



New South Wales

# Workers Compensation Amendment (Return to Work Assistance) Regulation 2016

under the

Workers Compensation Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

VICTOR DOMINELLO, MP  
Minister for Innovation and Better Regulation

## Explanatory note

The object of this Regulation is to provide for the following matters in relation to compensation under the *Workers Compensation Act 1987* for the cost of certain services and assistance provided to assist certain injured workers to return to work:

- (a) the circumstances in which an employer is not liable to pay the compensation,
- (b) the period within which a claim for the compensation must be determined.

This Regulation is made under the *Workers Compensation Act 1987*, including sections 64B, 64C and 280 (the general regulation-making power) and Parts 191 and 20 of Schedule 6, and under the *Workplace Injury Management and Workers Compensation Act 1998*, including section 248 (the general regulation-making power).

## **Workers Compensation Amendment (Return to Work Assistance) Regulation 2016**

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### **1 Name of Regulation**

This Regulation is the *Workers Compensation Amendment (Return to Work Assistance) Regulation 2016*.

### **2 Commencement**

This Regulation commences on 29 April 2016 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of Workers Compensation Regulation 2010**

### **[1]    Part 5A**

Insert after Part 5:

### **Part 5A    Return to work assistance**

#### **14    Liability to pay compensation for work assistance**

- (1) For the purposes of section 64B of the 1987 Act, a pre-injury employer is not liable to pay compensation for the cost of work assistance provided to assist a worker to return to work with a new employer if:
  - (a) the offer of employment with the new employer is an offer of employment for a period of less than 3 months, or
  - (b) the offer of employment has not been made in writing.
- (2) The person on whom a claim for compensation under section 64B of the 1987 Act is made must, within 14 days after the claim is made, determine the claim by accepting, or disputing, liability to pay the compensation.
- (3) Words and expressions used in this clause have the same meaning as in section 64B of the 1987 Act.

#### **14A    Liability to pay compensation for education or training**

- (1) For the purposes of section 64C of the 1987 Act, an employer is not liable to pay compensation for the cost of education or training provided to assist a worker to return to work if:
  - (a) the provision of the education or training is inconsistent with the retraining or employment objectives of the injury management plan established for the worker, or
  - (b) the education or training is provided by any person or body other than:
    - (i) an NVR registered training organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth, or
    - (ii) a registered higher education provider within the meaning of the *Tertiary Education Quality and Standards Agency Act 2011* of the Commonwealth.
- (2) The person on whom a claim for compensation under section 64C of the 1987 Act is made must, within 21 days after the claim is made, determine the claim by accepting, or disputing, liability to pay the compensation.

### **[2]    Schedule 8 Savings and transitional provisions**

Insert after clause 38:

#### **38A    Return to work assistance—education and training**

Section 64C of the 1987 Act (as inserted by the 2015 amending Act) does not apply to education or training provided before the commencement of that section.