

## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

### **Guide to Making an Application for Reinstatement of Injured Worker**

If you have been dismissed by your employer because you are unfit for employment as a result of an injury received at work, you may be able to make a claim under the New South Wales *Workers Compensation Act 1998*.

#### **Who is an injured employee?**

An injured employee is an employee who receives an injury for which the employee is entitled to receive compensation under the *Workplace Injury Management and Workers Compensation Act 1998*, or the *Workers' Compensation (Dust Diseases) Act 1942*.

#### **What can the Commission do?**

The Commission may order that the employee be reinstated either in:

- the employment applied for;
- to any other kind of employment no less advantageous;
- to other employment available that is less advantageous;
- part time employment or
- employment in which the employee may undergo rehabilitation.

The Commission may also order that the employee be paid remuneration that the employee would have received after making the application to the employer for reinstatement and before being reinstated

The Commission may not make a reinstatement order, except in special circumstances, if the application to the employer for reinstatement was made more than 2 years after dismissal.

#### **What you must do before making a claim to the Commission**

You should ask the employer for reinstatement to a position that is no less advantageous than the one held before becoming unfit because of the injury.

You should provide a medical certificate to the employer that you are fit for employment of the kind applied for.

If the employer does not reinstate you, you may apply to the Commission for a reinstatement order.

#### **Making a claim to the Commission**

To make a claim, you must complete an application form (form 59) and attach a copy of the medical certificate, and lodge it with the Industrial Registry (Level 10, 10-14 Smith Street, Parramatta)

The application can be lodged in person, by mail or through a solicitor/agent or union representative. An original and two copies should be filed.