

**WCB Nova Scotia**

**March 27 and April 3, 2025**

# **RTW/Duty to Cooperate Policy Consultation**

**WORK SAFE.  
FOR LIFE.**

WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

**WORKING  
TO WELL**

**We all want the  
same thing.**

**Nova Scotians  
Working.**



# Purpose

## Today's Webinar

- Update you on the feedback we have received to date
- Respond to questions and gather feedback on:
  - New RTW/Duty to Cooperate policies
  - Revisions to WCB policy on policy consultation

# Background

## Government and WCB Board of Director Roles

Workers' Compensation Act

Legislature approves.  
WCB Board of Directors may advise

Workers' Compensation Act  
*General Regulations*

Cabinet approves.  
WCB Board of Directors may advise

Workers' Compensation Act  
*Policy: Section 183*

WCB Board of Directors approves.  
Informed by System and participant  
input.

WCB Guidelines and Procedures

WCB management approves.





# New Legislation

## Stronger Workplaces Act, 2024

The Duty to Cooperate is a shared responsibility between workers, employers, and the WCB to support recovery and a safe return to work.

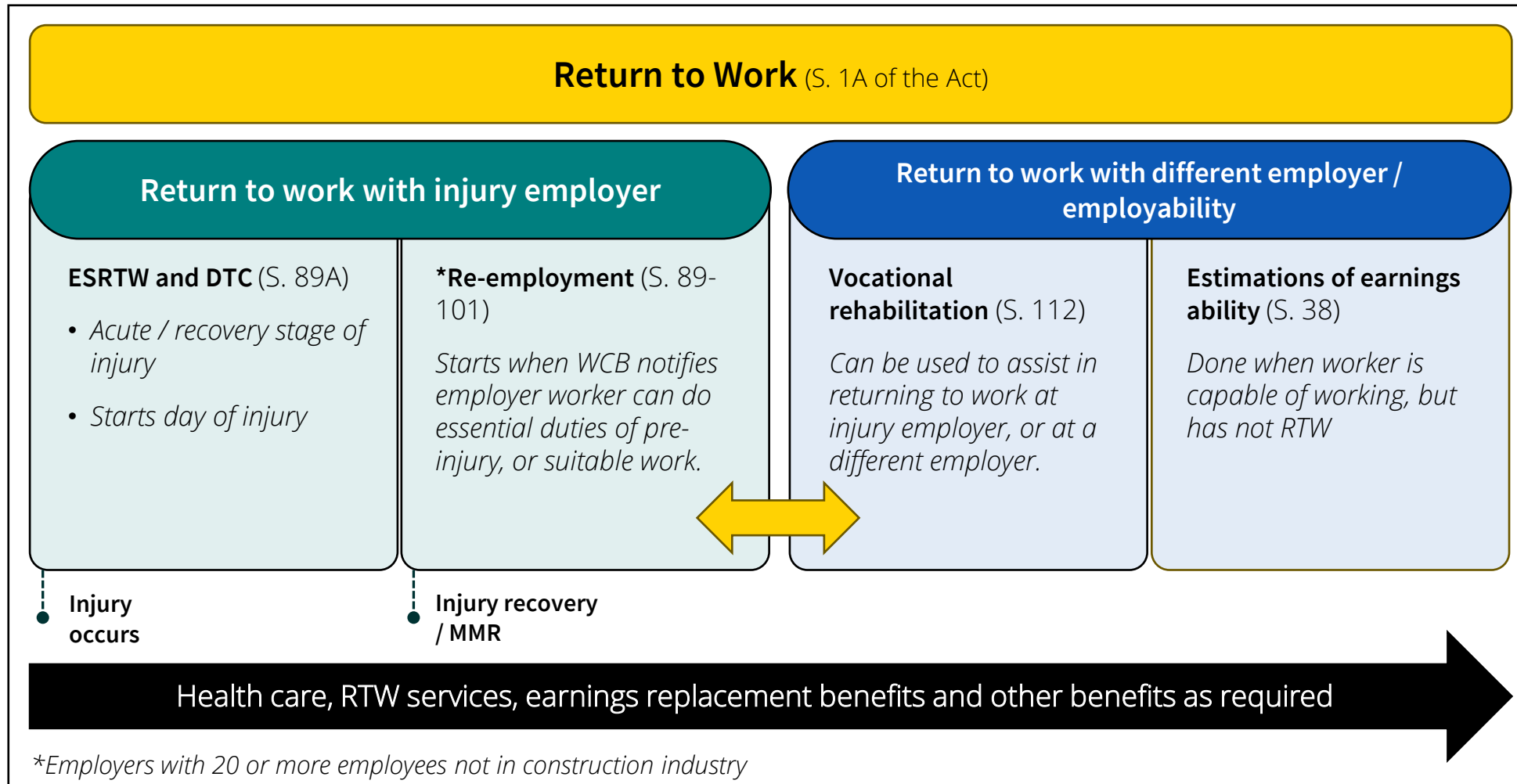
### For **workers**:

- Actively participate in medical treatment and rehabilitation to aid recovery.
- Provide accurate information related to your claim and report any changes that might affect your benefits.

### For **employers**:

- Work collaboratively with injured workers to support their safe and timely return to work.
- Report workplace injuries to WCB promptly and provide accurate details about the incident.

# RTW Process



# Spotlight on Feedback / Questions

On the draft new policies:

- Three new policies:
  - Policy 5.7.1 – Return to work – Overview
  - Policy 5.7.2 – Early and Safe Return to Work – Roles and Responsibilities
  - Policy 5.7.3. – Early and Safe Return to Work – Plans and Functional Abilities Information

**THANK YOU** to all those who submitted feedback and questions so far!

# Feedback / Questions to Date

Application of the policies (who and when will it apply?)



- Who?
  - All covered employers and workers.
  - Includes employers already covered by re-employment.
- When?
  - Effective July 15, 2025.
  - If there is an existing claim that is in the ESRTW phase (recovery/acute) on July 15, 2025 – DTC will apply.



# Feedback / Questions to Date

## Role of the WCB in ESRTW

A key role of the WCB is to communicate regularly and effectively with the RTW Team.

- Policy 5.7.1 - WCB is mandated by the *Act* to facilitate rehabilitation and RTW.
- Policy 5.7.2 – Sets out the WCB's responsibilities in ESRTW in more detail.



# Feedback / Questions to Date



## Role of the employer

Q - Is the employer part of the RTW Team?

- **YES!** The employer and worker are the key members who play a huge role in the success of RTW.
- We will look and see if this needs to be made clearer.

Q - Are third-party providers hired by the employer to manage RTW considered the “employer”?

- **Yes.** We confirm the relationship and make a record of it.
- Workers must cooperate with third parties – they are the employer.

# Feedback / Questions to Date

## Role of the union



Q – What is the union's involvement in the RTW process?

- Unions play a key role in ESRTW.
- Policy 5.7.2 outlines the union's role and its positive duty to support accommodation/ESRTW.
- The WCB cannot direct or penalize the union.

# Feedback / Questions to Date

## Role of the union



### Q - The policy does not reference collective agreements

- Act: If a collective agreement and the Act conflict, whatever offers better outcome for the worker prevails, except in the case of seniority. Seniority always prevails.
- ESRTW doesn't typically deal with "long-term" accommodations - which are more likely to raise seniority issues.
- We will consider the issue.

# Feedback / Questions to Date

## Role of the worker



Q - What happens when the employer has developed a RTW plan and the worker refuses?

- Introducing Duty to Cooperate means that the employer can feel empowered to communicate the worker's responsibilities to cooperate in accepting suitable and safe work that is offered to them.
- The worker would require a rationale (a 'compelling reason') to not accept.
- If this situation occurs, work with your WCB Case Worker to explore your options.



# Feedback / Questions to Date

Re: Suitable work in ESRTW vs. re-employment



## ESRTW

- Acute/recovery phase.
- Accommodations expected to be temporary (e.g. bundle some tasks).

## Re-Employment

- Worker has plateaued/Medical Maximum Recovery (MMR).
- Suitable work is considered when worker can't perform (or employer is not able to offer) their pre-injury job or alternate employment.
- Suitable work is an actual job that becomes available, that the worker will do on the go-forward.



There is **NO** expectation for an employer to create work that doesn't need to be done.

# Feedback / Questions to Date

## Re: Available Work

- Policy 5.7.3: “Available work is work that exists with the employer **at the time of the work-related injury**...”
- Employer suggested this be “at the time RTW is attempted”...
- Most workers can recover at work and there won’t be large gaps in time between the injury and when the worker is safely back on the job.
- But – this won’t always be possible so we will look at the statement.



# Feedback / Questions to Date

Re: Penalties



- What if there is no work available?
  - If the employer and worker have made genuine efforts to identify available work and there is none – no penalty for employer and worker is eligible for TERB.
  - Must monitor and continue efforts to identify available work as the worker recovers.

# Feedback / Questions to Date

Re: Penalties (cont'd)



- Clarify the employer penalty sections of the policy
  - The WCB can impose a penalty up to the total cost of the claim (earnings loss, MA, other) during the period of non-compliance.
  - We'll make sure the policy is clear on how we arrive at the penalty amount.



# Update to WCB Policy Consultation Approach

Proposed changes to *Policy 10.3.11 – Policy Consultation*

- Instead of requiring a consultation period for all policy changes (including typos), the proposed changes will allow the WCB Board of Directors to decide what policy work requires stakeholder consultation.
- This will make the process more efficient by focusing consultation efforts on substantial policy changes.
- All policy changes, regardless of stakeholder consultation requirements, will continue to be communicated broadly.



# Get involved.

## MARCH

- Webinar (Mar 6) – “Draft Policy & Consultation Schedule”

• **Policy Consultation** (Mar 27 6-7pm)

## APRIL

• **Policy Consultation** (Apr 3 from 3-4pm)

- Webinar (Apr 24) – “Accommodations Tips & Best Practices”

## MAY

- Webinar (May 29) – “Duty to Cooperate In-Depth Preview”

## JUNE

- Webinar (Jun 26) “Final Policy and Preparing for July”

Duty to Cooperate starts July 15, 2025

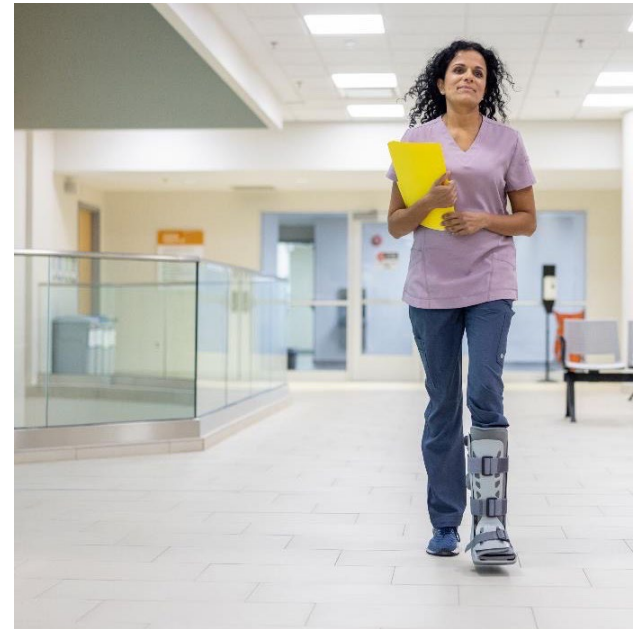


We will be accepting feedback on the draft policies until **April 28<sup>th</sup>**

# What Can You Do?

- Get involved
- Get ready
- Get creative

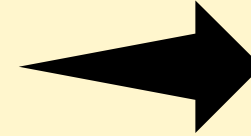
**Start protecting more now.**



# We'd like to hear from you.

Any questions submitted will inform the finalized policies.

Scan this code with your phone or tablet camera to be taken to the survey



Or visit this link online to access the survey:

[https://pierdavis.qualtrics.com/jfe/form/SV\\_1AeWdzvIZamzI6a?Q\\_CHL=qr](https://pierdavis.qualtrics.com/jfe/form/SV_1AeWdzvIZamzI6a?Q_CHL=qr)

# Keep in Touch

Submit questions on  
the RTW-DTC draft  
policy:



Policy team email:

[policy@wcb.ns.ca](mailto:policy@wcb.ns.ca)

Duty to Cooperate  
web page:

[wcb.ns.ca/Return-to-Work/Duty-to-Cooperate](https://wcb.ns.ca/Return-to-Work/Duty-to-Cooperate)

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