

## New Guidelines for Rehabilitation Authorities

*Safety, Rehabilitation and Compensation (Guidelines for Rehabilitation Authorities)  
Instrument 2019*

### Key Points

- The new Guidelines for Rehabilitation Authorities came into effect on 15 August 2019.
- The differences between the previous guidelines and the new guidelines are briefly discussed below. If you would like a more in-depth explanation of the changes, please get in touch.

### Background

The Guidelines include the mandatory requirements for rehabilitation authorities in the performance and exercise of those powers and functions. The new guidelines aim to focus on the mandatory requirements for rehabilitation authorities in the performance and exercise of their powers and also allow authorities to tailor their practices to achieve early and durable recovery and return to work for employees. The new guidelines provide a more simplified and cohesive approach to the procedures and requirements for rehabilitation providers in handling their powers and functions.

The new Guidelines are mandatory for rehabilitation authorities and revoke the previous 2012 Guidelines.

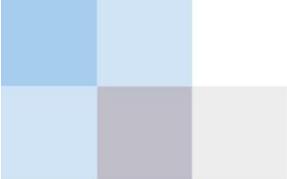
### Specific Changes to the Guidelines

#### *Delegation by rehabilitation authority*

When any or all of the powers of the rehabilitation authority are delegated, under Part III of the SRC Act, they must now ensure that the officer or person has the appropriate skills and capabilities to exercise the powers and that they are supported with appropriate resources and training. The rehabilitation authority that has delegated any or all of their powers must continue to monitor the performance of the functions delegated.

#### *Rehabilitation Assessment*

There are now more general requirements surrounding the requirement for a rehabilitation assessment. An assessment under section 36 of the SRC Act may not be necessary if they have advice, information or recommendations on the employee's capability from either a medical practitioner, workplace rehabilitation provider, relevant employer or the employee. The new regulations now provide that if the rehabilitation provider receives a written request



from the employee, they must arrange a rehabilitation assessment. It also allows for a determination to be made with a rehabilitation assessment being undertaken.

### *Rehabilitation Program*

Now, when a determination is made in relation to whether a rehabilitation program is to be issued, it must have regard to section 37(3) of the Act and refer to the relevant matters in which it had regard to in its determination. It also notes that the authority must consult the employee in relation to the proposed rehabilitation program and must consider the employee's injury, circumstances and communication needs.

Unlike the previous guidelines, the new regulation does not contain rules surrounding an approved rehabilitation provider or who can provide the rehabilitation program. However, the new regulations now require that if a workplace rehabilitation provider is used, the rehabilitation provider must effectively monitor their performance and inform Comcare of any concerns regarding the service delivery.

The new guidelines no longer require the rehabilitation provider to provide a copy of the rehabilitation program to the employer/the liable employer or the employee's manager or supervisor. They are now only required to provide a copy of the determination and program to the employee or the employee's medical practitioner where they are required to consult on the conditions prior and the relevant authority.

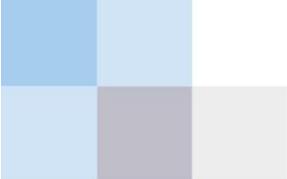
The new regulations now provide for rules surrounding the monitoring of the rehabilitation program. A rehabilitation authority must monitor the employee's program or capability to undertake a program where one has not been issued. This includes seeking information about their capacity, injury and the availability of suitable employment.

Additionally, the provisions for altering a rehabilitation program have also significantly changed. The new guidelines provide a non-exhaustive list to consider when providing or altering a program which includes: the employees work capacity, injury or circumstances or the availability of suitable employment. This allows more leniency to alter a program as it no longer requires consultation with the rehabilitation provider (if engaged), or discuss the proposed program alterations with the employee or supervisor.

### *Employee Non-Compliance*

The provisions surrounding the failure or refusal to undergo an examination or to undertake a rehabilitation program have been simplified. The new guidelines no longer contain a non-exhaustive list as to what constitutes a 'reasonable excuse' and no longer provide for rules surrounding what is required when determining when the employee does have a reasonable excuse.





Circumstances where the rehabilitation authority finds the employee does not have a reasonable excuse now require that the employee be notified in writing that their rights to compensation and to institute or continue proceedings are suspended until they attend the examination or commence the specified activity or next steps in the rehabilitation program. They must also request that the relevant authority take steps to implement a decision to suspend the employee's rights.

Under the previous guidelines, when an employee complied, they would be required to advise the delegated person however, now, they are required to notify the employee that the suspension had been lifted.

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