



WORKING

FROM HOME

GUIDE 1996



Disclaimer

This publication may contain occupational health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au) or by contacting the free hotline service on 02 9321 3333.

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

INTRODUCTION

Work from home arrangements can suit the needs of both workers and employers.

The legislation setting out responsibilities and rights regarding occupational health and safety, rehabilitation and workers compensation is designed to protect people working from home, as well as people working in more traditional workplaces such as a factory or office.

This brochure outlines some issues to be considered before working from home arrangements are introduced to ensure that the relevant legislative obligations are met.

Requirements of the Occupational Health and Safety Act

The New South Wales *Occupational Health and Safety Act 2000* aims to protect the health, safety and welfare of people at work. This includes people working from home.

The Act sets out general requirements for employers, workers and others: Employers must ensure the health, safety and welfare of their employees, including those employees working from home. Employers must ensure this includes as far as reasonably practicable:

- providing or maintaining a working environment that is safe and without risks to health
- providing or maintaining equipment and systems of work that are safe and without risks to health
- providing the information, instruction, training and supervision necessary to ensure the health and safety at work of workers
- making arrangements for ensuring the safe use, handling, storage and transport of equipment and substances.

Employers must not require workers to pay for anything done or provided to meet specific requirements made under the Act or other occupational health and safety legislation.

Workers, including those who are working from home, must cooperate with employers in their efforts to comply with occupational health and safety requirements.

Workers must also take reasonable care for the health and safety of persons who are at their place of work. Persons who erect or install equipment at a workplace must make sure that it is safe to use when properly used.

Offences and penalties

There are various offences and penalties specified in the Act and its Regulations. For information on offences, penalties and defence provisions see WorkCover's *Summary of the Occupational Health and Safety Act*.

What if a person working from home is injured at work?

Workers Compensation

Workers compensation arrangements apply to all injuries arising out of, or in the course of employment, whether the injury occurred while the person was working from home or at a more traditional workplace.

Whether a home-based worker injured at home was actually at work at the time of the injury would be determined using the usual sources of compensation evidence, such as reporting procedures and medical evidence.

Journey claim provisions do not apply where there is no journey between home and the place of work. However, if a person working at home travels for work purposes and is injured, such a claim would be covered by the *Workers Compensation Act*, subject to satisfying legislative requirements.

Recess claims for injuries can be made by persons working from home, and in this regard it would be helpful for the parties to reach an agreement on working hours and recess breaks.

Third party liability (liability for accidents involving non-workers) is a common law matter. Negligence on the part of the worker and/or employer would need to be proved for such a claim to be successful.

Accident notification and first aid requirement

NSW Accident Notification Regulations state that if a worker has a serious accident while at work, or if a serious incident occurs at a workplace, the employer is required to report it to WorkCover. The employer is required to do this whether the person was working from home or at another worksite at the time.

NSW First Aid Regulations require that all workplaces have a first aid kit. The minimum requirement is a basic (type C) first aid kit.

Rehabilitation

WorkCover requirements and guidelines regarding workplace-based rehabilitation apply whether the worker was injured while working from home or while working at a more traditional work site, such as an office or factory.

To be effective, home-based rehabilitation for a worker working from home may require additional mechanisms to be developed to monitor and review the injured worker's progress. Regular visits may need to be made to the home by the rehabilitation coordinator or rehabilitation provider.

If suitable duties for an injured home-based worker cannot be provided at home then the employer should seek to provide suitable duties for that worker at another workplace.

If an employee at a workplace such as an office or factory is injured at work and is unable to travel, then home-based rehabilitation can be provided to that worker if suitable duties can be carried out from home by the injured worker.

It is suggested that employers introducing work from home arrangements amend their Workplace Rehabilitation Program to encompass these arrangements.

A checklist of issues for employers and workers to consider when introducing work from home arrangements

It is important for employers to consult closely with workers when planning the introduction of work from home arrangements.

This checklist outlines some of the issues that need to be considered. See further for additional sources of information.

It is useful to put in writing agreed procedures regarding working arrangements particularly regarding hours of work and access (eg. to check that the workplace is safe and that safe systems of work are in place, or to review systems and procedures following an accident).

A workplace assessment is one way in which to identify health and safety hazards, and deal with them. This assessment should only be done by an appropriately trained person. The person doing the assessment should confine their attention to that part of the home which is used as a workplace.

- **Establish whether the duties are suitable from work from home**

Some jobs can be done safely by a person working from home. Some jobs can only be done safely by using special equipment or by following working procedures which are not appropriate for home-based work.

- **Establish what, if any, equipment will be necessary for an employee to safely undertake home-based work**

For example, is there a suitable desk, chair and computer? Is any other equipment or machine that the person may need to use suitable for the work involved? Is there a first aid kit? NSW Regulations require that all places of work have a first aid kit. A basic (type C) kit is sufficient for most home-based work situations)

- **Establish that the proposed working environment is healthy and safe**

For example, is there sufficient lighting? Are exits from the work area kept clear? Does a smoke detector and/or an earth leakage protection device need to be installed in the room where the person will be working? Are there sufficient powerpoints (overloaded powerpoints are a fire hazard)?

- **Establish that the person who will be working from home has the information and training necessary to do the work safely**

For example, are home workers who are using computer equipment familiar with safe working procedures to prevent the occurrence of overuse injuries?

When assessing training needs keep in mind that the person working from home will be working with less supervision, and may therefore need more comprehensive training to perform the work safely.

- **Establish agreed hours of work and communications procedures**

Establish the days and hours on which work from home can be done and agree on procedures for recording work hours, including actual starting and finishing times (this is important for workers compensation purposes).

It is also useful to establish the way in which performance will be monitored and assessed and to establish communication procedures to ensure that appropriate information is passed between the person working from home and his or her co-workers and management.

- **Revise your workplace rehabilitation program**

For example, you may wish to include a commitment to provision of suitable duties at the main workplace when this is necessary as a rehabilitation strategy, and to clarify arrangements for monitoring work from home rehabilitation programs.

Other considerations

Other issues that may need to be considered when introducing work from home arrangements include enterprise agreement or industrial award provisions, tax, mortgage and/or lease arrangements, and local government approvals.

Insurance arrangements for accidents to non-workers occurring at the home of a home-based worker should be clarified with the relevant insurer. The employer's existing public liability insurance may cover such accidents, or may be able to be extended to cover such accidents. Alternatively, the employee can take out such insurance and be reimbursed by his or her employer. Employees working from home should also check with their insurer whether their domestic insurance arrangements will be affected if they are working from home.

Advice and information

WorkCover inspectors

WorkCover inspectors are available to assist employees and employers where they are unable to satisfactorily resolve a dispute on occupational health and safety issues or where a person believes that an unsafe work situation exists and makes a request for assistance.

WorkCover inspectors have power of entry in relation to homes used as a workplace, with the consent of the occupier or, in a serious situation, with a search warrant.

Publications

WorkCover publications which may be of interest include:

- *Summary of the Occupational Health and Safety Act* (Catalogue No. 100.1)
- *Workplace Safety Kit – Guide 2001* (Catalogue No. 40)

These publications are available on our website at www.workcover.nsw.gov.au or from the WorkCover Publications hotline on **1300 799 003**.

If you require further information please contact the WorkCover Assistance Service on **13 10 50**.

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WorkCover NSW 92-100 Donnison Street Gosford NSW 2250
Locked Bag 2906 Lisarow NSW 2252 WorkCover Assistance Service **13 10 50**
Website **www.workcover.nsw.gov.au**

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