re-employment Obligations - Construction Industry • 19-05-04, Re-employment Penalties and Payments - Construction Industry
Related Links (if any):	N/A

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Manitoba

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Manitoba.

Manitoba	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>The obligation for certain employers to re-employ workers became effective January 1, 2007. Employers who employ 25 or more full-time or regular part-time workers are obligated to re-employ injured workers who were in their employment for at least 12 continuous months prior to their injuries. The re-employment obligation is a time limit.</p> <p>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 reinstate the workers in their original jobs or alternative jobs that are comparable in tasks and earnings to their original positions.</p> <p>When injured workers are not able to return to their original positions, but can safely do other work, employers are obligated to offer their injured workers the first opportunity to accept suitable work that becomes available.</p>
Section of Act:	Workers Compensation Act (section 49.3)
Policy (if any):	Policy 43.20.25, Return to Work with the Accident Employer
Related Links (if any):	<ul style="list-style-type: none">• Return-to-Work Information for Workers• Return-to-Work Information for Employers• Return-to-Work Information for Healthcare

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Saskatchewan

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Saskatchewan.

Saskatchewan	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	The <i>Workers' Compensation Act, 2013</i> , section 53 states: "An employer shall co-operate with the board and the worker to achieve the early and safe return of an injured worker to his or her employment."
Section of Act:	<ul style="list-style-type: none">• Workers' Compensation Act, 2013, section 53• The Saskatchewan Employment Act, section 2-41
Policy (if any):	N/A
Related Links (if any):	Employer responsibilities

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Alberta

The following table summarizes the rehiring of workers, obligation to re-employ and the duty to accommodate in Alberta.

Alberta	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	There is no requirement under the <i>Workers' Compensation Act</i> for employers to rehire injured workers. However, under human rights legislation, employers have a duty to accommodate workers with disabilities.
Section of Act:	No reference
Policy (if any):	Policy 04-05, Part I, Benefits, Return-to-Work Services
Related Links (if any):	N/A

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British Columbia

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in British Columbia.

British Columbia	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>Effective January 1, 2024, the <i>Workers Compensation Act</i> was amended to create a duty for workers and employers to cooperate in the timely and safe return to work, and a duty on some employers to maintain the employment of an injured worker.</p> <p>Generally, an employer has a duty to maintain employment if the worker has been continuously employed by the employer for at least 12 months, and the employer regularly employs 20 or more workers.</p> <p>If the worker is fit to carry out the essential duties of their pre-injury work, the employer must offer the worker their pre-injury work or alternative work that is comparable. If the worker is fit to work but not fit to carry out the essential duties of their pre-injury work, the employer must offer suitable work. The duty to maintain employment includes an obligation on the employer to make any change to the work and/or the workplace necessary to accommodate an injured worker, to the point of undue hardship.</p>
Section of Act:	Sections 154.1-154.6 of the <i>Workers Compensation Act</i>
Policy (if any):	<ul style="list-style-type: none">• Item C5-35.00, <i>Introduction to Return to Work Obligations</i>• Item C5-35.10, <i>Duty to Cooperate</i>• Item C5-35.20, <i>Duty to Maintain Employment</i>• Item C5-35.30, <i>Penalties for Failure to Comply with the Duty to Cooperate or Duty to Maintain Employment</i>
Related Links (if any):	N/A

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Yukon

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Province.

Yukon	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	<p>Section 41 requires employers to offer to re-employ injured workers once they are medically able to perform their pre-injury duties or other suitable employment.</p> <p>This obligation applies to workers who:</p> <ul style="list-style-type: none">• Have been in a continuous employment relationship with their employer for at least a year; and• Are injured on or after January 1, 2011. <p>This section of the <i>Act</i> applies to employers with 20 or more workers.</p>
Section of Act:	Workers' Compensation Act (section 41(1))
Policy (if any):	N/A
Related Links (if any):	Do I have to bring an injured employee back to work?

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Northwest Territories and Nunavut

The following table summarizes rehiring workers, obligation to re-employ and the duty to accommodate in Northwest Territories and Nunavut.

Northwest Territories and Nunavut	Rehiring Worker / Obligation to Re-Employ
Rehiring Worker / Obligation to Re-Employ:	In the Northwest Territories and Nunavut, if it is considered to be appropriate, the Commission will provide vocational rehabilitation, including consultation, advice, counseling, the planning and design of a rehabilitation plan and the costs of rehabilitation, to help the worker return to work and to assist them in lessening or removing the consequences of his/her injuries.
Section of Act:	Workers' Compensation Act (section 46)
Policy (if any):	Policy 04.14, Return to Work
Related Links (if any):	N/A

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Duty to Accommodate

The following tables identify whether there is a duty to accommodate in each jurisdiction and, if so, describes the duty to accommodate.

Click the links below to go directly to:

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Newfoundland and Labrador

The following table identifies whether there is a duty to accommodate in Newfoundland and Labrador and, if so, describes the duty to accommodate.

Newfoundland and Labrador	Duty to Accommodate
Duty to Accommodate:	<p>The obligation to re-employ took effect January 1, 2002 for most employers (and January 1, 2003 for employers of construction workers). The obligation applies only to an employer and a worker who have been in an employment relationship for a continuous period of one year immediately prior to the date of the worker's injury and the employer regularly employs 20 or more workers.</p> <p>Where the worker is medically able to perform the essential duties of the pre-injury employment, the employer with a re-employment obligation must offer to re-employ the worker in the position that the worker held on the date of injury or offer the worker alternative employment of a nature and earnings comparable to the pre-injury employment. Where the worker is medically able to perform suitable work, the employer must offer suitable employment that may become available. The obligation to re-employ is until the earliest of 2 years after the date of injury, one year after the worker is medically able to perform the essential duties of his or her pre-injury employment and the date the worker reaches age 65. Employers shall accommodate the work or workplace for the worker to the extent that the accommodation does not cause the employer undue hardship.</p> <p>Where a collective agreement is binding on the employer and the re-employment obligations under the Act give the worker greater re-employment terms than the collective agreement, the Act prevails. However, the Act does not displace seniority provisions of a collective agreement.</p> <p>Where the employer re-employs the worker and then terminates the employment within 6 months, the employer is presumed not to have fulfilled the re-employment obligation.</p> <p>Where the Commission decides that an employer has not fulfilled the obligation to the worker, the Commission may levy a penalty on the employer not exceeding the amount of the worker's net average earnings for the 12 months immediately preceding the beginning of the loss of earnings resulting from the injury and make payments to the worker for a maximum of one year as if the worker were entitled to payments under the Act. The penalty will be added to the employer's assessment.</p> <p>All employers and workers regardless of the number of workers and length of time employed have a duty to co-operate in early and safe return to work. Employers must contact the worker as soon as possible following an injury and maintain effective communication throughout the period of recovery, provide suitable work that becomes available and where possible restores the worker's pre-injury earnings, and give the Commission information it requires. Workers have the same communication</p>

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Newfoundland and Labrador	Duty to Accommodate
	<p>requirements with the employer and the Commission, and they must accept suitable work that becomes available.</p> <p>A hierarchy of return-to-work priorities has been developed to allow workplace parties to achieve maximum benefit from the return-to-work process. It focuses on maintaining the link to the pre-injury job, where possible, and clarifies accommodation requirements. A series of definitions promote a consistent understanding of the various programs used throughout the process.</p> <p>Mediation is offered by the Commission where there is a dispute or difficulty concerning co-operational efforts. Where there is a finding of employer non-cooperation, the Commission may levy a penalty. Where there is a finding of non-co-operation, the Commission may suspend, reduce or terminate the worker's compensation benefits.</p>
Section of Act:	Workplace Health, Safety and Compensation Act (sections 89, 89.1, 89.2)
Policy (if any):	<ul style="list-style-type: none"> • Policies RE-01 - RE-11 • Procedures 33.00 - 43.00
Related Links (if any):	N/A

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Prince Edward Island

The following table identifies whether there is a duty to accommodate in Prince Edward Island and, if so, describes the duty to accommodate.

Prince Edward Island	Duty to Accommodate
Duty to Accommodate:	<p>In Prince Edward Island, an employer shall accommodate the work or workplace to the needs of a worker who requires accommodations as a result of the injury to the extent that the accommodation does not cause the employer undue hardship.(see Sections 86-86.12 of PEI's Act for specifics). Pursuant to section 86.5:</p> <p>An employer shall, to the satisfaction of the Board and in order to fulfil the employer's obligations pursuant to sections 86.1 to 86.11, accommodate the work or the workplace to the needs of a worker who requires accommodation as a result of the injury to the extent that the accommodation does not cause the employer undue hardship.</p>
Section of Act:	Workers Compensation Act (sections 86.1 – 86.12)
Policy (if any):	POL-93, Return to Work
Related Links (if any):	N/A

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Nova Scotia

The following table identifies whether there is a duty to accommodate in Nova Scotia and, if so, describes the duty to accommodate.

Nova Scotia	Duty to Accommodate
Duty to Accommodate:	<p>Nova Scotia has a mandatory duty to accommodate. Under section 91 of the Act: The employer shall, in order to fulfill the employers obligations pursuant to Sections 89 to 101, accommodate the work or the workplace to the needs of a worker who requires accommodation as a result of the injury to the extent that the accommodation does not cause the employer undue hardship.</p> <p>The Board may determine whether the employer has fulfilled the employer's obligations.</p>
Section of Act:	Workers' Compensation Act (section 91)
Policy (if any):	N/A
Related Links (if any):	N/A

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New Brunswick

The following table identifies whether there is a duty to accommodate in New Brunswick and, if so, describes the duty to accommodate.

New Brunswick	Duty to Accommodate
Duty to Accommodate:	In New Brunswick, the <i>Workers' Compensation Act</i> does not contain any specific references to a duty to accommodate. However, the New Brunswick <i>Human Rights Act</i> requires employers to accommodate workers with disabilities up to the point of undue hardship, as determined by the Human Rights Commission. WorkSafeNB's role is to communicate the duty to accommodate to the workplace parties and work in cooperation with the Human Rights Commission to educate parties of their obligations. The New Brunswick <i>Workers' Compensation Act</i> does, however, contain reemployment obligations as stated in the <i>Rehiring/Obligation to Re-employ</i> section of this document.
Section of Act:	in <i>WC Act</i>
Policy (if any):	Policy No. 21-413 Return to Work – Responsibilities and Re-employment Obligations (English) (French)
Related Links (if any):	New Brunswick Human Rights Act, s.4, 17, 25, 27

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Quebec

The following table identifies whether there is a duty to accommodate in Quebec and, if so, describes the duty to accommodate.

Quebec	Duty to Accommodate
Duty to Accommodate:	At the request of CNESST, the employer must provide access to workstations in his establishment and provide the information necessary to determine the worker's capacity. When a capacity decision has been made, the employer must reinstate the worker, subject to demonstrating excessive hardship, where applicable. The employer who refuses to collaborate in the return-to-work process or to reintegrate the worker in accordance with the capacity decision rendered by the CNESST is exposed to the issuance of a financial administrative penalty.
Section of Act:	Act respecting Industrial accidents and occupational diseases (section 32, 167, 167.2, 169, 170.2, 170.3, 170.4, 234 à 251)

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Quebec	Duty to Accommodate
Policy (if any):	<ul style="list-style-type: none"> • Politique 3.01 Le droit au retour au travail • Politique 3.02 Le droit au retour au travail pour un travailleur de la construction • Politique 3.03 La détermination de la capacité du travailleur à exercer son emploi ou un emploi équivalent • Politique 3.05 La détermination de l'emploi convenable • Politique 3.07 Les sanctions administratives pécuniaires : l'obligation de collaboration et de réintégration • Politique 4.08 L'adaptation d'un poste de travail • Politique 4.16 Le retour progressif au travail
Related Links (if any):	N/A

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Ontario

The following table identifies whether there is a duty to accommodate in Ontario and, if so, describes the duty to accommodate.

Ontario	Duty to Accommodate
Duty to Accommodate:	In Ontario, the duty to accommodate is set out in the reemployment provisions (section 41). The duty is similar to that in the provincial human rights code. An employer subject to section 41 must accommodate the work or the workplace for the injured worker to the extent that the accommodation does not cause the employer undue hardship. 'Undue hardship' is generally interpreted to mean undue financial loss.
Section of Act:	<ul style="list-style-type: none"> • Workplace Safety and Insurance Act, 1997 (section 41(6)) • Ontario Regulation 35/08 Return to Work and Re-employment Construction Industry (section 7)
Policy (if any):	<ul style="list-style-type: none"> • 19-02-02 Responsibilities of the Workplace Parties in Work Reintegration • 19-05-02 Re-employment Obligation in the Construction Industry - Threshold, Duration and Specific Employer Requirements
Related Links (if any):	N/A

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Manitoba

The following table identifies whether there is a duty to accommodate in Manitoba and, if so, describes the duty to accommodate.

Manitoba	Duty to Accommodate
Duty to Accommodate:	Effective January 1, 2007, employers who have 25 or more full-time or regular part-time workers will be required to re-employ injured workers who have been in their employ for at least 12 continuous months prior to their injuries. The duty to accommodate under the <i>Workers Compensation Act</i> is like the duty under human rights law. Employers are required to accommodate the work or workplace of injured workers providing it does not cause employers undue hardship.
Section of Act:	Workers Compensation Act (section 49.3)
Policy (if any):	N/A
Related Links (if any):	N/A

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Saskatchewan

The following table identifies whether there is a duty to accommodate in Saskatchewan and, if so, describes the duty to accommodate.

Saskatchewan	Duty to Accommodate
Duty to Accommodate:	<p>Employers have a legal duty to accommodate. "Duty to Accommodate" is a legal concept that has evolved out of case law and human rights legislation. If these legal requirements are not met, legal action could result.</p> <p>Recent court decisions have made it clear that the duty to accommodate requires much more from an employer than simply investigating whether any existing job might be suitable for a disabled employee. Duty to accommodate requires the employer to look at all other reasonable alternatives to the point of undue hardship. The term "undue hardship" has no single legal definition, this is a concept developed by the Courts in recent years. The Supreme Court of Canada has developed a non-exhaustive list of six factors that it said were relevant to what constitutes undue hardship:</p> <ol style="list-style-type: none">1. Financial cost2. Impact on a collective agreement3. Problems of employee morale4. Interchangeability of the workforce and facilities5. Size of the employer's operations6. Safety <p>According to the Saskatchewan Human Rights Code:</p> <p>(Section 9) Every person ... shall enjoy the right to engage in and carry on any occupation, business or enterprise under the law without discrimination on the basis of a prohibited ground.</p> <p>(Section 16(1)): No employer shall refuse to employ or continue to employ or otherwise discriminate against any person ... with respect to employment, or any term of employment on the basis of a prohibited ground.</p> <p>Most work-related injuries are included in the Code's definition of disability.</p> <p>Although the employer does not have a duty to hire or reinstate an employee who is incapable of doing a job, the scope of the duty to accommodate is wide. An employer cannot discriminate by assuming the disabled worker cannot do any job, based on no facts. The employer must prove that it is not reasonably</p>

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Saskatchewan	Duty to Accommodate
	<p>practicable to modify the employee’s duties or reassign the employee to another job.</p> <p><u>The Saskatchewan Employment Act</u>, section 2-41 states:</p> <p>An employer shall modify an employee’s duties or reassign the employee to other duties if:</p> <ol style="list-style-type: none"> a. The employee becomes disabled and the disability would unreasonably interfere with the performance of the employee’s duties; and b. It is reasonably practicable to do so. <p>The onus is on the employer to prove that all efforts have been made to accommodate a disabled employee. The courts have outlined a “hierarchy of accommodation” for employers to follow:</p> <p><u>Step 1: Same job, modified</u>: The disabled worker can return to his/her own job with either modified duties or changes in work schedule.</p> <p><u>Step 2: Alternate job</u>: The disabled worker performs another job in its existing form.</p> <p><u>Step 3: Alternate job, modified</u>: The disabled worker performs another job in a modified or rebundled form.</p> <p>Employers following the hierarchy of accommodation should be able to provide documented evidence that they have looked at all reasonable alternatives and exhausted all viable options. Ultimately it is up to the courts to decide whether the employer has fulfilled their duty to accommodate.</p> <p>Injured employees also must show reasonable cooperation. The <i>Workers’ Compensation Act, 2013</i>, section 51, states that a worker shall:</p> <ol style="list-style-type: none"> 1. Take all reasonable action to mitigate the worker’s loss of earnings resulting from an injury; and 2. ... Co-operate with the board in the development of a rehabilitation plan that is intended to return the worker to a position of independence in suitable productive employment. <p>Section 101(1b)(ii) further states that the Board may terminate or reduce a worker’s compensation if, without good reason, the worker is not available for or fails to cooperate in a rehabilitation program intended to return the worker to suitable employment.</p> <p>The WCB will help employers set up a Return-to-Work:</p> <p><u>Policy 08/96 (Return-to-Work Plans)</u>: Where a collective agreement exists, the WCB expects the parties to establish appropriate procedures to accommodate Return-to-Work plans.</p>

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Saskatchewan	Duty to Accommodate
	<u>Policy 01/2007 (Experience Rating Program)</u> : WCB supports employer Safety Associations that initiate programs to prevent or reduce workplace injuries within their industry classification, and to accommodate injured workers in returning to employment.
Section of Act:	<ul style="list-style-type: none"> • Workers' Compensation Act, 2013, sections 51, 53 and 101(1b)(ii) • The Saskatchewan Employment Act, sections 2-8(1), 2-41, 2-97(2) • The Saskatchewan Human Rights Code, sections 9 and 16(1)
Policy (if any):	<u>Policy and Procedure Manual</u> : <ul style="list-style-type: none"> • POL 08/96 (Return-to-Work Plans) • POL 01/2007 (Experience Rating Program) • POL 01/2011 (Vocational Rehabilitation – Programs and Services)
Related Links (if any):	Employer responsibilities

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Alberta

The following table identifies whether there is a duty to accommodate in Alberta and, if so, describes the duty to accommodate.

Alberta	Duty to Accommodate
Duty to Accommodate:	There is no duty to accommodate specifically contained within the Act.
Section of Act:	No reference
Policy (if any):	N/A
Related Links (if any):	N/A

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British Columbia

The following table identifies whether there is a duty to accommodate in British Columbia and, if so, describes the duty to accommodate.

British Columbia	Duty to Accommodate
Duty to Accommodate:	<p>Effective January 1, 2024, the Workers Compensation Act (Act) was amended to create a duty on some employers to maintain the employment of an injured worker.</p> <p>An employer's duty to maintain employment includes an obligation to make any change to the work and/or the workplace necessary to accommodate an injured worker, to the extent that the accommodation does not cause the employer undue hardship. This duty under the <i>Act</i> is similar to the duty under human rights law.</p> <p>Accommodation is the process of changing the work and/or the workplace to be consistent with the worker's functional abilities. An accommodation does not have to be the change most preferred by the worker.</p> <p>Undue hardship is the point at which it is too difficult, too expensive, or unsafe for the employer to accommodate the worker.</p> <p>What constitutes undue hardship is based on all relevant facts and circumstances of each case.</p>
Section of Act:	Sections 154.1, 154.3-154.6 of the Workers Compensation Act

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British Columbia	Duty to Accommodate
Policy (if any):	<ul style="list-style-type: none"> • Item C5-35.00, Introduction to Return to Work Obligations • Item C5-35.20, Duty to Maintain Employment • Item C5-35.30, Penalties for Failure to Comply with the Duty to Cooperate or Duty to Maintain Employment
Related Links (if any):	N/A

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Yukon

The following table identifies whether there is a duty to accommodate in Yukon and, if so, describes the duty to accommodate.

Yukon	Duty to Accommodate
Duty to Accommodate:	Section 41 of the <i>Workers' Compensation Act</i> contains a mandatory accommodation provision.
Section of Act:	Workers' Compensation Act (section 41)
Policy (if any):	<ul style="list-style-type: none"> • RE-04 Employer's Obligation to Re-employ - Overview • RE-05 Alternative Employment Comparable to Pre-injury Employment • RE-06 Accommodating Work or a Workplace • RE-07-1 Compliance with the Re-employment Obligation • RE-07-2 Re-employment Penalties and Payments • RE-07-3 Termination after Re-employment • RE-08 Re-employment Provisions of Collective Agreements
Related Links (if any):	N/A

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Northwest Territories and Nunavut

The following table identifies whether there is a duty to accommodate in Northwest Territories and Nunavut and, if so, describes the duty to accommodate.

Northwest Territories and Nunavut	Duty to Accommodate
Duty to Accommodate:	There is no duty to accommodate specifically contained within the Acts.
Section of Act:	No reference
Policy (if any):	Policy 04.14, Return to Work
Related Links (if any):	N/A

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