

## NORTHWEST TERRITORIES & NUNAVUT

# Policy Manual



**Workers' Safety**  
& Compensation Commission

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## PREVENTION SERVICES

Industrial Safety: 867-669-4418  
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WSSCNTNU



@WSCCNTNU

If you would like this policy manual in another language, please contact us.



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Workers' Safety  
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# Workers' Safety & Compensation Commission

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## POLICY CREATION AND REVISION

## POLICY STATEMENT

This policy provides guidelines for the creation and revision of Workers' Safety and Compensation Commission (WSCC) policy instruments. The WSCC Governance Council is committed to a policy creation and revision framework that is consistent with the legislative and regulatory framework of the governments of the Northwest Territories, Nunavut and Canada and is consistent with the authority and accountability of the WSCC.

## DEFINITIONS

Administrative Policy:	An internal document that directs employees on the appropriate conduct of business, financial processes and control and protection of WSCC assets.
Governance Council Directive:	An internal governing instrument that provides direction to the members of the Governance Council on the appropriate conduct of its business, financial processes and control and protection of assets.
Governing Instruments:	Includes legislation, general regulations, policies, administrative policies and Governance Council Directives.
Policy:	A Governance Council approved governing instrument describing the WSCC's position on issues and programs that directly affect stakeholders, including the interpretation of specific legislative provisions.





## POLICY CREATION AND REVISION

## POLICY

## Policies

Under the *Workers' Compensation Act(s)* s.89(b), the WSCC Governance Council “may establish such policies as it considers appropriate for the administration of this Act and the other enactments for which it is responsible”. As such, WSCC policies:

- Explain the application of the Northwest Territories and Nunavut *Workers' Compensation Acts, Mine Health and Safety Acts, Safety Acts and Explosives Acts*;
- Explain the Governance Council's position where legislation or regulations allow discretion or require direction from the Governance Council;
- Are adaptable and transparent; and
- Are accessible to staff, stakeholders and the general public.

The Policy, Planning and Corporate Reporting Unit is responsible for the research and drafting of all WSCC policies. Where determined appropriate, program area management and staff are engaged in the drafting of policies. The Policy, Planning and Corporate Reporting Unit does not engage program area management when only non-substantive changes are contemplated.

## Comprehensive Policy Review Plan (CPRP)

The Comprehensive Policy Review Plan (CPRP) sets out the WSCC's five-year policy review schedule. As policy issues emerge, the CPRP can be updated by Administration accordingly. Unless specifically directed by the Governance Council, Administration will update and action the CPRP on an ongoing basis and provide quarterly progress reports to the Governance Council.

The CPRP's objectives are to:

- Review and, when necessary, revise individual policies every five years;
- Ensure compliance with legislation and regulations; and
- Ensure that WSCC policies, administrative policies and Governance Council directives remain current and effective.

New or revised policies and administrative policies that undergo significant revisions are reviewed by the Policy, Planning and Corporate Reporting Unit within one year of Governance Council approval. This review evaluates the effectiveness of the policy based on the intent of the Governance Council and WSCC when approved. This early review provides an opportunity to address any policy implementation concerns that may have arisen during the previous year. These are addressed with the Governance Council.





New or significantly revised Governance Council Directives are reviewed by the Policy, Planning and Corporate Reporting Unit with the assistance of the Corporate Secretary and Governance Council Chairperson.

## Policy Process

The policy process identifies issues, establishes priorities, develops policy positions and ensures that those policy positions are clearly understood and consistently applied by the WSCC.

### Issue Identification

As the WSCC becomes aware of new issues, it considers whether existing policies meet the needs of the WSCC and its stakeholders, require revision or whether a new policy is required.

Issue identification may originate from:

- WSCC Governance Council directors, management or staff,
- Stakeholders
- The Workers' Advisor
- Judicial decisions or legislative reviews
- WSCC Appeals Tribunal decisions
- WSCC Internal Auditor
- The Office of the Auditor General of Canada
- The Governments of the Northwest Territories, Nunavut or Canada
- The general public
- Other workers' compensation boards (WCBs)

This list is not exhaustive. Issues identified from sources not listed are also considered.

## Issue Focus

In addition to issues identified in the previous list, WSCC senior management with support from the Policy, Planning and Corporate Reporting Unit examines issues, trends and emerging concerns in workers' compensation and identifies those pertinent to the Northwest Territories and Nunavut.

All issues where policy creation or revision is required are recommended to the Governance Council in the CPRP. The CPRP identifies those issues and policies that require stakeholder engagement.









Within their respective divisions, senior managers are responsible for communicating and implementing each new or revised policy. Implementation includes developing or updating relevant divisional work procedures and processes, as required.

## External Communication

WSCC policies and Governance Council directives are made available on the WSCC website and hard copies are available upon request.

## Compliance

Policy compliance is monitored through ongoing management practices and internal WSCC audits.

## Non-Substantive Policy Revision

The Governance Council authorizes the Chairperson to approve non-substantive changes. Non-substantive changes include:

Change	Examples
Non-policy parts of policy documents or the Policy Manual	<ul style="list-style-type: none"> <li>• Title page</li> <li>• Page explaining how the policies are organized</li> <li>• Table of contents</li> <li>• ‘Policy Related Documents’ section of individual policies</li> <li>• ‘History’ section of individual policies</li> </ul>
Grammatical or style changes that do not affect meaning, content or interpretation	<ul style="list-style-type: none"> <li>• Adding a comma</li> <li>• Format of document</li> </ul>
Administrative operations that do not impact worker or employer rights or responsibilities	<ul style="list-style-type: none"> <li>• Titles of staff, sections or divisions</li> </ul>





















# Workers' Safety & Compensation Commission

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## RECONSIDERING A DECISION

## Correction of Administrative Errors

Upon request, or upon its own initiative, without notice or hearing, the WSCC may correct administrative errors such as clerical and typographical errors. The correction of these types of errors is not considered a reconsideration of the previous decision, as it is not a change to the intent of the previous decision.

## Policy Changes

New or revised policies adopted after a decision is made are not retroactive unless explicitly stated in the policy. Non-retroactive policy changes do not constitute grounds for a reconsideration of previous decisions.

## Changes in Law and Legislation

Changes in law and legislative amendments adopted after a decision is made are not retroactive unless explicitly stated. Non-retroactive changes in legislation and law do not constitute grounds for a reconsideration of previous decisions.

## Changes in Medical Conditions

Decisions regarding entitlement to health care benefits as new matters arise, such as a change in the worker's medical condition, do not constitute a reconsideration of a previous decision. However, in any case where there is a request for a new decision to be applied retroactively, or the WSCC reconsiders a prior decision regarding health care, the restrictions on reconsideration apply.

## Review Committee and Appeals Tribunal

This policy does not apply to the Review Committee and Appeals Tribunal. The Review Committee is governed by Policy 08.01, Reviewing Decisions. The Appeals Tribunal is governed by Policy 08.02, Appealing Decisions and Rehearing Appeals.

## LEGISLATIVE AUTHORITIES

Nunavut *Workers' Compensation Act*: Subsection 92(4)

Northwest Territories *Workers' Compensation Act*: Subsection 92(4)





















# Workers' Safety & Compensation Commission

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## YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

Worker:

“The following persons are deemed to be workers for the purposes of this *Act*:

- (a) a person who enters into or works under a contract of service;
- (b) a person who, although not under a contract of service, is
  - (i) undergoing training or probationary work as a preliminary to employment with an employer,
  - (ii) engaged in, or training for, rescue or recovery services, ambulance services or firefighting services, or
  - (iii) temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act*;
- (c) a student who is participating in a work training or similar program provided by a school
- (d) a patient who is participating in a work training or similar program provided by a health care facility;
- (e) a person who is committed to a correctional centre under the *Corrections Act* and working in a work release program outside the centre...” (per ss. 4(1) and 4(1.1) of the *Workers’ Compensation Acts*)

Year's maximum Insurable  
Remuneration:

“a prescribed maximum remuneration for any year for the purposes of determining

- (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1), and
- (b) the assessable payroll of employers for the year.” (per ss. 1(1) of the *Workers’ Compensation Acts*)

## POLICY





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Last Non-Substantive Change - February 10, 2020





- If the Provisional YMIR does not increase in three consecutive years, in the third year the Governance Council has the discretion to reduce YMIR according to the above stated calculation.
- The final YMIR is rounded to the nearest \$100.

## Harvester YMIR

The YMIR calculated in respect of a harvester of wildlife is a separate prescribed amount which is increased at the same time and in the same proportion as any increases to the YMIR that applies to all other workers.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Section 83(2)(f)
Nunavut <i>Workers' Compensation Act</i> :	Section 83(2)(f)
Northwest Territories <i>Workers' Compensation General Regulations</i> :	Section 1
Nunavut <i>Workers' Compensation General Regulations</i> :	Section 1

## POLICY RELATED DOCUMENTS

Policy 03.07	Calculation of Temporary Compensation
Policy 06.01	Pension Entitlement
Policy 06.03	Calculation of Permanent Compensation
Policy 10.05	Funding Strategy

## HISTORY

Policy 00.04 (Jun 5/15)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Jun 3/13)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Dec 1/10)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Mar 31/08)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Feb 19/04)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Apr 1/99)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Sep 20/96)	Year's Maximum Insurable Remuneration (YMIR)





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**YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)**

Policy 00.04 (Mar 19/96)

Year's Maximum Insurable Remuneration (YMIR)

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Chairperson





## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: GENERAL

### POLICY STATEMENT

The *Workers' Compensation Acts (Acts)* of the Northwest Territories and Nunavut apply to all employers and workers in the Northwest Territories and Nunavut. For the purposes of workers' compensation, the *Acts* define who is considered an employer and a worker. This policy provides guidelines to assist in determining the status of an employer or a worker as it relates to the application of the *Acts*.

### DEFINITIONS

Contract for Service:	An agreement in which an employment relationship does not exist, i.e., two businesses, independent operations, individuals or other entities. A contract for service is not covered under the <i>Workers' Compensation Acts</i> .
Contract of Service:	An agreement in which an employment relationship exists between an employer and workers. In a contract of service or apprenticeship, the workers are subject to the control or supervision of the employer. Workers under a contract of service or apprenticeship are covered under the <i>Workers' Compensation Acts</i> . A contract of service or apprenticeship may be "written or oral, expressed or implied." (per ss. 1(1) of the <i>Workers' Compensation Acts</i> )
Employer:	<p>"The following are considered employers for the purposes of the <i>Act</i>:</p> <ul style="list-style-type: none"> <li>(a) any person or entity that employs one or more persons under a contract of service;</li> <li>(b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer..." (per ss. 8(1) and 8(1.1) of the <i>Workers' Compensation Acts</i>)</li> </ul>
Learner:	<p>"... a person who, although not under a contract of service is...</p> <ul style="list-style-type: none"> <li>(i) undergoing training or probationary work as a preliminary to employment with an employer." (per ss. 4(1)(b) of the <i>Workers' Compensation Acts</i>)</li> </ul>





# Workers' Safety & Compensation Commission

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## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: GENERAL

Worker:

“The following persons are deemed to be workers for the purposes of this *Act*:

- (a) a person who enters into or works under a contract of service;
- (b) a person who, although not under a contract of service, is
  - (i) undergoing training or probationary work as a preliminary to employment with an employer,
  - (ii) engaged in, or training for, rescue or recovery services, ambulance services or firefighting services, or
  - (iii) temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act* Northwest Territories or *Emergency Measures Act* Nunavut;
- (c) a student who is participating in a work training or similar program provided by a school
- (d) a patient who is participating in a work training or similar program provided by a health care facility;
- (e) a person who is committed to a correctional centre under the *Corrections Act* and working in a work release program outside the centre...” (per ss. 4(1) and 4(1.1) of the *Workers’ Compensation Acts*)

Volunteer Firefighter:

Local residents who offer their firefighting services, for little or no pay, to their municipality. Their status as volunteer firefighters must be approved by the settlement, hamlet, village, town, city or municipality.





## POLICY

## Tests to Determine the Status of Persons or Entities under the Acts

To compensate workers and assess employers, the WSCC must determine the status of persons or entities under the *Acts*. The WSCC may investigate any case to determine the status of persons or entities under the *Acts*. While most cases of work relationships are clear, some are not.

The WSCC applies various tests to the facts of the work relationship to determine the status of persons or entities under the *Acts*. No single test defines a work relationship; rather, the analysis of all factors contributes to a determination of employer and worker status.

The tests include:

- (a) *The Control Test*: the degree to which one person or entity controls the work of the other person or entity. The greater a person's freedom in matters such as hours, location, manner of work and quality assessment, the more likely the person is not a worker for the purposes of the *Acts*.
- (b) *The Economic Reality Test*: whether the person or entity has a chance of making a profit or incurring a loss through the work relationship. In an employer and worker relationship, the employer alone assumes the risk of loss and covers operating costs. The worker does not assume any financial risk and is entitled to receive full payment, regardless of the financial standing of the business. In a relationship between persons or entities in a contract for service, each party may make a profit or incur a loss, and each usually covers their operating expenses. There is no guarantee of a steady income as income depends on the results achieved.
- (c) *The Ownership of Major Equipment Test*: whether the person or entity supplies the major equipment required to perform the work. In an employer and worker relationship, the employer generally supplies the major equipment required by the worker and covers the costs related to repair, insurance, transport, rental and operation. In a work relationship involving persons or entities in a contract for service, each person generally supplies and maintains their own major equipment.

“Major equipment” refers generally to revenue generating equipment such as, but not limited to earth moving equipment, vehicles, or computers.





## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: GENERAL

- (d) *The Specific Results Test*: whether the person is engaged to do specific work or tasks or to achieve a specific result. A worker in a contract of service is generally at the disposal of the employer for a period of time without reference to specific results. On the other hand, a person under a contract for service is generally required to achieve specific results without reference to how the work or tasks are performed.
- (e) *The Dependence Test*: whether the tasks performed are a critical part of one person's business and whether the other person is economically dependent on the arrangement. Considered from the perspective of the persons doing the work, they are generally under a contract for service if they integrate the work activities into their own commercial enterprise. As part of this test, the WSCC may consider the person's work status and economic dependencies outside of the Northwest Territories and Nunavut in the analysis. Where persons integrate activities to another's commercial activities, they are probably in an employer and worker relationship where the worker acts on behalf of the employer, is connected with the employer's business, and is dependent upon it.

### Additional Considerations

For the purposes of the *Acts*, a person who enters into a contract of service is a worker and has coverage through the employer. However, section 4(1.1) of the *Acts* outline some exceptions (for further details, see Policy 00.05.02, Determining the Status of Persons under the Workers' Compensation Acts: Workers).

If the WSCC finds a person is performing a contract of service, the person is determined to be a worker for the purposes of the *Acts*. Persons whom the WSCC determines to be workers cannot obtain Personal Optional Coverage.

A person initially considered to be under a contract for service may be determined to be a worker of any person or entity if the WSCC determines the relationship has changed to a contract of service. The WSCC is able to reconsider any of its decisions, as outlined in Policy 00.02, Reconsidering Decisions.

If a person is found to be a worker, the WSCC notifies both the worker and the employer, in writing.









## **DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: GENERAL**

Policy 00.05 (Apr 01/99)	Determination of Employer/Worker Status
Policy 00.05 (Jan 01/01)	Determination of Employer/Worker Status
Policy 20-01-05 (Sep 10/93)	Definition of Employer
Policy 20-01-06 (Sep 10/93)	Definition of Worker
Policy 20-01-17 (Sep 10/93)	Incarcerated Workers – Federal
Policy 20-01-18 (Sep 10/93)	Incarcerated Workers – Territorial
Policy 20-02-10 (Dec/81)	Fire Fighters - Volunteer
Policy 30-01-07 (May 01/89)	Definition of Employer
Policy 30-01-11 (May 01/89)	Deeming of Independent Operators as Workers
Policy 30-01-13 (May 01/89)	Independent Operator
Policy 30-01-18 (May 01/89)	Definition of a Worker
Policy 30-03-13	Personal Optional Coverage
Policy 30-03-14 (May 01/89)	Persons Deemed Workers
Policy 30-03-15 (May 01/89)	Coverage for Volunteer Workers
Procedure 30-01-12 (May 01/89)	Deeming of Independent Operators as Workers
Procedure 30-03-15 (May 01/89)	Coverage for Volunteer Workers
Procedure 30-03-21 (May 01/89)	Government Funded Projects

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Chairperson





## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: EMPLOYERS

### POLICY STATEMENT

The *Workers' Compensation Acts (Acts)* of the Northwest Territories and Nunavut apply to all employers and workers in the Northwest Territories and Nunavut. For the purposes of workers' compensation, the *Acts* define who is considered an employer and a worker. This policy provides guidelines to assist in determining the status of an employer as it relates to the application of the *Acts*.

### DEFINITIONS

Contract for Service:	An agreement in which an employment relationship does not exist, i.e., two businesses, independent operations, individuals or other entities. A contract for service is not covered under the <i>Workers' Compensation Acts</i> .
Contract of Service:	An agreement in which an employment relationship exists between an employer and workers. In a contract of service or apprenticeship, the workers are subject to the control or supervision of the employer. Workers under a contract of service or apprenticeship are covered under the <i>Workers' Compensation Acts</i> . A contract of service or apprenticeship may be "written or oral, expressed or implied." (per ss. 1(1) of the <i>Workers' Compensation Acts</i> )
Employer:	<p>"The following are considered employers for the purposes of the <i>Act</i>:</p> <ul style="list-style-type: none"> <li>(a) any person or entity that employs one or more persons under a contract of service;</li> <li>(b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer..." (per ss. 8(1) and 8(1.1) of the <i>Workers' Compensation Acts</i>)</li> </ul>
Learner:	<p>"... a person who, although not under a contract of service is...</p> <ul style="list-style-type: none"> <li>(i) undergoing training or probationary work as a preliminary to employment with an employer." (per ss. 4(1)(b) of the <i>Workers' Compensation Acts</i>)</li> </ul>





- (a) a person who enters into or works under a contract of service;
- (b) a person who, although not under a contract of service, is
  - (i) undergoing training or probationary work as a preliminary to employment with an employer,
  - (ii) engaged in, or training for, rescue or recovery services, ambulance services or firefighting services, or
  - (iii) temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act* Northwest Territories or *Emergency Measures Act* Nunavut;
- (c) a student who is participating in a work training or similar program provided by a school
- (d) a patient who is participating in a work training or similar program provided by a health care facility;
- (e) a person who is committed to a correctional centre under the *Corrections Act* and working in a work release program outside the centre...” (per ss. 4(1) and 4(1.1) of the *Workers’ Compensation Acts*)

Local residents who offer their firefighting services, for little or no pay, to their municipality. Their status as volunteer firefighters must be approved by the settlement, hamlet, village, town, city or municipality.





## Employers

An injured worker may be eligible for compensation, even if their employer is not registered, as long as their claim meets the entitlement criteria outlined in Policy 03.02, Entitlement, including that there is an employer for the purposes of the *Acts*.

### Temporary Employers

- the chief place of business of the person or entity is outside the Northwest Territories (NT) Nunavut (NU);
- the person or entity does not employ persons who are ordinarily resident in NT or NU;
- the person or entity only employs persons whose usual place of employment is outside NT or NU;
- the person or entity carries on business in NT or NU for a total of 10 or fewer days per year;
- the person or entity has workers' compensation coverage or other similar coverage under the law of another jurisdiction that extends to events that occur in NT or NU.

Effective: October 15, 2020  
Motion: 20/09-010





## Homeowners

## LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Compensation Act:	Sections 3, 4, 5, 6, 8, 22 Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)
Nunavut Workers' Compensation Act:	Sections 3, 4, 5, 6, 8, 22 Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)
Northwest Territories Workers' Compensation General Regulations:	Section 1
Nunavut Workers' Compensation General Regulations:	Section 1

## POLICY RELATED DOCUMENTS

Policy 00.03	Interjurisdictional Agreement
Policy 00.05	Determining Status of Persons Under the Workers' Compensation Acts: General
Policy 02.01	Employer Assessments
Policy 02.03	Personal Optional Coverage
Policy 02.04	Coverage Outside the Northwest Territories and Nunavut
Policy 02.06	Account Registration
Policy 03.02	Entitlement
Policy 03.05	Renewable Resources Harvesters
Policy 03.07	Calculation of Temporary Compensation
Policy 06.03	Calculation of Permanent Compensation





## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: EMPLOYERS

### HISTORY

Policy 00.05 (Feb 10/20)	Determining Status of Persons under the Workers' Compensation Acts: Employers (Non-Substantive Change)
Policy 00.05 (Mar 12/19)	Determining Status of Persons under the Workers' Compensation Acts: Employers (Non-Substantive Change)
Policy 00.05 (Jun 05/15)	Determining Status of Persons under the Workers' Compensation Acts: Employers
Policy 00.05 (Mar 5/13)	Determining Employer and Worker Status
Policy 00.05 (Mar 15/11)	Determining Employer/Worker Status
Policy 00.05 (Mar 31/08)	Determining Employer/Worker Status
Policy 00.05 (Apr 22/04)	Determination of Employer/Worker Status
Policy 00.05 (Oct 18/01)	Determination of Employer/Worker Status
Policy 00.05 (Dec 07/00)	Determination of Employer/Worker Status
Policy 00.05 (Sep 10/99)	Determination of Employer/Worker Status
Policy 00.05 (Apr 01/99)	Determination of Employer/Worker Status
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Policy 20-01-05 (Sep 10/93)	Definition of Employer
Policy 20-01-06 (Sep 10/93)	Definition of Worker
Policy 20-01-17 (Sep 10/93)	Incarcerated Workers – Federal
Policy 20-01-18 (Sep 10/93)	Incarcerated Workers – Territorial
Policy 20-02-10 (Dec/81)	Fire Fighters - Volunteer
Policy 30-01-07 (May 01/89)	Definition of Employer
Policy 30-01-11 (May 01/89)	Deeming of Independent Operators as Workers
Policy 30-01-13 (May 01/89)	Independent Operator
Policy 30-01-18 (May 01/89)	Definition of a Worker
Policy 30-03-13	Personal Optional Coverage
Policy 30-03-14 (May 01/89)	Persons Deemed Workers
Policy 30-03-15 (May 01/89)	Coverage for Volunteer Workers
Procedure 30-01-12 (May 01/89)	Deeming of Independent Operators as Workers
Procedure 30-03-15 (May 01/89)	Coverage for Volunteer Workers
Procedure 30-03-21 (May 01/89)	Government Funded Projects





Chairperson





The *Workers' Compensation Acts (Acts)* of the Northwest Territories and Nunavut apply to all employers and workers in the Northwest Territories and Nunavut. For the purposes of workers' compensation, the *Acts* define who is considered an employer and a worker. This policy provides guidelines to assist in determining the status of a worker as it relates to the application of the *Acts*.

Contract for Service: An agreement in which an employment relationship does not exist, i.e., two businesses, independent operations, individuals or other entities. A contract for service is not covered under the *Workers' Compensation Acts*.

Contract of Service: An agreement in which an employment relationship exists between an employer and workers. In a contract of service or apprenticeship, the workers are subject to the control or supervision of the employer. Workers under a contract of service or apprenticeship are covered under the *Workers' Compensation Acts*. A contract of service or apprenticeship may be “written or oral, expressed or implied.” (per ss. 1(1) of the *Workers' Compensation Acts*)

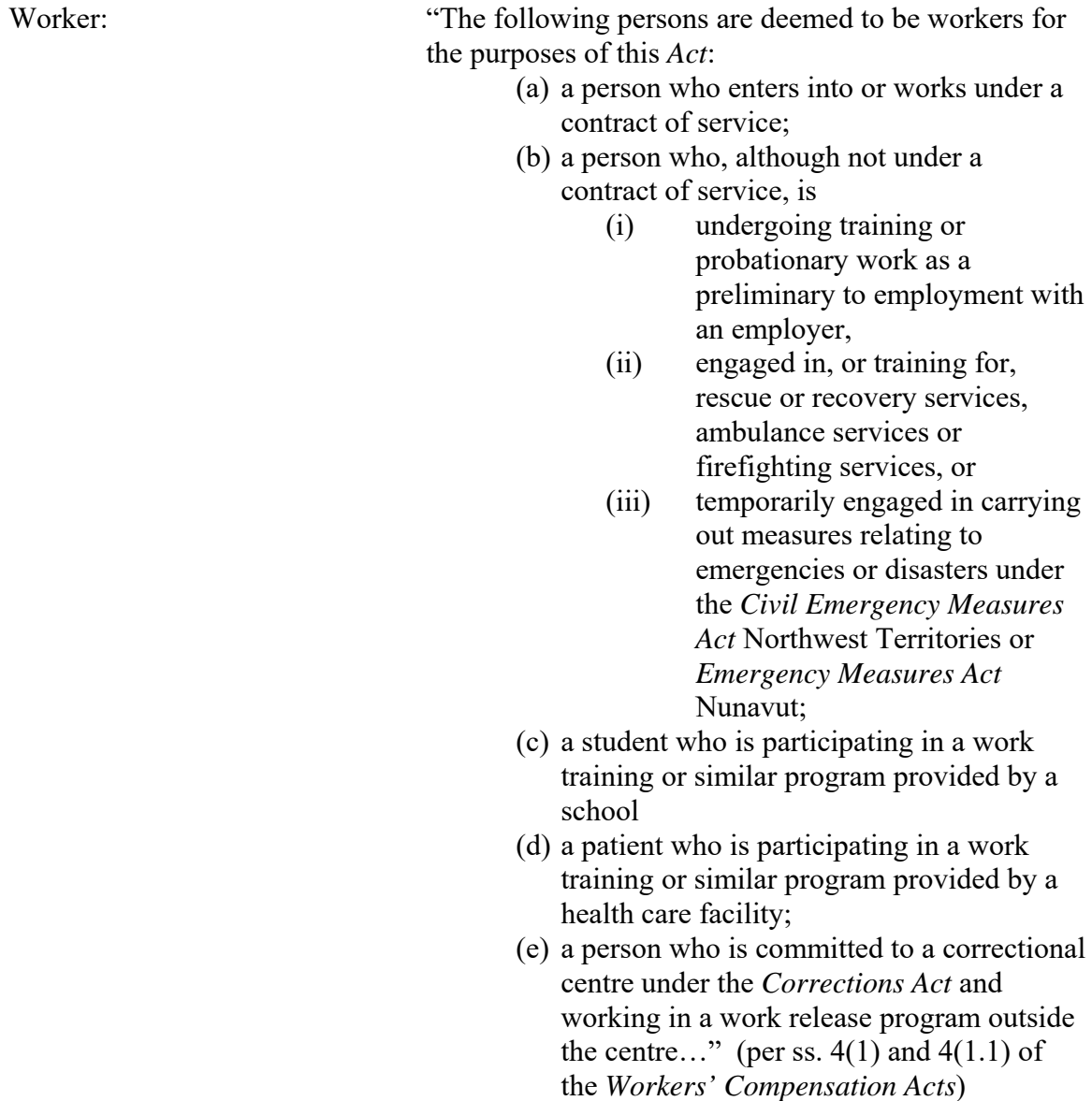
Employer: “The following are considered employers for the purposes of the *Act*:

- (a) any person or entity that employs one or more persons under a contract of service;
- (b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss. 8(1) and 8(1.1) of the *Workers’ Compensation Acts*)

Learner: “... a person who, although not under a contract of service is...

(i) undergoing training or probationary work as a preliminary to employment with an employer.” (per ss. 4(1)(b) of the *Workers’ Compensation Acts*)





Effective: October 15, 2020  
Motion: 20/09-011





## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: WORKERS

### POLICY

This policy provides general guidance for determining whether a person or entity is a worker under the *Acts*. For cases not discussed in this policy which require analysis and judgement, refer to the tests outlined in Policy 00.05, Determining Status of Persons under the Acts: General.

### Workers

#### *General*

The WSCC considers the following persons workers eligible for compensation under the *Acts*:

- a person who enters into or works under a contract of service;
- a person undergoing training or probation as a preliminary to employment with an employer;
- a person engaged in, or training for, search and rescue, recovery, ambulance or firefighting services;
- a person temporarily engaged in measures or activities or training related to emergencies or disasters under the *Civil Emergency Measures Act*, Northwest Territories or *Emergency Measures Act*, Nunavut;
- a student who is receiving credits in a work training or similar program provided by an accredited post-secondary school, such as a practicum or other structured work program required by their program;;
- a patient participating in a work training or similar program provided by a health care facility;
- a person committed to a correctional centre under the *Corrections Act* and is participating in a work release program outside the centre;
- a resident whose remuneration comes primarily from harvesting wildlife under a land claims agreement, a treaty or other Aboriginal right or the *Wildlife Acts*; or,
- a person not usually considered a worker under the *Acts* who, upon application, the WSCC designates as a worker.

A person is not considered a worker under the *Acts* if they:

- work for a temporary employer (as outlined in Policy 00.05.01, Determining Status of Persons Under the Workers' Compensation Acts: Employers); or,
- are entitled to workers' compensation or a similar remedy under the law of another jurisdiction to events that occurred in the Northwest Territories or Nunavut.





## **DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: WORKERS**

### *Volunteers*

Volunteers are not workers under the Acts. An employer who engages persons in any volunteer employment for which no remuneration is paid may request the WSCC to consider the volunteers as workers for the purpose of the *Acts*. When designating a volunteer a worker, the WSCC:

- determines what work the person is performing and the period of employment;
- determines the person's remuneration for assessment purposes; and
- determines the assessment payable by the employer; and
- determines the employer for workers' compensation purposes.

Policy 04.01, Payment of Compensation sets out compensation for entitled volunteer workers.

### *Volunteer Firefighters and Ambulance Drivers*

Volunteer firefighters, rescue or recovery workers, and ambulance drivers are covered by the *Acts* and are workers of the Government of the Northwest Territories, the Government of Nunavut, or the municipal corporation:

- from the time they respond to the call or alarm, either by leaving their regular employer's premises, the fire hall, medical centre, their home or place where they are engaged in personal activity. If the first circumstance applies, firefighters are under their regular employer's coverage until they leave the employer's premises. The employer must confirm a worker was called out to perform the duties of a firefighter;
- while on the way to the fire hall, medical centre or fire;
- while carrying out the duties of a firefighter, rescue or recovery worker, or ambulance driver;
- while returning to the point of departure, that is, the regular employer's premises, their home, the fire hall, or medical centre using the most direct or uninterrupted route; and
- while participating in a training program.

### *Peacetime Disaster Workers*

Where a person responds to an emergency declared under the *Civil Emergency Measures Act* Northwest Territories or *Emergency Measures Act*, Nunavut and performs duties under the direction of an Emergency Measures Co-ordinator or approved designate, the person is a worker of the Government of the Northwest Territories or Government of Nunavut, whether or not the person receives remuneration.





If the person is a volunteer and the work is carried out at the request of a municipal corporation, the Government of the Northwest Territories or the Government of Nunavut, the appropriate government is the employer.

### *Incarcerated Workers*

- committed to a correctional or custodial facility under the Northwest Territories, Nunavut *Corrections Acts*, or *Corrections Act* of another jurisdiction , and
- working outside the facility,

they, while so engaged, are workers employed in the public service of the Government of the Northwest Territories or the Government of Nunavut for the purposes of the *Acts*, unless the WSCC finds them to be workers otherwise entitled to compensation.

- permanently reside in a custodial facility and perform work on a regular or irregular basis inside that facility;
- be assigned to a camp under the control of Corrections Services, Department of Justice, Government of the Northwest Territories or Corrections and Community Justice, Department of Justice, Government of Nunavut, but remain incarcerated in a minimum security custodial setting; or
- be released as part of a work release or pre-release program, where they work outside the facility for wages and may or may not return to the facility daily.

In the third situation, inmates injured on a work release or pre-release program are eligible for workers' compensation benefits. All aspects of a normal worker/employer













## DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: WORKERS

hired to perform odd jobs, short-term or one-time work must meet all the following conditions to be excluded from coverage under the *Acts*:

- Work must not be determined integral to business operations;
- Work is no more than one day or 12 hours over no more than 3 days total;
- If for an individual or private residence, work must not be recurring; and,
- If for a company or business, work must not be for the purposes of the business's industry.

### *Other Excluded Groups*

Directors on board of directors of corporations or societies, or individuals on similar governing entities, as well as owners of sole proprietorships and co-owners of partnerships are also not considered workers under the *Acts*. Individuals not considered workers under the *Acts* may submit a request for Personal Optional Coverage and on WSCC approval may receive compensation benefits if they suffer compensable injuries.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 3, 4, 5, 6, 8, 22 Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)
Nunavut <i>Workers' Compensation Act</i> :	Sections 3, 4, 5, 6, 8, 22 Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)
Northwest Territories <i>Workers' Compensation General Regulations</i> :	Section 1
Nunavut <i>Workers' Compensation General Regulations</i> :	Section 1

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Policy 02.06	Account Registration





Policy 03.02	Entitlement
Policy 03.05	Renewable Resources Harvesters
Policy 03.07	Calculation of Temporary Compensation
Policy 06.03	Calculation of Permanent Compensation

## HISTORY

Policy 00.05 (Feb 10/20)	Determining Status of Persons under the Workers' Compensation Acts: Workers (Non-Substantive Change)
Policy 00.05 (Mar 12/19)	Determining Status of Persons under the Workers' Compensation Acts: Workers (Non-Substantive Change)
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Policy 20-01-17 (Sep 10/93)	Incarcerated Workers – Federal
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Effective: October 15, 2020  
Motion: 20/09-011





The Northwest Territories and Nunavut *Workers' Compensation Acts (Acts)* protect workers and employers from lawsuits arising from work-related incidents. In certain circumstances, the Workers' Safety and Compensation Commission (WSCC) may pursue a civil action on behalf of an eligible claimant to recover damages from a third party incurred as a result of an injury, disease, or death suffered by a worker.

Compensation	“... means any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefit payable or provided under this Act as a result of a worker’s personal injury, disease or death.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Defendant:	The individual or group, against which the WSCC undertakes a third party action.
Eligible Claimant:	“... a person who has claimed compensation or who is entitled to claim and receive compensation;” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Indemnify:	“To reimburse another for a loss suffered because of a third party’s or one’s own act or default.” ( <i>Black’s Law Dictionary</i> , Eighth Edition)
Third Party Action:	A civil claim initiated by the WSCC to recover damages, due to fault or negligence of a third party, on behalf of an eligible claimant.
Vest	Confers a legal authority, rights, power. ( <i>Black’s Law Dictionary</i> , Second Edition)
Worker:	“The following persons are deemed to be workers for the purposes of this Act: (a) a person who enters into or works under a contract of service; (b) a person who, although not under a contract of service, is





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Chairperson





## STAKEHOLDER ENGAGEMENT

## POLICY STATEMENT

This policy provides guidance to the Workers' Safety and Compensation Commission (WSCC) when conducting stakeholder engagement.

Stakeholder engagement provides the WSCC an opportunity to exchange information and ideas on specific issues with stakeholders.

## DEFINITIONS

Administrative Policy:	An internal document that directs employees on the appropriate conduct of business, financial processes and control and protection of WSCC assets.
Engagement:	An active process where stakeholders are able to contribute to development of WSCC policies and the decision making process.
Governing Instruments:	Include: legislation, general regulation, Policies, Administrative Policies and Governance Council Directives.
Governance Council Directive:	A governing instrument that directs Governance Council members on the appropriate conduct of its business, financial processes and control and protection of WSCC assets.
Policy:	A Governance Council approved governing instrument describing the WSCC's position on issues and programs that directly affect stakeholders, including the interpretation of specific legislative provisions.
Program:	A WSCC activity that provides services to stakeholders, is directed towards achieving identified outcomes and consists of the means to achieve them.





## STAKEHOLDER ENGAGEMENT

Stakeholder:	Workers, employers and others who have an interest in the policies and programs of the WSCC.
Stakeholder Engagement Committee (SEC)	A committee, administered and coordinated by Executive Services, that is composed of individuals external to the WSCC who are committed to providing feedback on policy issues and development.

## POLICY

## General

Engagement provides stakeholders the opportunity to contribute to the WSCC policy development process.

Effective and meaningful engagement results in:

- An informed policy development process;
- A productive and respectful relationship between the WSCC and stakeholders;
- A better understanding of WSCC policy and program options and constraints;
- A broad decision-making process where stakeholders understand how decisions are made, minimizing the potential for conflict; and
- An efficient and adaptive organization whose governing instruments are responsive to stakeholders' priorities, needs and concerns.

Stakeholder input is incorporated into new or revised governing instruments when the Governance Council determines that it is administratively, legally and financially beneficial to the WSCC and stakeholders.

## Principles of Engagement

When conducting stakeholder engagement, the WSCC:

- Clearly and openly states the intentions and objectives of the engagement;
- Provides relevant quantitative and qualitative information, including policy options, if available, so stakeholders may knowledgably contribute to the policy development process;
- Uses an appropriate stakeholder engagement method for the issue;





- Page 3 of 4





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received and explains the final decision and why input from the stakeholder was or was not incorporated into the final WSCC decision.

The WSCC reports to the Governance Council on the results of the stakeholder engagement that is completed in the development of policy or programs.

## LEGISLATIVE AUTHORITIES

Nunavut *Workers' Compensation Act*: subsections 83(2); 89(c)

Northwest Territories *Workers' Compensation Act*: subsections 83(2); 89(c)

## POLICY RELATED DOCUMENTS

## Policy 00.01 Policy Creation and Maintenance

## HISTORY

Policy 00.07 (Mar 04/14)	Stakeholder Engagement
Policy 00.07 (Dec 04/12)	Consultation
Policy 00.07 (Mar 05/09)	Consultation
Policy 00.07 (Nov 29/05)	Consultation

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Chairperson









Page 2 of 8  
Last Non-Substantive Change - February 10, 2020

















# Workers' Safety & Compensation Commission

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## DECISION MAKING

- The degree of the health care provider's knowledge of the worker, including the extent of any direct medical examinations conducted on the worker and the impact this knowledge may have on the medical opinion at issue.

## Communication of Decisions

The WSCC provides written notice of its decision regarding a claim for compensation to the claimant, or their authorized representative, and the employer. The notice of decision must contain:

- The decision;
- The rationale for the decision, including any applicable policies and legislation;
- An outline of the information used to make the decision that is applicable and appropriate to the party receiving the notice; and,
- A statement advising both parties of their right to challenge the decision.

## Finality of Decisions

Every decision of the WSCC is final and conclusive subject to:

- The WSCC’s power to reconsider any matter it previously dealt with, as per Policy 00.02, Reconsidering a Decision;
- A party’s right to have a decision of the WSCC reviewed by the Review Committee; and,
- A party’s right to appeal a decision of the Review Committee to the Appeals Tribunal.

## Employer Services Decisions

The exclusive jurisdiction of the WSCC extends to examining, inquiring into, hearing and determining all matters related to the levy and collection of assessments, including the industry classification of an employer, the employer's claims experience, employer clearances, the accuracy of an employer's payroll statement and any payroll estimate.

## LEGISLATIVE AUTHORITIES

Nunavut *Workers' Compensation Act*:

Sections 10; 14; 14.1; 17; 18; 24; 25; 27; 30;  
31; 37; 91; 92







## DECISION MAKING

## Schedule 'A'

### Diseases and Minimum Work Periods for Firefighters

Listed Disease	Prescribed Period of Employment
Cardiac arrest within 24 hours after attendance at an emergency response	none
Multiple myeloma	15 years
Primary leukemia	5 years
Primary non-Hodgkin's lymphoma	20 years
Primary site bladder cancer	15 years
Primary site brain cancer	10 years
Primary site breast cancer	10 years
Primary site colo-rectal cancer	15 years
Primary site esophageal cancer	25 years
Primary site kidney cancer	20 years
Primary site lung cancer	15 years
Primary site prostate cancer	15 years
Primary site skin cancer (including primary epithelioma)	15 years
Primary site testicular cancer	20 years
Primary site ureter cancer	15 years













# Workers' Safety & Compensation Commission

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## PARTNERSHIPS

### Partnership Maintenance Requirements

Upon Governance Council approval, a Contribution Agreement is signed between the WSCC and the partner. The Contribution Agreement outlines the partner's responsibilities, which includes:

- mutually agreed upon performance targets for the work plan;
- the requirement for quarterly status reports with detailed financial statements; and
- the requirement for an annual report.

The partner must remain in regular contact with, and attend meetings as requested by the WSCC.

Failure to meet these requirements and any listed in the Contribution Agreement may result in the termination of the partnership.

## WSCC Responsibilities

The WSCC is committed to providing all partners with clear and concise terms and conditions within a Contribution Agreement. In addition, the WSCC meets with all partners quarterly to monitor and ensure the success of each partnership.

Payment to partners is administered in accordance with the Contribution Agreement between the WSCC and the partner.

## Common Goal Partnership

The Common Goal Partnership is a partnership entered into between the WSCC and governments, institutions and other persons or entities with shared goals for workplace health and safety.

Common Goal Partnerships do not include funding from the WSCC, however may include WSCC support in the form of Sponsorships in Kind, use of WSCC's name in support of workplace health and safety initiatives or access to WSCC communication tools to support common messages.









Workers' Safety  
& Compensation Commission

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## PARTNERSHIPS

### *WSCC Responsibilities*

The WSCC is committed to providing all partners with clear and concise terms and conditions within the MOU.

## LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:* Section 94

Nunavut *Workers' Compensation Act:* Section 94

Northwest Territories *Societies Act:*

Nunavut *Societies Act:*

Northwest Territories *Business Corporation Act*

Nunavut *Business Corporation Act*

## HISTORY

00.09 (Mar 16/11)

Partnerships

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Chairperson





# Workers' Safety & Compensation Commission

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## INDUSTRY CLASSIFICATION

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) assigns each employer operating in the Northwest Territories and Nunavut to a general industry class (e.g. Mining) and subclass (e.g. Underground Mining or Mining Services) based on the employer's operations. The purpose of grouping together employers with similar business activities and similar levels of risk into subclasses is to ensure the costs of compensation are distributed fairly among the industries responsible for those claim costs. This allows for the setting of fair and equitable assessment rates that best reflect the collective liability of each subclass.

## DEFINITIONS

Arm's Length:	Degree of separation between operations, i.e., operations without common ownership, directors or management, and where the owners of each operation act in their own best interest.
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Assessment: “... a charge calculated by the Commission and levied on an employer...” (per ss. 1(1) of the *Workers’ Compensation Acts*). Assessments form the Workers’ Protection Fund.

Class: The major industrial sector to which an employer's operations belong (e.g., Mining, Oil & Gas, Construction, etc.).

Industry Classification System:	The system used by the WSCC to group similar employers in comparable industries based on the primary purpose of the operation. The classes and subclasses in this system represent the economic activities of the Northwest Territories and Nunavut. Codes are applied to employers with similar claims experience and types of operations.
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**Multiple Industry Classification:** Allows employers engaged in more than one industrial undertaking to be assigned to more than one subclass and rate.



Payroll:	“... in respect of an employer, the total of the remuneration paid by an employer in any year to all its workers.” (per ss. 1(1) of the <i>Workers’ Compensation Act(s)</i> )
Subclass:	A specific type of operation within a class which is based on the products or services of the employer (e.g. within the Construction class are subclasses of General Construction, Marine Construction or Mechanical Installation and Servicing).
Workers’ Protection Fund:	“...one indivisible fund for the purposes of paying compensation and determining assets and liabilities.” (per ss. 67(2) of the <i>Workers’ Compensation Acts</i> ).

## POLICY

## General

The WSCC's classification system assigns those employers engaged in similar business activities into specific industry classifications called Classes and Subclasses. Industry classification is based on the assumption that operations in a particular industry have similar hazards and similar levels of risk. The establishment of an Industry Classification System helps ensure that employers collectively share the liability for compensation costs occurring in their subclass. Industry classification is a critical factor in the rate-setting process.

The WSCC classifies an employer based on the industry(ies) it operates in within the Northwest Territories and/or Nunavut. Where an employer operates in one or more additional jurisdictions, the employer is assigned to a class based on the operations it conducts within the Northwest Territories and/or Nunavut.

Employers must describe their operations to the WSCC and notify the WSCC in writing within the calendar year of any operational or business change.

The WSCC considers the following information when assigning an industry classification to an employer's business:

- How revenue is generated;
- To which industry(ies) payroll is allocated;
- Products/services sold;





## INDUSTRY CLASSIFICATION

- Raw materials, equipment and processes used;
- Customers and competitors;
- Ownership;
- Work performed by other companies at non-arm's length;
- Type(s) of work performed by employees; and,
- Any other information the WSCC requires to gain a complete understanding of the employer's business.

If an employer is registering a start-up or newly created business, and the business operations are not clearly separated or fully functional at the time of registration, the business will be classified according to their projected operations for the year. The WSCC may review the employer's operations and payroll allocations throughout the year and/or at the year-end and make any necessary classification adjustments.

If an employer has operations in more than one industry, they are classified according to the highest Subclass rate of those operations exceeding 25% of the total operations' payroll. If the total payroll for each of the industries does not exceed 25%, then the employer will be assigned to the industry with the highest percentage of payroll.

## Multiple Industry Classification

When employers operate in more than one industry, they may request Multiple Industry Classification (MIC) designation. This ensures that an employer's assessment reflects all of its industrial activities and that any claim costs they incur are assigned to the appropriate industry.

Applicant employers who meet all of the following criteria may qualify for MIC:

- The employer's operations are separate and distinct, with sources of revenue that are independent from one another;
- The employer keeps separate records of revenue, expenses and payroll for each operation; and,
- Workers' earnings are allocated based on the actual time spent in each operation.

The employer will report any Northwest Territories/Nunavut administrative, clerical or support staff payroll separately, and the WSCC allocates this payroll on a prorated basis to each industry.

If an employer wishes to be assigned to MIC, they must make a request in writing and provide the WSCC evidence outlining how they meet each criterion listed above. If an employer is classified under MIC, but wishes to opt out, the employer must notify the WSCC in writing. The WSCC must receive notification by February 28<sup>th</sup> in order for the







## LEGISLATIVE AUTHORITIES

## POLICY RELATED DOCUMENTS

## HISTORY

Effective: June 14, 2018  
Motion: 18/06-007





Policy 30-02-01a (Dec 13/94)  
Policy 30-02-01 (May 01/89)

## Industrial Classification – Multiple Industry Classification of Employer Accounts

Effective: June 14, 2018  
Motion: 18/06-007









Installation and Servicing).

### Workers' Protection Fund:

“...one indivisible fund for the purposes of paying compensation and determining assets and liabilities.” (per ss. 67(2) of the *Workers’ Compensation Acts*).

## POLICY

## General

Re-classification of an employer's account may result from:

- A change in an employer's operation(s);
- A change in an employer's multiple industry classification status (MIC) (e.g. employer requests to obtain, or renounce, MIC designation; or employer is no longer eligible for MIC);
- A change in the WSCC's industry classification system;
- The WSCC's error;
- An employer's error; or,
- Misrepresentation or non-compliance by an employer.

The WSCC monitors all employer industry classifications, makes the appropriate re-classifications, and informs employers of any changes to their classification and their right to appeal. If the WSCC denies an employer's request for re-classification, the WSCC explains its reasons in writing and informs the employer of the right to appeal.

The process of re-classification is the same for single and multiple industry employers.

## Employer Operation Changes

When registered employers change, add, or discontinue any business operations, they must report this to the WSCC in writing within the calendar year of the change. The WSCC reviews the employer's operational changes and determines whether a re-classification is required. A re-classification may affect the employer's assessment rate.

If re-classification due to a new operational change results in an assessment rate change, the effective date of the rate change is up to January 1<sup>st</sup> of the current assessment year.

























# Workers' Safety & Compensation Commission

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## EMPLOYER ASSESSMENTS

Contract for Service:	An agreement in which an employment relationship does not exist, i.e., two businesses, independent operations, individuals or other entities.
Employer:	<p>“The following are considered employers for the purposes of this Act:</p> <ul style="list-style-type: none"><li>(a) Any person or entity that employs one or more persons under a contract of service;</li><li>(b) Any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss. 8(1) and 8(1.1) of the <i>Workers’ Compensation Acts</i>)</li></ul>
Employer Payroll Statement:	A statement submitted by employers to the WSCC. An <i>Employer’s Payroll Statement</i> contains the employer’s actual payroll for the previous year and an estimate of the payroll for the current year.
Industry Classification System:	The system used by the WSCC to group similar employers in comparable industries based on the primary purpose of their operations. The system is based on the Statistics Canada Standard Industrial Classification System (SIC).
Irrevocable Letter of Credit:	A guarantee of funds issued by a financial institution, guaranteeing payment to the WSCC.
Remuneration:	A worker’s remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips and other benefits defined under the <i>Workers’ Compensation Acts</i> .
Subclass:	An employer’s subclass is the specific industrial sector to which the employer’s operations belong within the industry classification system.
Term Account:	Term accounts exist for employers operating in the Northwest Territories or Nunavut for a limited and defined period of time.





Year's Maximum Insurable  
Remuneration (YMIR):

“...a prescribed maximum remuneration for any year for the purposes of determining:

- (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1); and
- (b) the assessable payroll of employers for the year.” (per ss.1(1) of the *Workers' Compensation Acts*)

Employers in the Northwest Territories and Nunavut are responsible for the payment of assessments. The Governance Council annually establishes assessment rates to reflect industry class claims experience and ultimately, sustain the Workers' Protection Fund. A person or entity in the Northwest Territories or Nunavut is considered an employer according to Policy 00.05, Determining Employer and Worker Status.

### Formula for Calculating an Employer's Assessment

$$\frac{\text{Assessable Payroll}}{100} \times \text{Industry Classification Assessment Rate} = \text{Employer Assessment}$$

The WSCC charges an employer a minimum assessment of \$200.00 if the employer's calculated assessment is less than \$200.00.





















# Workers' Safety & Compensation Commission

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## EMPLOYER ASSESSMENTS

Policy 02.01 (Oct 20/99)	Assessment and Payment of Assessment
Policy 02.01 (Sep 10/99)	Assessment and Payment of Assessment
Policy 02.01 (Aug 04/99)	Assessment and Payment of Assessment
Policy 02.01 (Apr 04/99)	Assessment and Payment of Assessment
Policy 02.01 (Nov 18/98)	Assessment and Payment of Assessment
Policy 02.01 (Sep 20/96)	Assessment and Payment of Assessment
Policy 02.01 (Jul 20/95)	Assessment and Payment of Assessment
Policy 30-01-15a (Jan 1/93)	Instalment Payments
Policy 30-01-17 (Jan 1/93)	Seasonal Operations Payment Policy
Policy 30-03-10 (Jan 1/93)	Minimum Assessment Levy
Procedure 30-05-03 (May 1/89)	NSF Cheques

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# Workers' Safety & Compensation Commission

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## PERSONAL OPTIONAL COVERAGE

## POLICY STATEMENT

The *Workers' Compensation Acts* of the Northwest Territories and Nunavut allow certain persons who are not considered workers to apply for compensation coverage. This policy explains how these people may apply for and be considered workers under the *Acts*.

## DEFINITIONS

Contract for Service:	An agreement in which an employment relationship does not exist, i.e., between two businesses, independent operations, individuals or other entities. A contract for service is not covered under the <i>Workers' Compensation Acts</i> .
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Contract of Service:	An agreement in which an employment relationship exists between an employer and workers. In a contract of service or apprenticeship, the workers are subject to the control or supervision of the employer. Workers under a contract of service or apprenticeship are covered under the <i>Workers' Compensation Acts</i> . A contract of service or apprenticeship may be "written or oral, expressed or implied." (per ss.1(1) of the <i>Workers' Compensation Acts</i> )
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Employer: “The following are considered employers for the purposes of this *Act*:

- a) any person or entity that employs one or more persons under a contract of service;
- b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss.8(1) and 8(1.1) of the *Workers’ Compensation Acts*)

Not in Good Standing: An account is not in good standing if the account holder has failed to comply with the provisions of the *Workers' Compensation Acts*.

Year's Maximum Insurable	"...a prescribed maximum remuneration for any year
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Applicants may request coverage for a minimum of one month and a maximum of one calendar year. Applicants may purchase coverage up to four times in one calendar year. POC expires on December 31 of each year. To ensure continuous coverage, individuals seeking to continue POC must submit a new POC request for before the coverage ends.

### Change in Amount of Coverage

A POC holder may request a change in the amount of coverage. If approved, the change is effective on the date the WSCC receives the request. If payment is required, the change does not take effect until payment is received.

## POC Claims

As with worker's coverage, in the event of a workplace injury the POC holder is able to submit a claim and may be eligible for compensation. If the POC holder's claim is accepted, any compensation benefits that the holder is eligible for will be calculated in accordance with WSCC policies.

## Assessment and Payment of Personal Optional Coverage

The industry classification and assessment rates are established according to Policies 01.01, Industry Classification and 02.01, Employer Assessments. The assessment is based on the level of coverage requested. If the applicant's business activities are eligible for Multiple Industry Classification, the applicant's POC is prorated over all applicable classifications.

If the assessment for the year is less than \$200.00, the POC holder is charged a minimum assessment of \$200.00.

The following payment requirements apply when purchasing POC:

- Payment is due immediately when the applicant purchases only POC and the assessment is less than \$1000;
- If the assessment is greater than \$1000 and POC is being paid by instalments, the first payment is due immediately when the POC request is approved; and
- When POC is purchased in conjunction with a business's regular payroll assessment, the POC payment is included in the payment plan established for the regular payroll assessment.

## Cancellation of Coverage

POC remains in effect for the required period unless:





# Workers' Safety & Compensation Commission

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## PERSONAL OPTIONAL COVERAGE

- The POC holder, or authorized designate, requests termination of POC in writing, in which case, the termination is effective the date the WSCC receives the written request;
- The POC holder can no longer demonstrate they are not persons under a contract of service, in which case the termination is effective the date of the change in status;
- The POC holder is no longer actively associated with the business; or
- The POC holder becomes injured and is receiving compensation, in which case the cancellation of coverage will be effective on the first day of time loss.

## Revocation of Coverage

The WSCC revokes coverage due to the following circumstances:

- Correspondence with the POC holder is no longer possible; or
- The account is not in good standing.

If the WSCC revokes POC, the POC holder is notified in writing by registered mail, if an address is available.

In cases where the WSCC revokes POC, it considers the following:

- *POC holders with workers*: when the account is unpaid beyond the due date, only the POC holder's coverage is cancelled; the assessment for workers remains in effect. The WSCC prorates the POC holder's coverage date to when the last payment was due
- *POC holders without employees*: when the account is unpaid beyond the due date, the WSCC prorates the POC holder's coverage date to when the last payment was due, brings the account to a zero balance, and inactivates the account.

## LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:* Sections 4, 6;

Nunavut *Workers' Compensation Act*: Sections 4, 6;

## POLICY RELATED DOCUMENTS

Policy 00.05	Determining Employer and Worker Status
Policy 01.01	Industry Classification
Policy 02.01	Employer Assessments
Policy 02.05	Reporting Payroll





# Workers' Safety & Compensation Commission

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## PERSONAL OPTIONAL COVERAGE

Policy 03.02	Entitlement
Policy 03.07	Calculation of Temporary Compensation
Policy 04.01	Payment of Compensation
Policy 06.03	Calculation of Permanent Compensation

## HISTORY

Policy 02.03 (Mar 12/19)	Personal Optional Coverage
Policy 02.03 (Nov 30/17)	Personal Optional Coverage
Policy 02.03 (Sep 12/14)	Personal Optional Coverage
Policy 02.03 (Mar 16/11)	Personal Optional Coverage
Policy 02.03 (Sep 19/05)	Personal Optional Coverage
Policy 02.03 (Oct 31/02)	Personal Optional Coverage
Policy 02.03 (Jul 20/01)	Personal Optional Coverage
Policy 02.03 (Nov 30/99)	Personal Optional Coverage
Policy 02.03 (Sep 10/99)	Personal Optional Coverage
Policy 02.03 (Apr 1/99)	Personal Optional Coverage
Policy 02.03 (Jul 16/98)	Personal Optional Coverage
Policy 02.03 (Jan 01/96)	Personal Optional Coverage
Policy 30-03-13 (Sep 19/90)	Personal Optional Coverage
Policy 30-03-13a (Sep 19/90)	Acceptance of Personal Optional Coverage
Policy 30-03-13b (Sep 19/90)	Cancellation of Personal Optional Coverage

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Chairperson









- (a) a person who enters into or works under a contract of service;
- (b) a person who, although not under a contract of service, is
  - (i) undergoing training or probationary work as a preliminary to employment with an employer;
  - (ii) engaged in, or training for, rescue or recovery services, ambulance services or firefighting services; or
  - (iii) temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act*;
- (c) a student who is participating in a work training or similar program provided by a school;
- (d) a patient who is participating in a work training or similar program provided by a health care facility; and
- (e) a person who is committed to a correctional centre under the *Corrections Act* and working in a work release program outside the centre...;" (per ss. 4(1) and 4(1.1) of the *Workers' Compensation Acts*)





- (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1); and
- (b) the assessable payroll of employers for the year.” (per ss.1(1) of the *Workers’ Compensation Acts*)





WSCC coverage may extend to workers outside the Northwest Territories and Nunavut if the worker is sufficiently connected to the Northwest Territories and Nunavut. A sufficient connection does not exist simply because the worker's employer does business in the Northwest Territories or Nunavut. The following are factors the WSCC considers when deciding whether the worker is sufficiently connected:

- where the worker's contract was made
- the terms of the employment contract;
- the location of the worker's primary residence; and
- the jurisdiction regulating taxation from the worker's payroll.

Assessable payroll for workers working outside the Northwest Territories and Nunavut is reported according to Policy 02.05, Reporting Payroll.

## Coverage for Interjurisdictional Trucking

The WSCC is a signatory to the *Interjurisdictional Agreement on Workers' Compensation*. Under this agreement, the Alternative Assessment Procedure for the Interjurisdictional Trucking Industry section applies to employers and workers operating in the trucking industry in the Northwest Territories, Nunavut and other Canadian jurisdictions. Employers who choose to register and pay assessments to the WSCC under this agreement continue their coverage with the WSCC while operating outside of the Northwest Territories or Nunavut.

Employers who choose to pay assessments to the WSCC must complete the Alternative Assessment Procedure Program form and submit to the WSCC. The WSCC informs the other jurisdictions of an employer's application to participate in the Alternative Assessment Procedure and their choice to pay assessments to the WSCC. Employers that wish to end coverage permitted under the Alternative Assessment Procedure in the coming year must provide written notice to the WSCC before the end of the current calendar year. Employers must follow all requirements in the Alternative Assessment Procedure for the Interjurisdictional Trucking Industry to ensure coverage in all jurisdictions continues.

As a signatory to the *Interjurisdictional Agreement on Workers' Compensation*, the WSCC complies with all requirements of the Alternative Assessment Procedure for the Interjurisdictional Trucking Industry.





- the compensation in the other jurisdiction was only for immediate medical aid;
- they are participating in legal proceedings in the other jurisdiction with the consent of the WSCC; or
- they make a claim for compensation in another jurisdiction that is rejected.

When accepting a worker's claim, the WSCC informs the acceptance in writing, to the Board or Commission where the incident occurred. The WSCC invoices the other Board or Commission for claim costs, as prescribed in the *Interjurisdictional Agreement on Workers' Compensation*.









## REPORTING PAYROLL

## POLICY STATEMENT

All employers are required to annually report assessable payroll to the Workers' Safety and Compensation Commission (WSCC). An employer's assessable payroll is used to calculate the employers' annual assessments. This policy describes how the WSCC determines reportable payroll, and penalties for failing to report and underestimating payroll. Assessments paid by employers in the Northwest Territories (NT) and Nunavut (NU) sustain the Workers' Protection Fund.

## DEFINITIONS

Annual Payroll Report	A report submitted by an employer to the WSCC, which contains the employer's actual assessable payroll for the previous calendar year and an estimate of assessable payroll for the current calendar year.
Assessable Payroll:	The total remuneration paid by an employer to their workers in a year. If a worker's annual remuneration is less than YMIR, all remuneration is considered when calculating assessable payroll. If a worker's remuneration is more than YMIR, the worker's remuneration is considered equal to YMIR for the purpose of calculating the assessable payroll.
Assessment:	"... a charge calculated by the Commission and levied on an employer..." (as per ss. 1(1) of the <i>Workers' Compensation Acts</i> )
Business Day	Any day except Saturday, Sunday, and any statutory or territorial holidays in the jurisdiction of registration. A business day is considered to be the hours from 8:30am to 5:00pm in the jurisdiction in which the employer is registered.  <i>Any notice or submission received by the WSCC after 5:00pm on the day that it is due is considered late and may be subject to</i>





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## REPORTING PAYROLL

*applicable penalties.*

Contractor and Subcontractor:

The person or business providing contractual services to a principal. Contractors may themselves retain subcontractors, in which case the contractor becomes the principal in relation to the subcontractors.

Payroll:

“...in respect of an employer, the total of the remuneration paid by an employer in any year to all its workers.” (per ss. 1(1) of the *Workers’ Compensation Acts*)

### Remote Camp:

A combined work and residential site isolated to the extent that once there, a worker is completely reliant on the camp for daily needs.

Remote Location:

Remote camps or settings of a similar nature where the employer provides temporary accommodations to workers in the absence of a reasonable, or any, alternative.

Remuneration:

A worker's remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips and other benefits defined under the *Workers' Compensation Acts*.

### Workers' Protection Fund:

“...one indivisible fund for the purposes of paying compensation and determining assets and liabilities.” (per ss. 67(2) of the *Workers’ Compensation Acts*)

Year's Maximum  
Insurable Remuneration (YMIR):

“...a prescribed maximum remuneration for any year for the purposes of determining:

- (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1); and
- (b) the assessable payroll of employers for the year.” (per ss. 1(1) of the *Workers’ Compensation Acts*)





## REPORTING PAYROLL

## POLICY

## New or Reactivating Employers

Employers must register with the WSCC within 10 business days of starting or re-starting operations in the NT or NU, with exception to employers that are *temporary* as defined in Policy 02.06, Account Registration.

Employers must provide their estimated payroll for the current year when they register with the WSCC. Employers may revise their estimated payroll once operations begin and throughout the year.

## Unregistered Employers

If an employer does not register with the WSCC, the WSCC may deem an estimated payroll for that employer. Deemed payroll is an estimate based on information about an employer's work in the NT and/or NU.

## Ceasing Operations

Employers must notify the WSCC within 10 business days of ending operations or ending their employment of workers in the NT or NU. Employers must report their current calendar year's actual payroll and submit any outstanding information requested from the WSCC when operations end.

## Annual Payroll Reporting

The WSCC requires employers to submit an *Annual Payroll Report* to the WSCC on or before February 28<sup>th</sup> of each year. The *Annual Payroll Report* includes:

- the employer's actual payroll in the previous year; and
- an estimate of the employer's payroll for the current year.

An employer's payroll includes all remuneration that the employer pays to their workers in a calendar year for work performed in the NT and/or NU, including, but not limited to:

- salaries, wages, fees, commissions, bonuses, tips;
- earnings received for overtime or piece work;
- the value of board and lodging, store certificates, credits or any remuneration in kind or other substitute for money provided to the worker by the employer; and,
- the labour portion of contract earnings of contractors/subcontractors that the employer is covering. (Employers are not required to report payroll for contractors/subcontractors who have their own coverage with the WSCC).





## REPORTING PAYROLL

An employer's payroll does not include the following, which are not part of a worker's annual remuneration: value of clothing, materials, transportation, board or lodging provided to the worker, either in kind or as an expense payment, *because of the remote nature or location of the employment*. In this case, employment that is remote in nature and location is limited to remote camps or settings of a similar nature where the employer provides temporary accommodations to workers in the absence of a reasonable, or any, alternative.

When determining assessable payroll for workers whose total earnings are at, or greater than the Yearly Maximum Insurable Remuneration (YMIR), employers are to cap workers' assessable payroll at YMIR for that assessment year. More information about YMIR can be found in Policy 00.04, Year's Maximum Insurable Remunerations (YMIR).

## Recording Payroll

An employer must provide payroll information upon the WSCC's request. Failure to provide this information results in penalization as outlined in this policy. Payroll records are based on the workers' territory of residence. Therefore, employers are to maintain separate payroll records for each territory if they have workers in both the NT and NU. If the workers do not live in the NT or NU, employers are to report the payroll according to the territory where the workers are employed. Under the Interjurisdictional Agreement on Workers' Compensation (IJA), employers prorate their assessable payroll so that each Canadian Board only receives assessments for the work performed in that Board's jurisdiction. See Schedule A for the formula used to determine the worker's remuneration in instances where the worker earns above YMIR while working in NT and/or NU and another jurisdiction. For further detail on the IJA see Policy 00.03, Interjurisdictional Agreement.

An employer that qualifies for Multi-Industry Classification must maintain separate payroll records for each industry. For more information on Multi-Industry Classification, see Policy 01.01, Industry Classification.

### Excluded Groups

The remuneration of directors on board of directors of corporations or societies, or individuals on similar governing entities, as well as owners of sole proprietorships and co-owners of partnerships are not included in assessable payroll, as they are not considered workers under the *Acts*, unless they obtain personal optional coverage. In the absence of information pertaining to an individual's position, the WSCC will make a decision on whether their earnings are to be included in assessable payroll. Individuals who are not workers under the *Acts* but are seeking coverage should refer to Policy 02.03, Personal Optional Coverage.





## REPORTING PAYROLL

## Interjurisdictional Trucking

NT interjurisdictional trucking operations have two options for reporting payroll:

- Report assessable payroll and pay assessments based on the kilometres driven in each Canadian jurisdiction; or
- Apply for coverage under *Alternative Assessment Procedure* (AAP) and report all assessable payroll and pay all assessments according to the Agreement.

For greater clarity, ice roads within the jurisdiction of the WSCC are included in road systems subject to the *Interjurisdictional Agreement on Workers' Compensation*.

Employers seeking more information on the AAP are encouraged to contact the WSCC and consult with an Employer Services representative.

### Airline Exceptions

When determining reportable payroll for air carriers that have flight crews based in the NT or NU and other provinces and territories, the WSCC evaluates workers in two distinct groups: ground personnel and flight crews. The rules for reporting payroll for ground personnel are identical to reporting payroll for other work performed in the NT and NU. An employer of airline flight crews calculates a worker's assessable payroll using the following two steps.

*Step 1*

$$\frac{\text{Flown miles in NT \& NU}}{\text{Total miles flown by worker}} \times 100\% = \% \text{ of total miles flown in the NT/NU}$$

*Step 2*

$$\% \text{ of total miles flown in the NT \& NU} \quad \times \quad \text{Annual Remuneration} = \frac{\text{Assessable Payroll}}{\text{Total Payroll}}$$

### Reportable Payroll

Payroll for air carriers are subject to the following conditions:

- Air carriers are not required to report payroll for miles flown when neither the origin nor termination of a flight is in the NT or NU.
- When a flight is flown in the air space of both the NT and NU but originates or terminates in only *one* of the two territories and another jurisdiction, the air carrier is





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## REPORTING PAYROLL

only required to report payroll for miles flown in the territory (NT or NU) where the flight originated or terminated. For example, if a flight originates in the NT, travels over NU and terminates in Ontario, an air carrier only reports miles for the portion of the flight travelling over the NT.

## Volunteers

Volunteers are not covered under the *Acts*, unless the employer applies to cover them. If an employer retains the services of volunteers for no pay and chooses to obtain coverage for those volunteers, the WSCC:

- Determines the volunteer's worker status according to Policy 00.05.02, Determining Status of Persons under the Workers' Compensation Acts: Workers; and
- Determines the volunteer's remuneration according to Policy 03.07, Calculation of Temporary Compensation.

The calculated amount is included in the employer's assessable payroll.

## Peacetime Disaster Workers

Individuals performing actions under the *Emergency Management Acts* are defined as workers under the *Workers' Compensation Acts*. Employers only report assessable payroll for these individuals if they are remunerated for the performance of duties under the *Emergency Management Acts*. Payroll is not to be reported for those carrying out duties on a volunteer basis where they do not receive remuneration.

## Deeming Assessable Payroll

### *Deeming the Previous Year's Assessable Payroll*

Employers are required to submit their previous year's actual payroll by February 28<sup>th</sup> of the current year in their Annual Payroll Report. If the employer fails to submit their actual payroll, the WSCC will deem the employer's previous year's estimated payroll as their actual assessable payroll for the previous year.

### Deeming the Current Year's Estimated Payroll

The WSCC deems an employer's current year estimates at 115% of their previous year's estimated payroll if an employer fails to send their current year's estimated payroll by February 28<sup>th</sup> of the current year.





## REPORTING PAYROLL

If an employer subsequently submits their *Annual Payroll Report*, the deemed payroll is adjusted accordingly. The employer's assessments and payment schedules are also revised to reflect the adjustment.

The WSCC completes annual deeming and penalty calculations after the February 28<sup>th</sup> Annual Payroll Reporting deadline.

## Penalties

### *Penalties for Late Reporting or Failure to Report Payroll*

The WSCC applies a penalty to an employer who fails to submit their *Annual Payroll Report* by February 28<sup>th</sup>. Penalties are equal to:

- 15% of the employer's assessment for the previous year; or
- 15% of the current year's assessment if the employer was not required to pay an assessment in the previous year.

If the calculated penalty for late reporting or failure to report is less than \$25 the WSCC charges a penalty of \$25. If the calculated penalty is greater than \$10,000 the WSCC charges a maximum penalty of \$10,000.

### *Penalty for Underestimating Payroll*

The WSCC applies a penalty if an employer knowingly underestimates their payroll by 25% or more. Employers have until November 30<sup>th</sup> to revise their current year payroll estimate to ensure its accuracy. The penalty is calculated using the following formula:

$$\text{Penalty} = (\text{AP} - (\text{EP} \times 125\%)) \times (\text{AR} \times 10\%)$$

\*Where:

- AP is actual payroll
- EP is stated or estimated payroll
- AR is assessment rate expressed as a dollar amount per \$100 of assessable payroll

The WSCC uses an employer's most recently submitted actual or estimated payroll when calculating a penalty for underestimating payroll.

A penalty is not applied if the calculated amount is less than \$50.



## REPORTING PAYROLL

The WSCC may apply retroactive penalties when it is discovered that employers have failed to report payroll, or underestimated payroll, in previous years for which no penalty has yet been applied.

### *Reduce or Eliminate a Penalty*

An employer can request that the WSCC reconsider its decision regarding a penalty if it accords with reasons for reconsideration as specified in Policy 00.02, Reconsidering a Decision. To make such a request, the employer is to submit a written letter to the Manager of Employer Services explaining why the WSCC should reduce or eliminate a penalty.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 6; 57; 72; 73, 74, 75, 76 subsections 1(1), 3(1); 4(1)(b)(iii); 81(1)(2)(3); 83(2); 141(1)(6)
Nunavut <i>Workers' Compensation Act</i> :	Sections 6; 57; 72; 73, 74, 75, 76 subsections 3(1); 4(1)(b)(iii); 81(1)(2)(3); 83(2); 141(1)(6)
Northwest Territories <i>Workers' Compensation General Regulations</i> :	Sections 17; 18; 20
Nunavut <i>Workers' Compensation General Regulations</i> :	Sections 17; 18; 20

### *Interjurisdictional Agreement on Workers' Compensation*

## POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 00.03	Interjurisdictional Agreement
Policy 00.04	Year's Maximum Insurable Remuneration
Policy 00.05	Determining Employer and Worker Status
Policy 01.01	Industry Classification
Policy 02.01	Employer Assessments
Policy 02.03	Personal Optional Coverage
Policy 02.06	Account Registration





## Calculation of Temporary Compensation

Policy 02.05 (Mar 12/19)	Reporting Payroll
Policy 02.05 (Sep 12/14)	Reporting Payroll
Policy 02.05 (Sep 11/12)	Reporting Payroll
Policy 02.05 (Mar 31/08)	Reporting Payroll
Policy 02.05 (Jul 21/07)	Reporting Payroll
Policy 02.05 (Sep 19/05)	Reporting Payroll
Policy 02.05 (Apr 22/04)	Reporting Payroll
Policy 02.05 (Jan 01/04)	Non-substantive change (Governance Council)
Policy 02.05 (Oct 20/00)	Reporting Payroll
Policy 02.05 (May 10/00)	Reporting Payroll
Policy 02.05 (Apr 01/99)	Reporting Payroll
Policy 02.05 (Mar 12/98)	Reporting Payroll
Policy 02.05 (Jun 11/97)	Reporting Payroll
Policy 02.05 (Jan 01/96)	Reporting Payroll
Policy 5.001 (Jan 20/93)	Board and Lodging
Policy 30-01-05 (May 01/89)	Deeming of Estimated Remuneration
Policy 30-01-06 (May 01/89)	Deeming of Past Years Actual Assessment
Policy 30-01-14a (Sep 19/90)	Late Reporting Term Accounts
Policy 30-01-14b (Sep19/90)	Late Reporting Seasonal Accounts
Policy 30-01-14c (Mar 28/90)	Late Reporting Annual Accounts
Policy 30-01-14d (Sep 19/ 90)	Late Reporting New/Re-Activated Accounts

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## REPORTING PAYROLL

### SCHEDULE A

If the worker's annual remuneration from work completed in the Northwest Territories or Nunavut is greater than YMIR, and the other jurisdiction or jurisdictions in which they work is a member of the *Interjurisdictional Agreement on Worker's Compensation*, the following formula is used to calculate the worker's assessable payroll:

$$\frac{\text{Worker's remuneration in NT and NU}}{\text{Worker's total remuneration in all jurisdictions}} \times \text{YMIR} = \text{Assessable Payroll}$$









Employer:	<p>“The following are considered employers for the purposes of this Act:</p> <ul style="list-style-type: none"><li>(a) Any person or entity that employs one or more persons under a contract of service;</li><li>(b) Any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss. 8(1) and 8(1.1) of the <i>Workers’ Compensation Acts</i>)</li></ul>
Independent Operator:	An entity that carries on a business and does not employ any workers.
Principal:	The person awarding or letting a contract to a contractor or subcontractor.
Unregistered Employer:	Any employer who conducts business in the Northwest Territories or Nunavut for 10 or more days in a calendar year and has not registered with the WSCC.

## POLICY

## Employer Registration

An employer who establishes, commences or recommences business in the Northwest Territories or Nunavut must register with the WSCC within 10 business days by notifying the WSCC of the status of its business, submitting a payroll estimate and providing any other information the WSCC may require.

### Temporary Employers

Temporary employers cannot register with the WSCC. An employer is defined as temporary if all five of the following criteria are met (if any one of the below criteria is not met, the employer must register):

- the chief place of business of the person or entity is outside the Northwest Territories (NT) Nunavut (NU);
- the person or entity does not employ persons who are ordinarily resident in NT or NU;





- the person or entity only employs persons whose usual place of employment is outside NT or NU;
- the person or entity carries on business in NT or NU for a total of 10 or fewer days per year;
- the person or entity has workers' compensation coverage or other similar coverage under the law of another jurisdiction that extends to events that occur in NT or NU.













Chairperson









Workers' Protection Fund: "...one indivisible fund for the purposes of paying compensation and determining assets and liabilities."  
(as per ss. 67(2) of the *Workers' Compensation Acts*)

Page 2 of 4  
Last Non-Substantive Change - February 10, 2020





## MEGA PROJECT ASSESSMENTS

- **Northern Presence:** Are the employers in the Northwest Territories or Nunavut? If most project employers have been registered with the WSCC for many years, it may be feasible to recover any financial losses from those employers through regular or special assessments after the project is complete.
- **Sub-Projects:** Are there many sub-projects involved? Some projects are comprised of distinct sub-projects completed in different locations at different times. When there are several different sub-projects in different locations the financial risk is less concentrated.
- **Legal Arrangements:** What is the legal connection between the different employers and developers involved in the project? If the WSCC deems them to be successor or related employers under *Section 9 of the Workers' Compensation Acts (Acts)*, it may be possible to recover financial losses from the employers through regular or special assessments after the project is complete.
- **Claims Cost:** Will potential claims costs be equal or greater than twice the amount of paid assessments from the Mega Project?

## Considerations in Determining Special Financial Arrangements

The development of a Mega Project financial arrangement is guided by the following considerations:

- there is sufficient time to establish discussions with the project developers during the planning stages of the project; and
- the WSCC is as aware of any arrangements the primary project developer may develop with subcontractors.

The Governance Council has the authority to approve or reject any financial arrangement that sets out the amount, payment and collection of assessments, negotiated between the WSCC and Mega Project developers.

The WSCC retains all of its powers under the *Acts* and all Mega Project employers are subject to the *Acts* when a special financial arrangement is negotiated.

## LEGISLATIVE AUTHORITIES

## Northwest Territories *Workers' Compensation Act*:

Section 70









# Workers' Safety & Compensation Commission

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## SUCCESSOR AND RELATED EMPLOYERS

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may investigate employers to determine if a new employer is a *successor* of a former employer or if an employer is *related* to another existing employer, and treat them as the same employer for some or all purposes under the *Workers' Compensation Act(s)*. This ensures the WSCC treats employers fairly and equitably. This policy sets out how the WSCC determines if an employer is a successor of, or related to, another employer.

## DEFINITIONS

Arm's Length:	Degree of separation between operations, i.e., operations without common ownership, directors or management, and where the owners of each operation act in their own best interest.
Assessment:	"... a charge calculated by the Commission and levied on an employer...;" (per ss. 1(1) of the <i>Workers' Compensation Act(s)</i> )
Employer:	<p>"The following are considered employers for the purposes of the Act:</p> <ul style="list-style-type: none"><li>(a) any person or entity that employs one or more persons under a contract of service;</li><li>(b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer..." (per ss. 8(1) and 8(1.1) of the <i>Workers' Compensation Act(s)</i>)</li></ul>
Not in Good Standing:	Where an account holder fails to comply with the provisions of the <i>Workers' Compensation Act(s)</i> .
Related Employers:	Two or more employers that have common control or direction among them (e.g. where one employer is under the control or direction of another, or where employers are directly or indirectly under the control or direction of a common owner), and is determined to be a related employer based on criteria specified in this policy.





# Workers' Safety & Compensation Commission

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## SUCCESSOR AND RELATED EMPLOYERS

Successor Employer:

A company, individual or entity that is set up to continue the same or similar business activities of a former employer, and is determined to be a successor employer based on criteria specified in this policy.

## POLICY

## General

The WSCC may examine the relationship between employers to determine if an employer is a successor or related employer. Where an employer is determined to be the *successor* of a former employer, or where an employer is determined to be *related* to another existing employer, the WSCC may treat them as the same employer for some or all purposes under the *Workers' Compensation Act(s)*. For instance, successor employers and related employers may be held jointly liable for any outstanding debt (e.g. unpaid assessments, penalties) that the former, or associated/related employer, owes the WSCC.

Where appropriate, the WSCC may transfer debts and/or claims experience from a former employer to a successor employer, or between two or more related employers.

The WSCC conducts investigations into the relationships between employers when it considers it appropriate or necessary, which may include, but is not limited to, when an employer reorganizes, restructures, or when there is a change in ownership. The WSCC may require information from employers to aid its investigation.

## Determining Successor and Related Employers

The WSCC considers a range of factors when assessing whether an employer is a successor or related employer. These determinations are made on a case by case basis after a full examination of the evidence.

Given the complexities of business arrangements, no definitive set or combination of criteria can be given to provide certainty as to whether a business will be considered a successor or related employer. Rather, the following factors provide guidance to reach a fair conclusion. Generally, the likelihood of an employer being regarded as a successor or related employer will increase the more their operations align with the following statements:

### Nature of Work or Business Activity

- The employers are operating or involved in the same or similar business activities.









## SUCCESSOR AND RELATED EMPLOYERS

- Any benefits and/or pension plans that exist at the time of the sale of the business are continued under the new owner.

## Clients and Customers

- A new employer serves the same or similar clients and customers as the former employer.

## Clearance Certificates for Sale of Business

Employers are advised to obtain a clearance certificate issued by the WSCC from any business that that they intend to purchase. If the business that is for sale owes the WSCC assessments or other outstanding amounts, the new owner will be held liable for the outstanding amounts. For further detail, see Policy 02.12, Employer Clearances.

## Security

In cases where an employer is determined to be a successor of, or related to, a previous or existing employer that is not in good standing, the WSCC may require that successor or related employer to provide the WSCC with security in the form of an irrevocable letter of credit, in accordance with Policy 02.01, Employer Assessments.

## Reconsideration, Review and Appeal

An employer can request that the WSCC reconsider its decision to regard an employer as a *successor* or *related* employer for purposes under the Acts. The WSCC will reconsider if an acceptable reason is provided, as outlined in Policy 00.02, Reconsidering a Decision. To make a request for reconsideration, the employer must submit a written letter to the Manager of Employer Services explaining why the WSCC should reconsider its decision.

Employers also have a right to request a review of the WSCC's decision by the Review Committee, as outlined in Policy 08.01, Reviewing Decisions, and to have decisions of the Review Committee appealed, as outlined in Policy 08.02, Appealing Decisions.

## LEGISLATIVE AUTHORITIES

### Northwest Territories *Workers' Compensation Act*:

Sections 9; 91(2)(h)(i); 114(e); 144

Nunavut *Workers' Compensation Act*:

Sections 9; 91(2)(h)(i); 114(e); 144





# Workers' Safety & Compensation Commission

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## SUCCESSOR AND RELATED EMPLOYERS

## POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 00.08	Decision Making
Policy 02.01	Employer Assessments
Policy 02.06	Account Registration
Policy 02.12	Employer Clearances
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions

## HISTORY

Policy 02.11 (Feb 10/20)	Successor and Related Employers, Non-Substantive Change
Policy 02.11 (Jun 5/15)	Successor and Related Employers
Policy 02.11 (Jun 15/11)	Successor and Related Employers
Policy 02.11 (Sep 25/08)	Successor Companies

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Chairperson







“written or oral, expressed or implied.” (per ss. 1(1) of the *Workers’ Compensation Acts*)

Not in Good Standing:

Where an account holder fails to comply with the provisions of the *Workers' Compensation Act(s)*.

Principal:

The person or entity awarding or letting a contract to a contractor or subcontractor.

## POLICY

## General

The principal on a contract is liable to pay the WSCC the amount of any assessment relating to the contract for which its contractor and any subcontractor are liable. Therefore, to avoid potential liability, the WSCC recommends that the principal obtain a clearance letter for any contractors/subcontractors with who they enter into a contractual relationship. A clearance letter confirms whether or not a contractor's account is in good standing.

## Principal Responsibilities

The principal is responsible for requesting a clearance letter to ensure their contractor is in good standing with the WSCC. The principal requests a clearance letter by registering with the WSCC and completing a request for a clearance letter prior to the commencement of a contract. The principal is relieved of liability for contractor assessments when the compliance criteria are met and a final clearance letter has been issued by the WSCC. To meet the compliance criteria for issuing a clearance request, all contractors must:

- be registered with the WSCC;
- have reported payroll;
- have no outstanding assessments or amount owed to the WSCC; and
- have entered a contract with an employer that is providing a labour component.

Upon receiving a clearance request, the WSCC will issue one of the following letters to the principal prior to the commencement of work:

- *Letter of Good Standing*: confirms that a labour component exists and the contractor's account is in good standing; or
- *Ineligible Letter*: confirms that the compliance criteria have not been met and the contractor's account is not in good standing.





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# Workers' Safety & Compensation Commission

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## ENTITLEMENT

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) determines entitlement to compensation according to the evidence provided by the worker and employer, their representatives, the worker's health care providers, and WSCC Medical Advisors.

## DEFINITIONS

Balance of Probabilities:	A degree of proof which is more likely than not.
Claimant:	“...a person claiming compensation: (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Compensation:	“...any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this <i>Act</i> as a result of a worker’s personal injury, disease or death.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Contract of Service:	“...a contract of service or apprenticeship, written or oral, expressed or implied.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Disease:	“...an unhealthy condition of the body or mind.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Employer:	<p>“The following are considered employers for the purposes of this <i>Act</i>:</p> <ul style="list-style-type: none"> <li>(a) any person or entity that employs one or more persons under a contract of service;</li> <li>(b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss. 8(1) and 8(1.1) of the <i>Workers’ Compensation Acts</i>)</li> </ul>
Health Care Provider:	“...a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist, or other class of persons whose qualifications to practice any of the healing professions are accepted by the Commission” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )





# Workers' Safety & Compensation Commission

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## ENTITLEMENT

Injury:	Physical or psychological harm or damage. An injury includes exposure to a foreign or contagious substance that may result in an immediate or delayed reaction.
Medical Evidence:	Medical information related to the medical condition and treatment of the worker.
Presumption:	A rule in the <i>Acts</i> which requires the WSCC to assume certain facts, unless the contrary is proven on the balance of probabilities.
Worker:	<p>“The following persons are deemed to be workers for the purposes of this <i>Act</i>:</p> <ul style="list-style-type: none"><li>(a) a person who enters into or works under a contract of service;</li><li>(b) a person who, although not under a contract of service, is<ul style="list-style-type: none"><li>i. undergoing training or probationary work as a preliminary to employment with an employer;</li><li>ii. engaged in, or training for, rescue or recovery services, ambulance services or firefighting services; or</li><li>iii. temporarily engaged in carrying out measures relating to emergencies or disasters under <i>Civil Emergency Measures Act</i>;</li></ul></li><li>(c) a student who is participating in a work training or similar program provided by a school;</li><li>(d) a patient who is participating in a work training or similar program provided by a health care facility; and</li><li>(e) a person who is committed to a correctional centre under the <i>Corrections Act</i> and working in a work release program outside the centre...” (per ss. 4(1) and 4(1.1) of the <i>Workers’ Compensation Acts</i>)</li></ul>





# Workers' Safety & Compensation Commission

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## ENTITLEMENT

## POLICY

## General

The WSCC requires four factors to be met for a worker or other eligible claimant to claim entitlement to compensation. These include:

- There is an employer and a worker within the jurisdiction of the Northwest Territories or Nunavut legislation;
- There is an injury, disease, or death of a worker;
- The worker's injury, disease or death arose out of and during the course of employment; and
- On a balance of probabilities, there is a medical connection between the injury, disease or death and the worker's employment.

### Worker and Employer

The WSCC considers a worker any person who is working under a contract of service, or otherwise deemed a worker by the WSCC, as outlined in the *Workers' Compensation Acts* and Policy 00.05, Determining Employer/Worker Status.

The WSCC considers an employer any person or entity that employs one or more workers as outlined in the *Workers' Compensation Acts* and Policy 00.05, Determining Employer/Worker Status.

*Incident or Exposure*

A worker's compensable injury, disease or death must arise out of and during the course of their employment. When confirming that a contributing incident or exposure arose out of and during the course of employment, the WSCC considers all available information including but not limited to:

- The details of the incident or exposure;
- The circumstances contributing to the incident or exposure;
- Witness statements;
- The date of the incident or exposure and the date the claimant stopped working or sought treatment;
- The time frame between the incident or exposure and the onset of symptoms;





- The time frame between the incident or exposure and the date medical attention was sought; and,
- Whether the worker reported the incident or exposure to their employer, and the time frame in which the reporting occurred.

### *Arising Out of and During the Course of Employment*

Policy 03.03, Arising out of and During the Course of Employment, describes the criteria used by the WSCC to determine if a worker's injury, disease or death arose out of and during the course of employment.

### Compatibility of Diagnosis to Circumstances of Incident/Exposure

WSCC Claims Services staff consult with the WSCC Medical Advisor, the worker's treating health care provider and any other necessary health care providers, to ensure that the reported work-related injury, disease or death is consistent with medical evidence and opinion. As new medical evidence is received by the WSCC, such as a new finding or an updated diagnosis, it is evaluated in order to ensure that it is compatible with the circumstances of the reported incident or exposure

When the medical evidence and diagnosis are consistent with the circumstances of the incident or exposure, the factors for acceptance of the claim are met.

## Entitlement Limitation Period

A Worker or other eligible claimant must submit their claim for compensation to the WSCC within one year of the date of the injury, disease or death, or one year of the date the WSCC requires a report of injury.

In the case of a disease, the WSCC considers the day the disease occurs as:

- the day the worker is disabled or impaired by the disease; or
- the day the disease is diagnosed;

whichever date is most beneficial to the worker.

The WSCC will grant an exception to the limitation period if it determines that there is a justifiable reason for the delay in submitting the claim. If a claim is submitted later than one year after the day of the worker's injury, disease or death, the claimant, or designate, must submit a detailed explanation in writing outlining why the claim is delayed.









Workers' Safety  
& Compensation Commission

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**ENTITLEMENT**

Policy 20-02-22 (Sep 10/93)

Secondary Conditions – From Compensable Disability

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Chairperson





## ARISING OUT OF AND DURING THE COURSE OF EMPLOYMENT

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) compensates a worker or dependent for injuries, diseases or death arising out of and during the course of employment. "Arising Out of" refers to what caused the injury, disease or death and "During the Course of" refers to the time and place of the injury, disease or death and its connection to the worker's employment.

The WSCC reviews each claim to determine the facts, circumstances, and work-relatedness of the injury, disease or death.

## DEFINITIONS

Balance of Probabilities:	A degree of proof which is more likely than not.
Causative Significance:	When the worker's employment was more than a trivial or insignificant aspect of the injury, disease or death.
Employer's Premises:	Any location where a worker works, or is likely to work, or any other proximate location.
Injury	Physical or psychological harm or damage. An injury includes exposure to a foreign or contagious substance that may result in an immediate or delayed reaction.
Presumption:	A rule in the <i>Acts</i> which requires the WSCC to assume certain facts, unless the contrary is proven on the balance of probabilities.
Remote Camp:	A combined work and residential site isolated to the extent that once there, a worker is completely reliant on the camp for daily needs.
Remote Camp Worker:	Workers who, because of the circumstances and nature of their employment, have no reasonable alternative other than living in a remote camp.





**Serious and Wilful Misconduct:** A deliberate and intentional act of the worker that demonstrates a disregard for safety where the worker should reasonably have recognized the consequences as likely to result in personal injury.

## POLICY

## Arising Out of Employment

“Arising out of the employment” generally refers to the cause of the injury, disease or death. In considering causation, the focus is on whether the worker’s employment was of causative significance, which means that the employment was more than a trivial or insignificant aspect of the injury, disease or death. Both employment and non-employment factors may contribute to the injury, disease or death, and employment factors need not be the sole cause. The WSCC will determine, based on a balance of probabilities, whether the worker’s employment was of causative significance, and therefore a contributing factor in the injury, disease or death. The connection between the worker’s job duties and employment expectations and the injury, disease or death should be direct and verifiable.

A personal injury, disease or death that arises out of a worker's employment is presumed to have occurred during the course of their employment, unless on the balance of probabilities the contrary is proven.

Reasonable judgment is used to determine whether the worker's injury, disease or death arose out of their employment. Scientific evidence of the exact contribution that the job duties and/or employment expectations made to the injury, disease or death is not required.

### During the Course of Employment

To be compensable, an injury, disease or death must occur “during the course of employment”. An injury, disease or death is considered to occur during the course of employment when it happens at a time and place and during an activity consistent with, and reasonably connected to, the obligations and expectations of the worker’s employment. Time and place are not strictly limited to the regular hours of work or the employer premises.

If an injury, disease or death occurs or symptoms occur during, or shortly after the worker's hours of work, the WSCC may find that a worker's injury occurred during the





## ARISING OUT OF AND DURING THE COURSE OF EMPLOYMENT

course of employment, however, an injury, disease or death that occurs at work but is caused entirely by non-work related circumstances is not compensable. For example, a medical condition culminating at work, but that has a cause outside the employment environment is not compensable. The injury or diagnosis must be compatible with the reported incident or exposure.

Workers may experience work-related injuries that do not occur during regular work hours or circumstances, but fall within the workers' employment obligations and expectations. The WSCC may consider these situations compensable when there is a direct link between the injury, disease or death and the employment.

A personal injury, disease or death that occurs during the course of a worker's employment is presumed to arise out of their employment, unless on the balance of probabilities the contrary is proven.

### *Duty Travel and Mandatory Work Events*

The WSCC may consider an injury, disease or death to occur during the course of employment when a worker is on duty travel or attending mandatory work events, unless the worker distinctly departs from their employment duties.

A worker may distinctly depart from employment duties when they participate in activities not related to their employment, as described in the section below regarding disqualification.

### Exposure to Industrial Processes and Substances

Workers who are exposed to industrial processes and substances may not develop symptoms of the disease for many years. The WSCC assesses the facts of each individual case to determine whether the worker's condition is linked to the employment conditions.

## Multiple Causes

A personal injury, disease, or death that appears to be the result of more than one cause is compensable if one of the causes arose out of and during the course of employment and was of causative significance.















Policy 03.03 (Sep 25/08)	Arising Out of and During the Course of Employment
Policy 03.03 (Apr 19/07)	Arising Out of and During the Course of Employment
Policy 03.03 (Jun 10/04)	Arising Out of and During the Course of Employment
Policy 03.03 (Apr 01/99)	Arising Out of and During the Course of Employment
Policy 03.03 (Jan 01/96)	Arising Out of and During the Course of Employment
Policy 20-02-02 (Sep 10/93)	During the Course of Employment-Accident
Policy 20-02-03 (Sep 10/93)	On/Off Employer Premises
Policy 20-02-04 (Sep 10/93)	Accident Away From Employer Premises
Policy 20-02-09 (Sep 10/93)	Food Poisoning/Foreign Body Ingestion
Policy 20-02-10 (Sep 10/93)	Weather Conditions
Policy 20-02-11 (Sep 10/93)	Heart Conditions
Policy 20-01-07 (Dec/81)	Hearing Loss – Traumatic
Policy 20-02-15 (Sep 10/93)	Employers’ Premises, Parking Lots, Malls, Roads
Policy 20-02-16 (Sep 10/93)	Fighting and Horseplay
Policy 20-02-17 (Sep 10/93)	Premature Termination of Pregnancy
Policy 20-02-18 (Sep 10/93)	Blisters/Calluses
Policy 20-02-19 (Sep 10/93)	Ganglions
Policy 20-02-20 (Sep 10/93)	Hernia
Policy 20-02-21 (Sep 10/93)	Blood Poisoning
Policy 20-02-25 (Sep 10/93)	Caisson Disease
Policy 20-02-26 (Sep 10/93)	Rabies
Policy 20-01-03 (Dec/81)	Epilepsy
Policy 20-14-03 (Dec/81)	Resident Employees
Policy 20-02-23 (Dec/81)	Misconduct – Serious and Wilful
Policy 20-04-07 (Dec/81)	Intoxication
Policy 20-13-12 (Dec/81)	Immunization
Policy 20-04-08 (Dec/81)	Insect Bites
Policy 20-04-06 (Dec/81)	Physical Fitness Activities
Policy 20-04-09	Recreation and Social Activities
NWT #43 May 30	“Arising Out Of” (WCB)

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Last Non-Substantive Change - February 10, 2020





# Workers' Safety & Compensation Commission

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## RENEWABLE RESOURCE HARVESTERS

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) delivers a compensation program for Renewable Resource Harvesters (Harvesters) on behalf of the Government of the Northwest Territories (GNWT) and the Government of Nunavut (GN). To facilitate this program, the WSCC adjudicates Harvesters' claims for compensation, and the GNWT and the GN pay, to the WSCC, the total claims costs and an administration fee for this service.

## DEFINITIONS

Arising Out of and During the Course of Employment:

In the context of the Renewable Resource Harvesters' Program, "...for the purposes of harvesting, includes the act of hunting, fishing, trapping or gathering and travel by the most reasonable and direct route to and from the place or area where the hunting, fishing, trapping or gathering is done." (per MOU(s) on Renewable Resource Harvesters, 2009)

Deemed Annual Remuneration:

In the context of the Renewable Resource Harvesters' Program ...the amount prescribed in subsection 1.1(b) of the Workers' Compensation *General Regulations*.

### Disease Arising Out of and During the Course of Employment:

In the context of the Renewable Resource Harvesters' Program, "... harvesters who contract certain diseases in their handling of renewable resource species shall be eligible for compensation." (per MOU(s) on Renewable Resource Harvesters, 2009)

Eligible diseases include, but are not restricted to, those set out in Schedule “A” of this policy.

Gross Income:

For the purposes of the Harvesters' Program, "...includes the current value of country food and income from all sources except Employment Insurance or Social Assistance." (per MOU(s) on Renewable Resource Harvesters, 2009)





# Workers' Safety & Compensation Commission

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## RENEWABLE RESOURCE HARVESTERS

Harvester: "... a person who is deemed a worker pursuant to section 5(1) of the *Workers' Compensation Act(s)*." (per MOU(s) on Renewable Resource Harvesters, 2009)

Harvesting Wildlife: “...to hunt, capture, harvest or gather flora or fauna, including fish” (per ss 1.1 of the *Workers’ Compensation Act(s)*)

Primarily from Harvesting Wildlife: In the context of the Renewable Resource Harvesters' Program, "...regularly and actively engaged in hunting, fishing, trapping or gathering for a livelihood and at least 25% of the Harvester's gross income, including an amount to be determined by the GN or GNWT as the current value of country food, is derived from hunting, fishing, trapping or gathering." (per MOU(s) on Renewable Resource Harvesters, 2009)

## POLICY

## General

Harvesters, who sustain a personal injury arising out of and during the course of harvesting wildlife, are considered to be workers under the *Workers' Compensation Act(s)*. All the rights and entitlements of a worker under the *Act(s)* are provided to Harvesters when the eligibility criteria are met. When harvesting wildlife, arising out and during the course of employment includes the travel by the most reasonable and direct route to and from the area where the harvesting is done.

## Eligibility

For a Harvester to be eligible for coverage under the Renewable Resource Harvesters program, the individual must:

- live in the Northwest Territories or Nunavut;
- harvest wildlife under a land claims agreement, a treaty or other Aboriginal right, or the Northwest Territories or Nunavut *Wildlife Act(s)*;





Workers' Safety  
& Compensation Commission

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## RENEWABLE RESOURCE HARVESTERS

- not work for an employer who harvests wildlife; and
- generate at least 25% of their gross income, including \$7000 for country foods, from hunting, fishing, trapping or gathering activities to be considered regularly and actively engaged in harvesting wildlife.

### Harvester Claim

In order to adjudicate a claim, the WSCC requires the following, in writing, from the Government of the Northwest Territories and the Deputy Minister, Department of Environment, Government of Nunavut:

- confirmation the person is a 'Harvester' as described in the *Workers' Compensation Act(s)*, and MOU(s);
- confirmation of income from harvesting, of which \$7000 is credited to the Harvester for country foods; and
- a completed *Harvester's Report of Incident*.

The WSCC notifies Harvesters, in writing, of the acceptance or rejection of their claims, and the reasons for the decision(s). A copy of the notification letter is provided to the respective government department. Harvesters are also advised of their right to review and appeal any decisions related to their claims for compensation.

### Compensation

The WSCC calculates compensation paid to Harvesters using the deemed gross annual remuneration, as prescribed in subsection 1.1(b) of the *Workers' Compensation General Regulations*.

Disability compensation is paid to Harvesters during their period of disability. The WSCC calculates this compensation using the Harvesters' deemed annual remuneration figure, and in the manner prescribed in Policy 03.07, Calculation of Disability Compensation.

The WSCC calculates compensation for injuries resulting in impairment as prescribed in Policy 06.03, Calculation of Impairment Compensation.

The WSCC provides coverage to Harvesters for medical aid and associated costs, as well as access to programs and services, such as vocational rehabilitation, as any worker covered under the *Workers' Compensation Act(s)*.









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## RENEWABLE RESOURCE HARVESTERS

Policy 03.05 (Aug 31/01)	Renewable Resource Harvesters
Policy 03.05 (Jan 18/01)	Renewable Resource Harvesters
Policy 03.05 (Jun 02/99)	Renewable Resource Harvesters
Policy 03.05 (Apr 01/99)	Renewable Resource Harvesters
Policy 03.05 (Feb 19/97)	Renewable Resource Harvesters
Policy 03.05 (Jan 01/96)	Renewable Resource Harvesters
Policy 20-01-25 (May 01/94)	Renewable Resource Harvesters
Policy 30-01-10 (May 01/89; as amended Mar 29/94)	Hunters, Fishermen and Trappers

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Chairperson





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## Schedule A

- Anthrax
- Brucellosis
- Diphyllobothrium
- Giardiasis
- Rabies
- Salmonellosis
- Sarcoptic Mange
- Trichinellosis or Trichinosis
- Tuberculosis
- Tularemia













# Workers' Safety & Compensation Commission

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## ENTITLEMENT OF OCCUPATIONAL DISEASE CLAIMS

- **Consistency:** Does reputable research/sources show that the disease is consistently linked to, or caused by, work-related factors?
- **Specificity:** Is the disease peculiar to the industry that the worker is or was employed, or peculiar to the processes that the worker is or was engaged in during the course of employment?
- **Temporality:** Did the work-related factors precede the disease? If the disease existed prior to the worker's exposure to the work-related factors than it is not an occupational disease. However, if the work-related exposure exacerbates or aggravates a pre-existing condition, than the claim may be compensable. Policy 03.12, Pre-Existing Conditions, provides further detail on this.
- **Plausibility:** According to the information available, does a causal relationship between the disease and work-related factors make sense?
- **Coherence:** Does the evidence surrounding a worker's alleged occupational disease fit with what is known regarding the natural history and biology of the disease?
- **Analogy:** In some cases, objective evidence is not available, particularly in cases where a new disease is first recognized or when new or innovative work-related factors may be contributing to a disease. In these cases, decision makers may accept causality when the association between the disease and work-related factors is also seen in different but comparable circumstances.

## Common Occupational Diseases

Two of the most common occupational diseases in the Northwest Territories and Nunavut are:

- Hand-Arm Vibrations Syndrome (HAVS); and,
- Noise-induced hearing loss.

The following sections specify common causes of these occupational diseases and the minimum eligibility criteria that must be met for these diseases to be considered as arising out of and during the course of employment.

## Hand-Arm Vibration Syndrome (HAVS)







80	16
85	8
90	4
95	2
100	1
105	0.50
110	0.25
115	0.125
greater than 115	0 (immediate)

The WSCC entitles and adjudicates claims for worked-related *traumatic hearing loss* (e.g. hearing loss resulting from a single incident of exposure to excessively loud noise) the same way it entitles and adjudicates all other non-occupational disease claims.

The WSCC uses the audiogram results closest in time to the period during which the worker was exposed to the work-related high noise levels to accurately determine the contribution of the work-related exposure on the worker's functional impairment. If the worker has both work-related noise-induced hearing loss and non-compensable age-related hearing loss, as determined by audiogram results, an adjustment factor may be applied when calculating the worker's impairment to account for the non-compensable age-related hearing loss.

A worker or other eligible claimant must submit their claim for compensation to the WSCC within one year after the day of the disease or death occurred. The WSCC considers the day the disease occurs as:

- whichever date is most beneficial to the worker.

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Policy 03.06 (Jun 12/14)	Entitlement of Occupational Disease Claims
Policy 03.06 (Jun 12/14)	Entitlement of Occupational Disease Claims
Policy 03.06 (Dec 11/08)	Occupational Disease
Policy 03.06 (Sep 12/03)	Industrial Disease
Policy 03.06 (Oct 20/99)	Industrial Disease
Policy 03.06 (Apr 01/99)	Industrial Disease
Policy 03.06 (Mar 19/93)	Industrial Disease
Policy 20-02-23 (Sep 10/93)	Poliomyelitis
Policy 20-02-24 (Sep 10/93)	Tuberculosis
Policy 20-02-25 (Sep 10/93)	Caisson Disease (Decompression Illness)
Policy 20-02-26 (Sep 10/93)	Rabies
Policy 20-03-05 (Sep 10/93)	Tenosynovitis
Policy 20-03-06 (Sep 10/93)	Silicosis
Policy 20-03-07 (Sep 10/93)	Pneumoconiosis
Policy 20-03-08 (Sep 10/93)	Lung Cancer-Radon & Radon Progeny Exposure
Policy 20-13-02 (Dec/81)	Arsenic
Policy 20-13-04 (Dec/81)	Dermatitis
Policy 20-13-05 (Dec/81)	Fumes
Policy 20-13-06 (Dec/81)	Must be Referred to the Medical Advisor
Policy 20-13-06 (Dec/81)	File Referral
Policy 20-13-07 (Dec/81)	Infected Blisters
Policy 20-13-10 (Dec/81)	Vibration Induced White Finger Disease (White Hands Syndrome)
Policy 20-13-11 (Dec/81)	Other Industrial Diseases (Lead, Ultraviolet Light, Radioactive Isotopes, etc.)
Policy 20-13-12 (Dec/81)	Immunization
Policy 20-13-15 (Dec/81)	Noise Induced Progressive Hearing Loss and Tinnitus

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## CALCULATION OF DISABILITY COMPENSATION

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides disability compensation to workers with a disability resulting from a work-related injury or disease.

This policy explains how the WSCC calculates disability compensation.

## DEFINITIONS

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not occur to a maximum of the Year's Maximum Insurable Remuneration (YMIR).
Calendar Year:	A year starting January 1 <sup>st</sup> and ending December 31 <sup>st</sup> .
Day:	A twenty four hour period.
Disability:	“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity;” (per 1(1) of the <i>Workers’ Compensation Acts</i> )
Disability Compensation:	Wage-loss compensation provided to claimants on a temporary basis for the duration of their injury or disease, as calculated according to this policy.
Learner:	<p>“...a person who, although not under a contract of service is...</p> <p>(i) undergoing training or probationary work as a preliminary to employment with an employer,” (per ss. 4(1)(b) of the <i>Workers’ Compensation Acts</i>).</p>
Net Annual Remuneration:	“...the amount of the workers’ annual remuneration minus the amount of the worker’s annual deductions, determined in accordance with the regulations.” (per s. 59 of the <i>Worker’s</i>





# Workers' Safety & Compensation Commission

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## CALCULATION OF DISABILITY COMPENSATION

Net Monthly Remuneration:	“... an amount equal to 1/12 of the net annual remuneration of the worker determined under section 59, for the year in which the personal injury, disease or death occurred;” (per s.1(1) of the <i>Workers’ Compensation Acts</i> ).
Partial Employment:	Partial employment is non-seasonal employment that is meant to last less than twelve consecutive months
Partial Disability (PD):	A work-related injury or disease that temporarily prevents a worker from returning to regular employment. However, medical evidence supports the worker returning to modified or other employment with temporary work restrictions.
Partial Impairment (PI):	A condition of having a permanent and partial physical, functional, mental or psychological abnormality or loss, caused by the worker’s personal injury or disease.
Remote Camp:	A combined work and residential site isolated to the extent that once there, a worker is completely reliant on the camp for daily needs.
Remuneration:	A worker’s remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips and other benefits defined under the <i>Workers’ Compensation Acts</i> .
Seasonal Employment:	Work only done during certain times of the year. The work can take place annually.
Similar Employment:	Employment in a similar industry and a geographic region with a similar economic environment to that of the worker’s current employment.





Supplementary Pension Increase (SPI):	The annual percentage the WSCC uses to adjust pensions to keep their value even with the rate of inflation.
Total Disability (TD):	A work-related injury or disease results in temporary work restrictions. Restrictions prevent the worker from performing any pre-incident job duties or currently returning to any type of employment. The worker's condition is not stable.
Work Release Program:	A program that allows an inmate to work outside the correctional facility for wages before they are released.
Year's Maximum Insurable Remuneration (YMIR):	<p>“...a prescribed maximum remuneration for any year for the purposes of determining:</p> <ul style="list-style-type: none"><li>(a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under section 5(1); and</li><li>(b) the assessable payroll of employers for the year.” (per ss. 1(1) of the <i>Workers' Compensation Acts</i>).</li></ul>

## General

- Partial disability (PD) compensation; and
- Total disability (TD) compensation.

The WSCC calculates a worker's disability compensation using the following steps:

- Determine or estimate the worker's Annual Remuneration;
- If the worker's Annual Remuneration is greater than the Year's Maximum Insurable Remuneration, limit their Annual Remuneration to the YMIR;
- Calculate the worker's Net Annual Remuneration; and,









## CALCULATION OF DISABILITY COMPENSATION

The WSCC may choose a year other than the year of injury/disease for the basis of calculating the worker's Annual Remuneration if:

- the WSCC cannot determine what the worker would have earned in the year of injury/disease; or
- if the Annual Remuneration that would have been earned in the year of injury/disease does not accurately represent the worker's usual annual earnings.

The alternative year is chosen by examining the worker's employment history and using the most recent Annual Remuneration that is representative of the remuneration typically earned by the claimant during an annual period of employment.

*Long-Term Employment (Twelve Consecutive Months or More)*

For the purpose of this policy, long-term employment is employment that at the time of injury, disease or death has lasted or is meant to last more than twelve consecutive months.

The Annual Remuneration of a worker in long-term employment is the amount that the worker would otherwise have earned at their current rate of remuneration from all sources in that calendar year if not for their work-related injury, disease or death. If there are multiple employers, then Annual Remuneration includes the total that would have been earned from all employers.

### Seasonal Employment and Partial Employment of Less than Twelve Consecutive Months

The Annual Remuneration for a worker in seasonal employment or partial employment is calculated according to the worker's employment circumstances and the length of their disability. There are two stages that may need to be considered by the WSCC when determining disability compensation for workers in seasonal employment or partial employment.

The Annual Remuneration determined in Stage One is used to calculate the disability compensation paid to a worker during the period where the seasonal or partial employment would have continued but for the work-related injury.

The Stage Two determination of Annual Remuneration applies to the calculation of disability compensation paid to a worker who continues to suffer from a disability beyond the period where, in the usual course of their seasonal or partial employment, the worker would receive remuneration.













Remuneration using the workers' employment circumstances and the remuneration they received.

### Multiple Employers

The Annual Remuneration for a worker with more than one employer is the total of the annual remuneration from all the worker's employers.

## Applying the Year's Maximum Insurable Remuneration

A worker's Annual Remuneration cannot exceed the YMIR for the year of their injury. In cases where the worker's actual remuneration exceeds the YMIR, their Annual Remuneration will equal the YMIR of the year the injury, disease or death occurred.

## Calculating Net Annual Remuneration

The WSCC determines a worker's Net Annual Remuneration by deducting the following from the worker's Annual Remuneration:

- the income tax payable by the worker for the year under the territorial and federal *Income Tax Acts* as calculated according to the *Workers' Compensation General Regulations*;
- the contributions payable by the worker for the year under the *Canada Pension Plan*; and
- the premiums payable by the worker for the year under the *Employment Insurance Act* (Canada).

## Calculating Disability Compensation Payable

### Total Disability (TD) Compensation

The WSCC determines TD compensation (by multiplying the worker's Net Monthly Remuneration by 90%).

TD Compensation = Worker's Net Monthly Remuneration X 90%

Workers receive TD compensation throughout their disability for the days that the worker would, in the usual course of their employment, have received remuneration.





## CALCULATION OF DISABILITY COMPENSATION

If a worker's monthly TD compensation is less than 2.75% of the YMIR for the year of their injury, the WSCC increases their compensation payment to the lower of either 100% of the worker's Net Monthly Remuneration or 2.75% of YMIR.

### *Partial Disability (PD) Compensation*

The WSCC determines PD compensation by multiplying the worker's TD compensation by the worker's loss of earnings percentage.

$$\text{PD Compensation} = \text{TD Compensation} \times \text{Loss of Earnings Percentage}$$

The loss of earnings percentage is the difference between the worker's earnings before their injury and their earning capacity after their injury. To calculate the loss of earnings percentage, the WSCC compares the worker's pre-injury hours of work, rate of pay, and period or rotation of employment to those after they return to modified employment.

At any time, the WSCC may adjust a PD compensation to reflect a change in a worker's conditions of employment. This may increase or decrease the PD compensation amount.

## Other Considerations

### *Disability Compensation for Recurrence of Original Injury or Disease*

A worker who suffers the recurrence of a partial or total disability related to their original injury or disease is entitled to disability compensation. If the worker is receiving a pension for a Partial Impairment (PI) (for the original injury or disease at the time of the recurrence, the compensable amount is equal to the compensation payable for their disability less their monthly PI pension, including annual Supplementary Pension Increase (SPI) adjustments.

The WSCC determines disability compensation for the recurrence of an original injury or disease using the Net Monthly Remuneration in either the year the original injury or disease occurred, or the year the worker suffered the disability, whichever is greater.

In the case of workers who chose a lump sum pension payment rather than receiving a monthly pension, the WSCC:

- calculates the amount the lump sum would be as a monthly payment;
- includes all SPIs applied to the monthly payment in the adjustment; and
- deducts the monthly payment amount from the disability compensation.









Policy 03.07 (Jan 16/04)	Calculation of Temporary Compensation, Non-substantive changes (Seasonal and/or non-permanent employment; Regulation 4.2(1); YMIR definition)
Policy 03.07 (Oct 23/03)	Calculation of Temporary Compensation
Policy 03.07 (Oct 31/02)	Calculation of Compensation Benefits
Policy 03.07 (Apr19/01)	Calculation of Compensation Benefits
Policy 03.07 (Apr 21/99)	Calculation of Compensation Benefits
Policy 03.07 (Jul 16/98)	Calculation of Compensation Benefits
Policy 03.07 (Sep 20/86)	Calculation of Compensation Benefits
Policy 03.07 (Oct 1/95)	Calculation of Compensation Benefits
Policy 20-07-02 (Jan/87)	Compensation Calculation (Y.M.I.R.)
Policy 20-07-03 (Feb 21/90)	Minimum Compensation
Policy 20-07-04 (Dec/81)	Temporary Rates
Policy 20-07-05 (Dec/81)	Casual Worker
Policy 20-07-06 (Dec/81)	Concurrent Employment
Policy 20-07-07 (Dec/81)	Calculations for Two or More Jobs
Policy 20-07-10 (Dec/81)	Deductions from TTD Re: Maximum Compensation
Policy 20-07-11 (Dec/81)	Temporary Partial Disability
Policy 30-03-13a (Aug 03/93)	Acceptance of Personal Optional Coverage
Policy 5.001 (Jan 20/93)	Board and Lodging
Regulation C-16 (Nov 05/79)	Calculation – Temporary Total Disability Benefits
Directive D-5 (Mar 28/77)	Workers Injured While Employed on Tour of Duty

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The Workers' Safety and Compensation Commission (WSCC) may provide compensation to workers who develop a psychiatric or psychological disorder arising out of and during the course of employment. To be considered for compensation, a claimant must have a work-related disorder diagnosed according to the most current version of the *Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association. Diagnoses may include, but are not limited to:

- A worker is not entitled to compensation for a psychiatric or psychological disability or impairment that results from usual work pressures, specifically mental stress arising out of labour relations between the worker and employer, or interpersonal conflict between co-workers that does not constitute harassment.

Acute reaction:	A sudden and severe reaction by a worker to a single or a series of work-related, traumatic events that have a psychiatric or psychological response.
Anoxia:	A severe deficiency of oxygen reaching the tissues of the body and, when prolonged, resulting in permanent damage.
Cumulative Effect	A response to the accumulation of a number of work-related traumatic events over time or to an ongoing traumatic / significant event.
Mental Stress:	An individual's non-specific physical and psychological response to events or changes (stressors) in life. Distress occurs when a person's ability to cope with the stressors is overwhelmed and can result in diagnosable psychiatric or psychological disorders.





# Workers' Safety & Compensation Commission

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## PSYCHIATRIC AND PSYCHOLOGICAL DISORDERS

Permanent Medical Impairment (PMI):

An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

### Partial Impairment (PI):

A condition of having a permanent and partial physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease.

## Psychiatry:

A branch of medicine relating to causes treatment and prevention of mental, emotional and behavioural disorders. Psychiatrists have attained a medical degree and can administer prescription drugs.

## Psychology:

The study of functions of the mind, especially in relation to the social and physical environment. Psychologists do not possess a medical degree.

**Traumatic Event:**

An event generally recognized as being horrific, or having elements of actual or threatened violence or substantial harm to the worker or others.

## Workplace Harassment

A course of vexatious comment or conduct at a work site that is known or ought to reasonably be known to be unwelcome. Workplace harassment is constituted by one of the following:

- a) Repeated conduct, comments, displays, actions or gestures; or,
- b) A single, serious occurrence of conduct, or a single, serious comment, display, action or gesture.

## POLICY

A worker's claim for compensation resulting from a psychiatric or psychological disorder is entitled if the disorder is determined to have arisen out of and during the course of



## Cause

1. A work-related head injury, exposure to toxic chemicals or gases, anoxia, or any other work-related injury, disease or condition causally connected to organic brain damage (this also includes mental disorders resulting from medication used to treat a work-related injury);
2. An emotional reaction to a work-related physical disability or impairment;
3. An emotional reaction to a WSCC sponsored treatment of a compensable injury;
4. An emotional reaction in response to a sudden, single, traumatic, work-related incident that is frightening or shocking to the worker, and has a specific time and place; or,
5. An emotional reaction to an accumulation of a number of work-related traumatic events over time.

Workplace harassment which leads to a worker filing a claim for compensation due to a psychiatric or psychological disorder, must be reasonably confirmed through information verifying that the alleged workplace harassment has occurred, before the claim is entitled. The findings of an external investigation, conducted by an individual or organization external to the WSCC, may be used to verify the harassment allegations. The WSCC assumes no responsibility for this investigation.

A worker is not entitled to compensation for a psychiatric or psychological disability or impairment that results from usual work pressures or mental stress arising out of labour relations between the worker and employer. For added clarity, the circumstances giving rise to the claim cannot result from the usual pressures and tensions reasonably expected by the worker's occupation and duties; for example, interpersonal relations and conflicts which do not constitute workplace harassment, mitigated health and safety concerns, union issues, routine labour relations actions taken by the employer including workload and deadlines, work evaluation, performance management (discipline), transfers, changes in job duties, lay-offs, demotions, terminations, and reorganizations, to which all workers may be subject from time to time.





























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## CHRONIC PAIN

- Determining if pain behaviour and complaints of pain have been consistent across time and situations, and between different assessors (e.g. medical opinions, health care provider reports);
- Assessing the extent of life disruption; and,
- Considering the timing, continuity, compatibility, and strength of association between the pain and the original compensable injury or disease.

Reasonable judgment is used when weighing the relevance/importance of factors such as timing, continuity, compatibility, and strength of association. For example, evidence of the Chronic Pain symptoms predating the time of the original compensable injury or disease would typically disqualify the claim from being entitled under this policy, whereas a break in continuity of the pain since the original compensable injury or disease does not, in and of itself, justify automatic disqualification. The break in continuity is weighed along with all of the other relevant information in order to make a determination.

## Prevention and Treatment

The WSCC focuses on identifying risk factors linked to the development of Chronic Pain and implements early intervention strategies such as work conditioning, education, and early and safe return to work strategies to prevent the onset of Chronic Pain.

The WSCC considers Chronic Pain to be a manageable condition and believes that most injured workers with Chronic Pain can be rehabilitated. Treatments provided may include, but are not limited to, pain management programs, multidisciplinary rehabilitation treatment programs and/or counselling services.

In determining appropriate treatment and/or rehabilitation interventions for a worker claiming symptoms of Chronic Pain, the WSCC may refer the worker for multidisciplinary assessments. Assessments may include evaluations by health care providers, such as physicians, psychologists, physiotherapists, occupational therapists and/or other service providers as the WSCC determines appropriate. The assessments will provide an opinion on the appropriate treatment and rehabilitation for the worker, which may aid in recovery and successful return to work.

## Disability Compensation

A worker who is unable to work, either totally or partially, due to Chronic Pain resulting from a work-related injury will be entitled to disability compensation in accordance with Policy 03.07, Calculation of Disability Compensation.











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<b>ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS</b>		

## POLICY

### General

The WSCC recognizes that not all severely injured workers require the same level of support. Therefore, allowances and services are offered, on a case-by-case basis, to assist severely injured workers in achieving and maintaining their independence. These allowances and services terminate when the worker is able to carry out the activities for which the allowance or service was originally provided, or when the allowances and services are no longer required due to a change in the worker's circumstances (e.g. worker moves into a long-term care facility).

Where possible, the WSCC directly pays service providers of an approved service. If direct payment to a service provider is not possible, the WSCC pays the worker, or another person or entity responsible for managing the worker's affairs, as outlined in Policy 04.01, Payment of Compensation.

Special equipment purchased by the WSCC for a severely injured worker's long-term use is the worker's property, unless otherwise noted in this policy.

Severely injured workers may also be eligible for assistive devices or other medical devices, as per Policy 04.08, Medical Devices.

### *Eligibility*

In assessing a worker's eligibility for allowances and services stated in this policy, the WSCC considers several factors, which include, but are not limited to:

- The type, severity, duration, and impact of the worker's injury;
- Medical opinion or recommendations from an appropriate Health Care Provider, and supporting medical evidence;
- Financial implications of the allowance or service; and,
- Alternative benefits or services that may be considered more appropriate to address the impact of the worker's compensable disability, impairment or functional needs.

Unless otherwise stated, allowances and services available through this policy must be approved by the Director of Claims Services. The Director may request a needs assessment and/or consult the WSCC Medical Advisor as necessary.







- The worker must have a severe injury that has a permanent impact on their functional ability with respect to mobility (e.g. inability to move within or access their home);
- The worker must be the *home owner* of the residence to be modified;
- Modifications are limited to the primary residence of the worker;
- The worker must not have received a previous grant for modifications; and,
- The WSCC may make exceptions regarding eligibility according to the worker's individual circumstances.

- Purchase and installation of recreational equipment, air conditioning, electrical appliances or furniture;
- Construction of recreational areas, workshops or exercise rooms.

### *Minor Residential Modifications*

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schedule of work, costs, as well as the roles and responsibilities and the WSCC, worker, and service provider must be agreed upon and signed by all parties before the commencement of work. An authorized designate may sign on behalf of the worker. The WSCC pays the service provider directly for the vehicle modifications.

The WSCC may cover the lesser cost of 1) transferring modifications to another suitable vehicle or 2) installing new modifications to another suitable vehicle, a maximum of once every 10 years. The WSCC may make exceptions to the 10-year limitation period, if deemed necessary according to the worker's individual circumstances.

The worker will make every reasonable effort to ensure that the original modifications can be transferred to the new vehicle. Transfers of old modifications and installations of new modifications must be pre-approved by the WSCC. The cost of any replacement vehicle is borne by the worker.

The WSCC may require in person verification of the completion of a vehicle modification by a WSCC representative.

The WSCC will not cover costs to maintain the modifications.

## Vehicle Purchase

A worker with a severe injury that has a permanent impact on their functional ability, and who is wheelchair mobile, may require a specially-equipped vehicle to travel safely and conveniently. In addition to paying for necessary modifications, in these cases, the Director of Claims Services may approve a one-time only payment toward a vehicle purchase.

The WSCC reviews the available vehicle options and provides support towards the purchase of a vehicle that it considers the best value, while accommodating the worker's assessed functional needs.

## Home Maintenance and Independent Living Allowance (HMILA)

The HMILA is a monthly allowance up to \$275 for a worker who has suffered a severe injury that has a permanent or temporary impact on the worker's ability to perform tasks related to home maintenance and/or independent living. The HMILA is intended for, but not limited to, services such as: preparing food; yard maintenance; housekeeping; buying groceries; doing laundry; necessary minor home repairs (e.g. pipe/roof leaks, broken























Maximum Medical Recovery	loss, caused by the worker's personal injury or disease. The point at which further medical or surgical interventions will have a negligible impact on restoration of function.
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum medical recovery, which is when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury or disease as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Pre-existing Condition:	A pathological condition or impairment that pre-dates a work-related injury or disease and is based on a confirmed diagnosis or medical judgement.

## General

The WSCC may provide compensation benefits to an injured worker, as a result of a pre-existing condition, where:

- ## Management of Claims with Pre-Existing Conditions

### *Pre-Existing Condition Prevents Treatment*





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## PRE-EXISTING CONDITIONS

If treatment for a pre-existing condition will enable treatment of a compensable injury, then the WSCC may pay for a one-time course of treatments for a pre-existing condition that prevents a worker from receiving treatment for a work-related injury or disease.

The Adjudicator/Case Manager may consult with the WSCC Medical Advisor to determine whether treating the pre-existing condition would assist in the worker's recovery from the work-related injury or disease.

If treatment of the pre-existing condition is accepted, the WSCC pays for the treatment in addition to compensation for the work-related injury or disease. Workers are not entitled to disability compensation if the pre-existing condition is the sole cause of their inability to return to work.

### *Pre-Existing Condition Prolongs Treatment*

The WSCC may provide compensation to a worker, whose treatment for a work-related injury or disease is prolonged solely by a pre-existing condition, until the worker recovers from the work-related injury. When the worker reaches maximum medical recovery for the work-related injury, the WSCC determines if the worker requires a permanent impairment assessment.

## **Exacerbation of a Pre-Existing Condition**

The WSCC pays compensation for a work-related injury or disease that exacerbates a pre-existing condition until the worker recovers from their work-related injury.

A worker does not receive compensation for the pre-existing condition, but only receives compensation for the treatment and recovery of the work-related injury or disease.

## **Aggravation of a Pre-Existing Condition Resulting in Impairment**

A worker receives compensation when a pre-existing condition contributes to or causes an impairment which results from a work-related incident. A worker does not receive compensation for the portion of the impairment that existed before the work-related incident.

If a worker is receiving compensation for a work-related injury which has worsened a pre-existing condition reaches maximum medical recovery for their work-related injury,









In cases where a pre-existing condition and a work-related injury combined result in a bilateral injury, the WSCC considers an enhancement factor of up to 50 percent of the work-related impairment. Permanent medical impairments are calculated according to the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

## LEGISLATIVE AUTHORITIES

Nunavut *Workers' Compensation Act*: Sections 10; 12; 13; 14; 42; 45  
Subsection 41(4)

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 10; 12; 13; 14; 42; 45 Subsection 41(4)
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## POLICY RELATED DOCUMENTS

Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.01	Payment of Compensation
Policy 04.10	Employer Cost Transfer and Relief
Policy 06.01	Pension Entitlement
Policy 06.03	Calculation of Permanent Compensation

## HISTORY

Policy 03.12 (Oct 1/19)	Pre-Existing Conditions (Non-Substantive Change)
Policy 03.12 (Jun 14/17)	Pre-Existing Conditions
Policy 03.12 (Jun 05/12)	Pre-Existing Conditions
Policy 03.12 (Dec 7/11)	Pre-Existing Conditions
Policy 03.12 (Apr 01/08)	Pre-Existing Disability
Policy 04.09 (Mar 31/08)	Non Work-Related Disability
Policy 04.10 (Oct 25/04)	Cost Relief

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Chairperson





# Workers' Safety & Compensation Commission

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## PAYMENT OF COMPENSATION

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides compensation to workers with disabilities and impairments. This policy describes the circumstances under which compensation can be assigned, diverted, recovered, reduced, suspended and terminated.

## DEFINITIONS

Assignment of Compensation:	The act of transferring to another person or entity all or part of one's property, interests or rights.
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Compensation: “...means any medical aid, payment, money, pension, vocational rehabilitation, counseling or other benefit payable or provided under this Act as a result of a worker’s personal injury, disease or death;” (per ss. 1(1) of the *Workers’ Compensation Act(s)*).

Garnishment:	A legal order, known as the attachment of debts. In the context of workers' compensation, an injured worker's payments from the WSCC may be redirected by the worker to the Canada Revenue Agency (CRA), or the Maintenance Enforcement Program.
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Health Care Provider: “...a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or other class of persons whose qualifications to practice any of the healing professions are accepted by the Commission;” (per ss. 1(1) of the *Workers’ Compensation Act(s)*).

Maintenance Order: “...an order or determination of a court providing for the payment of money as maintenance or support by a person named in the order for the benefit of another person named in the order” as per *Maintenance Orders Enforcement Act*, R.S.N.W.T. 1988, c.M-3.





# Workers' Safety & Compensation Commission

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## PAYMENT OF COMPENSATION

Maximum Medical Recovery:	The point at which further medical or surgical interventions will have a negligible impact on restoration of function.
Private Trustee:	A person, committee or business entity (e.g. family member, doctor, lawyer, or trust company) appointed by the court to manage the affairs of workers or dependants who are incapable of managing their own affairs.
Public Trustee:	A person appointed under the Northwest Territories or Nunavut <i>Public Trustee Acts</i> to perform certain duties, such as acting as the guardian of a minor's estate or administering the affairs of a mentally incompetent person.
Wage-Loss Compensation:	Compensation for a work-related injury or disease resulting in a partial disability or total disability, as defined in Policy 03.07, Calculation of Disability Compensation.
Wilful Failure:	Intentionally failing to do something. A wilful act or omission is deliberate or voluntary, and is not resulting from exceptional circumstances.
Work Release Program:	A program that allows an inmate to work outside a correctional facility for wages before they are released.

## POLICY

## Compensation

The WSCC provides compensation to entitled workers. A worker's entitlement to compensation is determined according to Policy 03.02, Entitlement, and 03.03, Arising out of and During the Course of Employment. The amount of compensation is calculated according to Policies 03.07, Calculation of Disability Compensation and 06.03, Calculation of Impairment Compensation.





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Last Non-Substantive Change – February 10,









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Last Non-Substantive Change – February 10,





# Workers' Safety & Compensation Commission

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## PAYMENT OF COMPENSATION

- Decide not to recover the overpayment upon the recommendation of the Vice President of Stakeholder Services and approval of the Governance Council.

The WSCC considers any reasonable repayment proposals from the worker or dependent. These may include deductions from future payments, full direct payment or payment by instalment.

## Ceasing Wage-Loss Compensation

The WSCC will continue to pay wage-loss compensation to an injured worker who is entitled to compensation until:

- The worker safely returns to work in accordance with Policy 04.14, Return to Work;
- The WSCC determines that the worker is fit to safely return to suitable work; and/or
- The worker has entered a WSCC approved Vocational Rehabilitation program, at which time they will be eligible to receive other compensation as outlined in Policy 05.01, Vocational Rehabilitation Eligibility and Policy 05.03, Vocational Rehabilitation Allowances and Grants.

A worker is entitled to receive wage-loss compensation, calculated in accordance with Policy 03.07 Calculation of Disability Compensation, until one of the above conditions is achieved.

When an injured worker, who is entitled to receive wage-loss compensation, reaches maximum medical recovery (MMR) for their compensable injury or disease, they will be referred for a Permanent Medical Impairment Assessment, as outlined in Policies 06.01, Pension Entitlement and 06.03, Calculation of Impairment Compensation. Having reached MMR is not a sufficient reason, in itself, to terminate a claimant's wage-loss compensation.

## Terminating, Suspending or Reducing Compensation for a Worker's Failure to Mitigate their Disability

## General

A Worker is obligated to cooperate fully in their recovery by taking all reasonable measures to mitigate the disability and cooperate with the WSCC's requirements for vocational rehabilitation.





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Last Non-Substantive Change – February 10,













# Workers' Safety & Compensation Commission

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## PAYMENT OF COMPENSATION

Policy 04.01 (Dec 7/00)	Payment of Compensation
Policy 04.01 (Jan 21/98)	Payment of Compensation
Policy 04.01 ( (Jan 1/96)	Payment of Compensation
Policy 20-01-13 (Sep10/93)	Compensation Advances by Employer
Policy 20-01-14 (Sep 10/93)	Assignment of Compensation
Policy 20-01-15 (Sep10/93)	Trustees
Policy 20-01-16 (Sep 10/93)	Recovery of Overpayments
Policy 20-01-17 (Sep 10/93)	Incarcerated Workers-Federal
Policy 20-01-18 (Sep 10/93)	Incarcerated Workers-Territorial
Policy 20-01-19 (Sep 10/93)	Reduction or Suspension of Benefits
Policy 20-01-29 (Dec 81)	Court Order
Policy 20-02-14 (Dec 81)	Leaving Canada

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Chairperson





# Workers' Safety & Compensation Commission

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## MEDICAL AID AND ASSOCIATED COSTS

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides or pays for medical aid that it considers reasonably necessary to diagnose and treat a work-related injury or disease from the time of injury/disease through the period of disability or impairment. The WSCC also pays for certain costs associated with the provision of medical aid (e.g. transportation, subsistence, escorts, interpreters) in accordance with the *Workers' Compensation Acts* (Acts), Workers' Compensation General Regulations, and WSCC policies.

## DEFINITIONS

Claim Owner:	The WSCC employee responsible for adjudicating or managing the worker’s claim.
Disability:	“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the Workers’ Compensation Acts)
Health Care Facility:	“... a “health facility” as defined in the <i>Hospital Insurance and Health and Social Services Administration Act</i> , and any other facility recognized by the Commission as providing a health program or service.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Health Care Provider:	“... a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or other class of persons whose qualifications to practice any of the healing professions are accepted by the Commission.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Medical Aid:	“... includes (a) drugs, medical devices, medical care, dental care, surgery, psychiatric or psychological care, physical rehabilitation and any other health service provided by a health care provider or health care facility,





# Workers' Safety & Compensation Commission

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## MEDICAL AID AND ASSOCIATED COSTS

- (b) the transportation of an injured or diseased worker for the purpose of receiving medical aid, and
- (c) any other treatment to facilitate the recovery of an injured or diseased worker or to mitigate the worker's disability or impairment.” (per ss. 1(1) of the *Workers' Compensation Acts*)

Subsistence Allowance:

An allowance provided by the WSCC for meals, incidental expenses and overnight commercial or non-commercial accommodations while travelling to a place outside of their place of residence for the purpose of receiving medical aid. (per s. 6 of the Workers Compensation General Regulations)

### Wilful Failure:

Intentionally failing to do something. A wilful act or omission is deliberate or voluntary, and is not resulting from exceptional circumstances.

## POLICY

## General

The WSCC provides or pays for medical aid that it considers reasonably necessary to diagnose or treat a work-related injury or disease. The medical aid must be provided to a worker from the time the worker suffers the injury or disease and through the period of disability or impairment.

The WSCC determines all issues related to the necessity, character, amount, timing, manner and sufficiency of the medical aid provided or paid for by the WSCC.

Health care providers must submit a completed report and applicable records, including the Functional Abilities Form, to the WSCC within three days of attending to an injured worker. The report must contain sufficient information to enable the WSCC to comply with its legislative obligations to make approval decisions on all matters related to the provision of medical aid.

Payment for medical aid by the WSCC does not of itself constitute the acceptance of a claim for compensation.





## Payment to Health Care Providers

The WSCC expects workers to obtain medical aid in Canada for a compensable injury or disease. However, the WSCC may consider, on a case-by-case basis, whether it is reasonably necessary for a worker to obtain medical aid outside of Canada.





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# Workers' Safety & Compensation Commission

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## MEDICAL AID AND ASSOCIATED COSTS

## Transportation Payments

*By Employer*

Employers must transport injured workers from the location where the injury occurs to the nearest hospital or appropriate health care facility. This includes medical evacuation costs for the worker's initial treatment.

Where an employer fails to provide transportation from the incident site, the injured worker may obtain whatever transportation is medically necessary. The WSCC initially pays these costs where the WSCC Medical Advisor determines the situation is urgent enough to warrant the medical evacuation. The WSCC recovers these costs from the employer either through reimbursement or by applying the costs to the employer's account.

The employer is responsible for a health care provider's travel costs if the employer calls a health care provider to the scene of an incident, instead of transporting the worker to a health care provider.

*By the WSCC*

If the worker requires further treatment at another facility after the initial hospital examination, on a physician or nurse practitioner's referral, the WSCC pays the medical evacuation costs to the nearest appropriate facility.

Following a medical evacuation and the worker's treatment and release, the WSCC may return the worker to the worksite or their home, depending on the worker's condition. In cases where the worker decides to go home rather than to the worksite, the WSCC will pay the travel costs up to, but not exceeding, the amount that it would cost to return the worker to the worksite.

If the worker is fit to return to work but chooses not to return to the worksite, the worker's transportation home is the worker's responsibility.

If an injured worker who is unable to work is undergoing medical treatment and wants to return to their residence, the Claim Owner approves the payment for transportation where:

- the attending physician approves the travel;
- the Claim Owner confirms that treatment will be continued by an appropriate health care provider; and,





## MEDICAL AID AND ASSOCIATED COSTS

- the overall costs of the proposed travel expenses do not exceed the costs of the total anticipated subsistence allowance, according to the *Workers' Compensation General Regulations*, including accommodations.

Injured workers confined to a hospital or other care facility outside their home community for an extended period of time may request the WSCC to pay transportation costs for family members to visit (or others in the absence of family). The Case Manager identifies the visitors to travel and approves the number and duration of visits. Visitors are entitled to the same subsistence allowance as an injured worker. In addition to instances where it is determined to be medically necessary, this request may be granted in the interests of the worker's morale and recovery.

Workers who remain in the hospital or other care facility and whose prognosis indicates an extended period of recovery may ask to be relocated to a hospital in, or near, their home community. In the interests of the worker's morale and recovery, the WSCC pays for the travel costs when the attending physician, or nurse practitioner, approves the travel plan and arranges for the worker's admittance to the designated hospital.

For all the above cases, the Claim Owner ensures that the most economical means of transportation is used (e.g. mode of transportation, and route taken).

Where a worker changes a travel reservation made by the WSCC and it results in an increased cost, the Claim Owner investigates the reasons for the change. If the investigation establishes the change was necessary due to an emergency or unavoidable circumstance, no action is taken. If the change was due to the worker's personal preference, the worker must reimburse the WSCC for the additional cost.

Where a worker is required by the WSCC to attend medical examinations or treatment outside the worker's community, the worker must take the most direct route and use the most economical means of transportation available. Prior approval by the WSCC is required before the worker travels to another jurisdiction for medical aid, with exception to emergencies situations.

## Limits to WSCC Transportation Payments

The WSCC does not normally pay for transportation costs when the medical treatment/exam is rendered within 50 kilometres (each way) of the worker's place of residence, with exception to circumstances when the worker requires travel by ambulance or the worker's travel was pre-authorized by the Claim Owner for paid travel within the 50 km limit.



## Subsistence Allowance

No subsistence allowance is payable where:

- Where the WSCC arranges and pays for meals and accommodation for workers or other approved travellers, they are paid subsistence allowance amounts in accordance with the *Workers' Compensation General Regulations*.

## Clothing Replacement

To be compensated for clothing damage/destruction, the worker must replace or repair the clothing and submit detailed receipts to the WSCC.

Jewellery and accessories are not considered clothing and the WSCC will not pay for the loss of these items. The WSCC replaces eyeglasses damaged in a work-related incident as per Policy 04.08, Medical Devices, and replaces dentures as per Policy 04.05, Dental Treatment.





## MEDICAL AID AND ASSOCIATED COSTS

## Injuries Resulting from Treatment/Medical Aid

A worker may be entitled to compensation if a second injury, disease or fatality results from treatment for a compensable work-related injury or disease, or if a second injury, disease or fatality occurs while a worker is travelling at the direction of the WSCC for medical-related purposes.

Determinations regarding acceptance of second injuries are made in accordance with the principles provided in Policies 03.02, Entitlement, and 03.03, Arising Out of and During the Course of Employment.

## Worker Fails to Attend Appointment

Wilful failure to attend a required medical exam/appointment, or wilful failure to comply with a notice of failure to mitigate requiring attendance at a medical appointment will result in the reduction, suspension or termination of the worker's compensation in accordance with Policy 04.01, Payment of Compensation.

If a worker fails to attend a medical exam/appointment without a justified reason, any expenses (e.g. transportation expenses, subsistence allowances, examination fees, etc.) that were incurred may be considered excess payments to the worker, which the WSCC may recover from the worker.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 17; 18; 19; 20; 25; 28; 29(1); 30; 32; 34(1)(2)(3); 36; 47; 141(1)(5); 142(2)
Nunavut <i>Workers' Compensation Act</i> :	Sections 17; 18; 19; 20; 25; 28; 29(1); 30; 32; 34(1)(2)(3); 36; 47; 141(1)(5); 142(2)
Northwest Territories <i>Workers' Compensation General Regulations</i> :	Sections 3;4; 7 Subsections 4(2)(3); 5(1)(2); 6(1)(2)(3)
Nunavut <i>Workers' Compensation General Regulations</i> :	Sections 3;4; 7 Subsections 4(2)(3); 5(1)(2); 6(1)(2)(3)

## POLICY RELATED DOCUMENTS

Policy 04.04	Complementary and Alternative Treatments
Policy 04.05	Dental Treatment









# Workers' Safety & Compensation Commission

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## MEDICAL AID AND ASSOCIATED COSTS

## APPENDIX 1

It is generally expected that travellers can eat before departing from or after arriving back at their home or worksite.

Reimbursement should not be paid when the worker's *departure* from their home community:

- does not prevent the traveller from eating breakfast at home between 06:30 and 08:30 hours;
- is later than 13:30 hours and allows time for lunch at home;
- is later than 18:30 hours and allows time for dinner at home.

Reimbursement should not be paid when the worker's *arrival* back to their home community:

- is earlier than 07:30 hours and allows time for breakfast at home;
- is earlier than 12:30 hours and allows time for lunch at home;
- is earlier than 18:30 hours and allows time for dinner at home.

















# Workers' Safety & Compensation Commission

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## CHOICE AND CHANGE OF HEALTH CARE PROVIDER

## HISTORY

Policy 04.03 (Jun 14/17)	Choice and Change of Health Care Provider
Policy 04.03 (Sep 12/13)	Choice and Change of Health Care Provider
Policy 04.03 (Jun 15/10)	Choice and Change of Health Care Provider
Policy 04.03 (Sep 16/04)	Choice of Physician or Other Health Care Provider
Policy 04.03 (Apr 1/08)	Non Substantive Change (New WC Act(s))
Policy 04.03 (Apr 1/99)	Choice of Physician or Other Qualified Practitioner
Policy 04.03 (Jan 1/96)	Choice and Change of Physician or Other Qualified Practitioner
Policy 20-04-02 (Sep 10/93)	Choice and Change of Physician

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Chairperson









# Workers' Safety & Compensation Commission

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## COMPLEMENTARY AND ALTERNATIVE TREATMENTS

and the treatment and prevention of dysfunction, injury, pain and physical disorders of the soft tissues and joints by manual and physical methods to develop, maintain, rehabilitate or augment physical function, to relieve pain and promote health.

Medical Advisor:

A physician selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury or disease.

Medical Aid:

“...includes

- (a) drugs, medical devices, medical care, dental care, surgery, psychiatric or psychological care, physical rehabilitation and any other health service provided by a health care provider or health care facility,
- (b) the transportation of an injured or diseased worker for the purpose of receiving medical aid, and
- (c) any other treatment to facilitate the recovery of an injured or diseased worker or to mitigate the workers' disability or impairment;" (per ss. 1(1) of the *Workers' Compensation Acts*)

### Occupational Therapy:

The art and science of enabling engagement in everyday living through daily occupations of life. Occupational therapists use a systematic approach based on evidence and professional reasoning to enable people to develop the means and opportunities to identify and engage in the occupations of life.

Physician:

“...a person who is authorized by law to practice medicine in the place where the person is so practising;” (per ss. 1(1) of the *Workers’ Compensation Acts*)

### Physiotherapy:

The practice of restoring, maintaining and maximizing strength, function, movement and overall well-being. Physiotherapists combine knowledge of how the body works with specialized hands-on clinical skills to assess, diagnose and treat symptoms of injury and





disability.









The WSCC may approve additional treatments for maintenance purposes if impairment remains after a worker reaches maximum medical recovery. The Medical Advisor may review and provide an opinion on requests for maintenance treatment sent by a worker's primary health care provider and received by Claims Services

## Physiotherapy and Occupational Therapy

### Health Care Provider Qualifications

Physiotherapists and occupational therapists are considered qualified by the WSCC when they are registered with either the Canadian Physiotherapy Association or the Canadian Association of Occupational Therapists, respectively.

## Accessing Treatment

A worker's treating health care provider is responsible for establishing an appropriate treatment plan, which may include referral to a physiotherapist or occupational therapist for up to six consecutive weeks of treatment. Claims Services may approve an extension of services beyond six weeks on a case-by-case basis.

The WSCC may approve treatment for maintenance purposes if impairment remains after a worker reaches maximum medical recovery. The WSCC Medical Advisor may review and provide an opinion on requests for maintenance treatments.

## Other Complementary Treatments

The WSCC may approve other complementary treatments on a case-by-case basis if all of the following conditions are met:

- the treatment is medically appropriate and/or necessary in light of available medical evidence;
- the treatment is provided by a health care provider who possesses adequate qualifications in the field of the complimentary treatment;
- the request for coverage of other complementary treatments is supported by a referral by a physician, specialist, or nurse practitioner where a physician or specialist is unavailable;
- the worker has been medically cleared by a physician and/or the WSCC Medical Advisor, and thus has been deemed fit to undergo the other complimentary

































Workers' Safety  
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## MEDICATIONS

- there is established medical literature or medical knowledge that supports the use of the non-prescription drug to treat or alleviate the effects of the work-related injury or disease.

Non-prescription drugs must be used in accordance with the CPS, and follow a proper and advisable course of treatment.

### *Non-Standard and Not Generally Accepted Medical Aid*

The WSCC may cover other non-standard drugs or drugs that are not generally accepted that *do not have a DIN* in cases where all the criteria for the provision of non-standard medical aid are met, as specified in Policy 04.04, Complementary and Alternative Treatments.

### *Reimbursement*

The WSCC reimburses injured workers for the cost of prescription and non-prescription drugs when drug receipts are submitted within 60 days of issuance. The WSCC may refuse reimbursement when receipts are submitted after this period.

## Second Medical Opinions

The Claim Owner may seek a second medical opinion to assist in determining whether payment for a drug should be authorized. Second medical opinions are typically sought from the WSCC Medical Advisor or Nurse Advisor, but may also be sought from another external physician, or appropriate health care provider.

Second medical opinions are typically sought when there are questions or concerns regarding the impact of the medication on the worker's progress, or when the treating physician prescribes drugs that are not in keeping with best practices or established guidelines (e.g. prescribing opioids beyond the normally accepted period).

If the Medical Advisor disagrees with the course of treatment prescribed by the treating physician, and the Medical Advisor and treating physician are unable to resolve their disagreement, a final binding medical opinion is sought, which is to be provided by an independent medical professional, as outlined in Policy 04.13, Conflicting Medical Opinions.







knowledge, skills and experience necessary to appropriately administer and monitor such treatment.

The WSCC expects health care providers who prescribe opioids to claimants to follow the *Canadian Guideline for Opioids for Chronic Non-Cancer Pain*. The WSCC requires the application of this policy through ongoing collaboration and consultation with the WSCC's Medical Advisor.

### *Requirement for Opioid Treatment Agreement*

The WSCC requires that the worker sign and abide by a written agreement between the worker and the prescribing health care provider, which outlines the conditions that must be followed prior to the WSCC providing compensation for any prescribed opioids beyond the acute phase (up to two weeks). Upon establishment of the agreement, the prescribing health care provider must immediately forward the agreement to the claimant's Claim Owner.

## Opioid Treatment

Non-opioid medication should be the first choice for treating or alleviating pain. However, in cases of moderate to severe pain, the WSCC may provide compensation for opioids prescribed to assist in a worker's recovery and early return to work. The WSCC requires the safe and effective use of opioids, and close monitoring to minimize the adverse effects of the medications. The WSCC monitors opioid treatment to ensure improved functional ability is achieved.

The WSCC compensates for opioid prescriptions:

- during the acute phase (up to two weeks) after injury or surgery;
- during hospitalization or after release from the hospital, while continuing to experience moderate or severe pain; or
- during a medical procedure or medical evaluation (e.g. undergoing an endoscopy for investigative purposes).

The WSCC ensures injured workers receive appropriate medications, in appropriate quantities, required to effectively treat or alleviate the effects of their work-related injury or disease. As a result, the WSCC may monitor and limit the duration of use of opioid medication at any given time. The need for refills is determined by the treating health care provider; however, in cases where treatment has been extended, the worker must never have more than a **four-week supply** of prescribed opioid medication.







may be referred for other interventions as described in the Pain Management and Addictions Services section of this policy.

## Cessation Plan

Before ceasing payment, the claimant's opioid treatment must be safely discontinued. The Medical Advisor liaises with the treating health care provider to ensure the safe discontinuation of a claimant's opioid use. Depending on the circumstances, the claimant may need a cessation plan whereby the opioid use is gradually tapered over time. The treating health care provider is responsible for creating the cessation plan. The WSCC ceases payment for opioids once the claimant has safely discontinued use of the opioids as per the cessation plan and/or medical opinion.

Claim Owners are to consult with the Medical Advisor before ceasing compensation for opioid medication to ensure that it is appropriate to do so.

### *Pain Management & Addiction Services*

If the WSCC suspends or discontinues payment for opioid medication because an improvement in function is not evident, and the claimant still reports experiences of pain, the claimant may be referred for pain management services, as provided for under Policy 04.15, Support Services for Injured Workers.

Similarly, where there is sufficient medical evidence that dependence or addiction results from the treatment of a work-related injury or disease, the WSCC assumes responsibility for the costs of a drug treatment or addictions program. The WSCC works with the treating health care provider and the injured worker to determine the appropriate course of action that is in the worker's best interests.

## LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:* Sections 33; 34; 35; 36; 46; 47(1)

Nunavut *Workers' Compensation Act*: Sections 33; 34; 35; 36; 46; 47(1)

## POLICY RELATED DOCUMENTS

Policy 04.02	Medical Aid and Associated Costs
Policy 04.04	Complementary and Alternative Treatments





# Workers' Safety & Compensation Commission

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## MEDICATIONS

## Policy 04.07

## Policy 04.15

## Medical Examinations

## Support Services for Injured Workers

# Canadian Guideline for Opioids for Chronic Non-Cancer Pain

## HISTORY

Policy 04.06 (Dec 3/14)

## Policy 04.06 (Mar 16/11)

Policy 04.06 (Sep 25/08)

Policy 04.06 (Aug 31/01)

Policy 04.06 (Apr 1/99)

Policy 04.06 (Dec 10/97)

Policy 04.06 (Jan 1/96)

Policy 20-04-04 (Sep 10/93)

Operational Procedure 20-04-04 (Sep 10/93)

## Prescription Drug Use

## Prescription Drug Use

## Prescription Drug Use

## Prescription Drug Use

## Prescription Drug Use

## Prescription Drug Use

## Prescription Drug Use

## Excessive Prescription Drug Use

## Excessive Prescription Drug Use

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Chairperson





Workers' Safety  
& Compensation Commission

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## MEDICAL EXAMINATIONS

### POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may require a worker to undergo a medical examination by a health care provider and/or the WSCC Medical Advisor to help in adjudicating the worker's claim.

### DEFINITIONS

Claim Owner:	The WSCC employee responsible for adjudicating or managing a worker's claim.
Family Member:	<p>“...in respect of a person</p> <ul style="list-style-type: none"> <li>a) a brother, sister, half-brother, or half-sister;</li> <li>b) a parent, step-parent or grandparent of the person;</li> <li>c) a person who stands or stood in the place of a parent for the person.” (per ss.1(1) of the <i>Workers' Compensation Acts</i>)</li> </ul>
Health Care Provider:	“...a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist, or other class of persons whose qualifications to practice any of the healing professions are accepted by the WSCC.” (per ss. 1(1) of the <i>Workers' Compensation Acts</i> )
Medical Advisor:	A physician selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury, disease or death.
Medical Examination	An examination or appointment with a health care provider or the WSCC's Medical Advisor. An examination may also include a consultation (e.g. with a dentist), or an assessment (e.g. by a psychologist).
Wilful Failure:	Intentionally failing to do something. A wilful act or omission is deliberate or voluntary, and is not resulting from exceptional circumstances.







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devices, orthosis, prosthesis, hearing aids and batteries, prescription eyeglasses, wheelchairs, elevators, hospital beds, oxygen and oxygen tanks, masks and tubing, and assistive devices to support activities of daily living.

**Orthosis:** An artificial or mechanical aid, such as a brace, to support or assist movement of a weak or injured part of the body.

**Prosthesis:** An artificial device to replace or augment a missing or impaired part of the body.

**Severe Injury:** A work related injury that affects a worker's mobility or function in such a way that the worker's ability to perform activities of daily living, or to adequately perform home maintenance or upkeep, is impacted.

## POLICY

## General

The WSCC may provide medical devices:

- on a temporary basis to aid in an injured worker's recovery; or
- on a permanent basis when a worker sustains an impairment.

The WSCC covers the costs for a worker's new, repaired or replaced medical device when it has been prescribed or recommended by a physician or health care provider, and has been determined to be medically necessary by the Claim Owner. An injured worker's entitlement to medical devices is determined on a case-by-case basis based on medical evidence and/or medical opinion.

Payment for a medical device is only guaranteed if the worker obtains approval from the WSCC before making the purchase.

The WSCC may cover the cost of renting, rather than purchasing, medical devices for disabled workers when it is most cost-effective. The WSCC transfers ownership of medical devices to the worker in cases where it is needed for long-term use due to an impairment.













### Special Footwear



quadriplegia, and hemiplegia, and work-related neurological diseases that severely impact mobility).

## Eyeglasses

The WSCC covers prescription eyeglasses required because of a work-related injury or disease. Where an injury or disease results in serious impairment to a worker's sight, the WSCC may also cover protective eyeglasses to protect the worker's remaining vision. If a worker loses their sight, or a substantial part of their sight in an eye due to a work-related injury or disease, the WSCC may cover glasses with hardened lenses to protect the worker's remaining sight.

Where the WSCC covers an artificial eye (prosthetic) due to a work-related injury or disease, eyeglasses may also be covered to improve or maintain the sight in the remaining eye.

## Assistive Devices

The WSCC may cover other assistive devices that it considers reasonably necessary for the health care needs of an injured worker, or that are designed to assist with their activities of daily living. Assistive devices are considered when it is recommended by an appropriate health care provider, and is supported by medical evidence.

Examples of assistive devices include, but are not limited to, personal care devices (e.g. raised toilet seats, reachers, long-handled sponges, lift chairs, bed rails, adjustable beds, etc.), ergonomic equipment, and automatic page turners.

Case Managers can approve payment for assistive devices for workers who suffer a severe injury that has temporary impacts if the device is estimated to cost less than \$2000.

Pension Specialists can approve payment for assistive devices for workers who suffer a severe injury that has permanent impacts if the device is estimated to cost less than \$2000.

The Manager of Claims Services must approve payment for any devices estimated to cost more than \$2000.









# Workers' Safety & Compensation Commission

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## EMPLOYER COST TRANSFER AND RELIEF

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may remove claims costs from an employer's experience account by assigning it to another employer (Cost Transfer) or by applying it to the Workers' Protection Fund (Cost Relief) to ensure fairness and accountability for employers. This policy provides guidance when the WSCC considers a Cost Transfer or Cost Relief.

## DEFINITIONS

Claim Costs:	The monetary value of all claim-related costs the WSCC pays and attributes to an employer. Claim costs include payments for medical aid, wage-loss compensation, vocational rehabilitation and pensions.
Cost Relief:	Removing claim costs from the incident employer's experience account and applying it to the Workers' Protection Fund.
Cost Transfer:	Reallocating claim costs from the experience account of one employer to the experience account of another employer.
Disease	"... an unhealthy condition of the body or mind." (as per ss.1(1) of the <i>Workers' Compensation Acts</i> ).
Eligible Claimant:	"...a person who has claimed compensation or who is entitled to claim and receive compensation." (per ss.1(1) of the <i>Workers' Compensation Acts</i> )
Experience Account:	Records established and maintained by the WSCC of the costs of compensation claimed in respect of each employer.
Impairment:	"means the condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease" (per 1(1) of the <i>Workers' Compensation Acts</i> )
Incident Employer:	An injured worker's employer at the time of injury.





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## EMPLOYER COST TRANSFER AND RELIEF

Injury:	Physical or psychological damage or harm resulting from natural, physical, or human causes during one or over a series of cumulative events.
Negligence:	“The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly or wilfully disregarding of others’ rights.” ( <i>Black’s Law Dictionary</i> , Eighth Edition)
Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum recovery and when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by the WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
Pre-existing Condition:	A pathological condition or impairment that pre-dates a work-related injury and is based on a confirmed diagnosis or medical judgement.
Workers’ Protection Fund:	“...the fund continued by subsection 67(1) for the payment of compensation and other outlays and expenses authorized under this Act:” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> ).

## POLICY

## General

Prior to the WSCC considering an employer for Cost Transfer or Cost Relief, the employer must meet the following criteria:

- the employer is active and registered with the WSCC; and,









The WSCC recognizes that it is difficult to apportion partial costs. Therefore, transfers of 100 percent or equal division between the impacted employers are most common.

## Cost Relief

The WSCC may provide Cost Relief to employers, with exception to those claims submitted for an injury, disease, or death sustained by an individual who has Personal Optional Coverage. Since harvesters are self-insured by the Governments of the Northwest Territories and Nunavut, they are not eligible for Cost Relief.

Cost Relief may be provided in the following circumstances:

- Claims costs are higher than appropriate due to the WSCC overpaying compensation to the worker (the employer is relieved of the amount equal to the overpayment);
- A non-work related pre-existing condition contributed to the compensable injury, disease or death;
- A worker suffers from an occupational disease or progressive injury and the contributing exposures or causes originated with more than one employer.
- The injury, disease or death was not associated with any employer covered under the *Acts*, and where it may be unreasonable to pursue a third party action;
- The injury, disease or death was caused or contributed to by the Negligence of a party outside of the Northwest Territories or Nunavut;
- The injury, disease or death occurred while the worker was receiving WSCC-approved medical treatment for an existing compensable injury; or,
- The injury, disease or death occurred while the worker was participating in a WSCC-approved program.

The amount of Cost Relief depends on the degree of connection between the injury, disease or death and the incident employment for which the incident employer is responsible for the costs. The WSCC uses reasonably available information and evidence to determine the percentage of claims costs subject to Cost Relief.

### Pre-existing Conditions

The WSCC may apply Cost Relief to an employer's experience account for claim costs resulting from a pre-existing condition when:

- there is a direct relationship between a worker's pre-existing condition and the work incident;
- the pre-existing condition prolongs treatment or recovery; or







Major	Moderate	75
	Major	50

If a worker is entitled to a permanent medical impairment enhancement factor due to the combined result of the pre-existing condition and work-related injury, as per Policy 03.12, Pre-existing Conditions, the WSCC may allocate Cost Relief in the amount of the enhancement factor to the incident employer's experience account.

When there is an injury, disease or death caused by or contributed to by the Negligence of a party outside of the Northwest Territories or Nunavut, and thus where the Negligent party is not covered by the *Acts*, the WSCC provides Cost Relief to the incident employer. The amount of Cost Relief depends on the degree of connection between the injury, disease or death and the incident employment. If the injury, disease or death is due solely to the Negligent employer located outside of the WSCC's jurisdiction, then full Cost Relief is provided to the incident employer. The WSCC uses reasonably available information and evidence to determine the percentage of claims costs subject to Cost Relief.

Interjurisdictional claims occur when an eligible claimant has the right to claim in more than one jurisdiction. If an injury, disease or death occurs in the Northwest Territories or Nunavut and the eligible claimant claims with a jurisdiction other than the WSCC, the WSCC reimburses the other jurisdiction. In these cases, the WSCC makes determinations on Cost Relief or Cost Transfer as set out in this policy. If the eligible worker claims with the WSCC and the WSCC is reimbursed by another jurisdiction, the other jurisdiction will make all decisions on Cost Relief and Cost Transfer. Where the WSCC is reimbursed by another jurisdiction, the associated claims costs are not applied to the employer's experience account.

Northwest Territories *Workers' Compensation Act*: Sections 10; 13(2); 14; 71(3)(4); 114

Nunavut *Workers' Compensation Act* Sections 10; 13(2); 14; 71(3)(4); 114













# Workers' Safety & Compensation Commission

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## CLAIMS MANAGEMENT

### Return to Work:

A process to help injured workers return to safe, productive and suitable employment as soon as medically possible.

Suitable Work:

Is work:

- within the worker's functional abilities;
- the worker already has the skills to do or can be safely trained to do;
- that does not pose a health or safety risk to the worker, co-workers or the general public;
- that restores pre-injury earnings, where possible, or provides reasonable earnings for an appropriate occupation based on existing regional socio-economic conditions; and,
- that adds value to the employer's business/organization and promotes the worker's healthy recovery and return to work.

## POLICY

## General

A worker's likelihood of reaching maximum medical recovery is increased when a team, including the worker, their employer, the WSCC, health care providers and where applicable, other parties, are committed to recovery and coordinate their efforts accordingly.

To increase the likelihood of worker recovery, team members ensure:

- ongoing communication and collaboration among all team members;
- collaboration between the employer and worker throughout treatment and recovery;
- a focus on returning the worker to pre-injury employment;
- Suitable Work options are available when return to pre-injury employment is not possible;
- medically necessary referrals to specialists are arranged;
- the appropriate and timely use of diagnostics; and,
- the effective and efficient adjudication of workers' claims.



## Workers

Workers should also maintain ongoing communication with their employer regarding their functional abilities and work restrictions. Keeping the employer informed helps the employer identify and provide appropriate accommodations for the worker.

Employers have a duty to accommodate disabled and impaired workers, as per the *Human Rights Acts* of the Northwest Territories and Nunavut, and therefore must make reasonable accommodations, up to the point of undue hardship, to assist in workers' successful return to work. Accommodations may include, but are not limited to, providing assistive devices, worksite modifications and/or offering modified or alternate duties. Employers should maintain contact with recovering workers in order to stay informed about their employee's functional abilities and work restrictions, which will help identify appropriate accommodations to enable a successful return to work. Further details on return to work programs/accommodations are provided in Policy 04.14, Return to Work.

The WSCC does not have jurisdiction to determine whether an employer has met its duty to accommodate. That can only be determined by the Human Rights Commission in the Northwest Territories or the Human Rights Tribunal in Nunavut upon application by the worker. However, if the worker is able to return to work with modifications and the employer is not able to provide those accommodations, the WSCC may provide or continue to provide compensation to the worker, until such a time as they are able to return to their full duties.

Employers are required to provide information to the WSCC in a timely manner, this includes information pertaining to a workplace injury, as well as the worker's pre-injury job duties. Failure to provide information in timely manner may result in a penalty.



Providing false or misleading information is an offence under the *Workers' Compensation Acts (Acts)*, which is further detailed in Policy 10.04, Preventing and Investigating Abuses and Offences.

## WSCC

The WSCC has an obligation to inform workers about any entitlement to services under the *Acts* and WSCC policies. The WSCC may, upon request, provide the worker's employer with progress reports. The WSCC works with all team members to help achieve a worker's maximum medical recovery, and early, safe and successful return to work.

### Health Care Providers

Health care providers play a critical role in a worker's recovery. Health care providers assess and diagnose workers, provide medical evidence, such as results from physical examinations and diagnostic tests. Health care providers create treatment plans specific to the worker, monitor their recovery and refer them to specialists and other health care professionals as needed. Health care providers communicate with workers and the WSCC about workers' symptoms, diagnoses and prognoses. Health care providers set the team's medical expectations, and promote workers' recoveries and return to work.

Health care providers must provide the WSCC with reports within three days after a worker has been treated or examined, and must provide any information that the WSCC considers necessary in relation to a claim in a timely manner. Health care providers who fail to provide requested information may be subject to a penalty.

### Other Parties

Where applicable, other parties can support workers' recoveries and their return to Suitable Work.

Other parties may include, but are not limited to:

- Worker's Advisor
- labour association representatives;
- local community representatives;
- Indigenous associations; and
- family or friends.

Workers must authorize, in writing, the participation of these parties prior to their involvement in the recovery process. The WSCC only communicates with parties authorized by the worker.









# Workers' Safety & Compensation Commission

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## CLAIMS MANAGEMENT

- Fails to cooperate with the return to work process including the development of, and participation in, the return to work plan, as outlined in Policy 04.14, Return to Work;
- Refuses to accept Suitable Work; or,
- Receives extensive vocational rehabilitation services without positive results and there is no evidence that further vocational rehabilitation would improve the worker's likelihood of obtaining employment or reaching a state of Employability. Vocational rehabilitation services are covered under Policies 05.01, Vocational Rehabilitation Programs, and 05.05, Vocational Rehabilitation Allowances and Grants.

The WSCC ceases paying wage-loss compensation when the worker attains a state of Employability or returns to Suitable Work.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 30; 34; 35; 36; 46; 141(1)(2);142; 148(1)(2); 156; 166(1)
Nunavut <i>Workers' Compensation Act</i> :	Sections 30; 34; 35; 36; 46; 141(1)(2);142; 148(1)(2); 156; 166(1)
Northwest Territories <i>Human Rights Act</i>	Sections 5; 7(1)(4)
Nunavut <i>Human Rights Act</i>	Sections 7(1); 9(1)(5)

## POLICY RELATED DOCUMENTS

Policy 03.12	Pre-Existing Conditions
Policy 04.01	Payment of Compensation
Policy 04.02	Payment for Medical Aid
Policy 04.03	Choice and Change of Health Care Provider
Policy 04.04	Complementary and Alternative Treatment
Policy 04.07	Medical Examinations
Policy 04.13	Conflicting Medical Opinions
Policy 04.14	Return to Work
Policy 05.01	Vocational Rehabilitation
Policy 07.01	Claim File Information Access
Policy 10.04	Preventing and Investigating Abuses and
Policy 11.02	Offences
	Reporting an Injury





## HISTORY

## Early Intervention

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charge a penalty to the health care provider until they respond. The WSCC notifies the worker of the non-response and the health care provider is sent a copy of the notification. Because a health care provider's lack of response may impact the worker's claim for compensation, the WSCC may suggest that the worker consider changing health care providers. Changes in health care providers are made according to Policy 04.03, Change and Choice of Health Care Providers.

## Step Two

If the health care provider and the Medical Advisor are unable to resolve the conflict, or the health care provider does not respond within 15 days of the WSCC's written request, the matter is referred to an independent medical professional who specializes in the medical area of the conflict. The independent medical professional assists with resolution of the conflict by providing a medical opinion that is final and binding.

The selection of the independent medical professional, and identification of the issues to be considered, are made by the worker's Case Manager, or Adjudicator, within 15 days of when the conflict of medical opinion is confirmed. These are based on written submissions received from the WSCC Medical Advisor, the worker's health care provider and the worker. Criteria used to select an appropriate independent medical professional include: specialization in the medical area of the conflict, proximity of physical location to the worker, availability and absence of conflicts of interest.

In the event that a conflict of medical opinion occurs on a file under review by the Review Committee, the Review Committee Member conducting the review will be responsible for the selection of the independent medical professional, and the identification of the issues to be considered. This will be based on written submissions received from the WSCC Medical Advisor, the worker's health care provider, the worker and if the employer is party to the review, the employer.

If the claimant's health care provider had not responded to the Medical Advisor's previous attempts to resolve the matter under Step One, the selection of an independent medical professional will be determined based on the suggestions of the Medical Advisor and the worker.

### Resolution Process

The WSCC provides confirmation to the independent medical professional of the issue(s) to be resolved. The Medical Advisor and the worker's health care provider may submit written statements and additional evidence in support of their opinions. The Medical Advisor and health care provider include all relevant information in their submissions to









## Medical Examinations

### Choice and Change of Health Care Provider

## HISTORY

## Conflicting Medical Opinions

## Conflicting Medical Opinions

## Conflicting Medical Opinions

## Conflicting Medical Opinions

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# Workers' Safety & Compensation Commission

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## RETURN TO WORK

- that adds value to the employer's business/organization and promotes the worker's healthy recovery and return to work.

## POLICY

## General

In support of workers' early and safe return to work, the WSCC:

- Adjudicates workers' claims;
- Initiates the development of a Return to Work plan in partnership with the worker, employer, health care providers, and any other appropriate parties;
- Assists employers in making suitable work options available (e.g. sharing progress reports on workers' functional abilities and work restrictions); and,
- Facilitates ongoing communication and collaboration between all parties involved in the management of workers' claims, as per Policy 04.11, Claims Management.

## Return to Work

An injured worker participates in Return to Work plans when medical evidence confirms that they are able to safely return to work.

The employer, in consultation with the worker and WSCC Adjudicator or WSCC Case Manager, develops a Return to Work plan. The plan considers functional abilities and skills and outlines the necessary steps to ensure the injured worker participates in early and safe return to work. For a successful Return to Work plan, the injured worker, the employer, the WSCC, health care providers and other parties, where applicable, work together during the return to work process. The parties report any issues with the process to the Case Manager or Adjudicator.

The Return to Work plan must be appropriate given the worker's functional abilities and reasonable given the worker's specific circumstances. Valid reasons for workers being unable to co-operate are generally limited to compelling circumstances beyond the worker's control.









## RETURN TO WORK

WSCC policies to mitigate their disability for early, safe and successful return to work. The following outlines specific obligations and expectations of workers:

- Contact their employer as soon as possible after the injury occurs and maintain communication throughout recovery, providing updates, such as progress reports related to functional abilities and work restrictions;
- Actively participate in the development of their Return to Work plan;
- Assist the employer to identify Suitable Work;
- Accept and perform Suitable Work when available;
- Perform their work duties according to the guidelines and limitations established by the health care provider;
- Attend medical appointments and follow the prescribed rehabilitation plan; and,
- Provide the WSCC with ongoing information concerning their progress toward returning to work.

A worker's failure to mitigate their disability may result in the termination, suspension or reduction in compensation, as outlined in Policy 04.01, Payment of Compensation.

## Employer Obligations

Employers have a legal obligation to accommodate disabled and impaired workers, as per the *Human Rights Acts* of the Northwest Territories and Nunavut, and therefore must make reasonable accommodations, up to the point of undue hardship, to assist in injured workers' return to work.

In addition, Employers are expected to:

- Contact the worker as soon as possible after the injury occurs and maintain communication throughout recovery;
- Collaborate with the worker and the WSCC to identify and provide suitable work that is consistent with the worker's functional abilities and, where possible, restores pre-injury earnings;
- Document and submit the worker's Return to Work plan to the WSCC;
- Monitor the worker's Return to Work progress and communicate any concerns to the WSCC; and
- Provide the WSCC with any other information concerning the worker's Return to Work.





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## RETURN TO WORK

An employer's Return to Work obligations should not cause undue hardship to the employer.

The WSCC does not have jurisdiction to determine whether an employer has met its duty to accommodate. That can only be determined by the Human Rights Commission in the Northwest Territories or the Human Rights Tribunal in Nunavut, upon application by the worker. However, if the worker is able to Return to Work with modifications and the employer is not able to provide those accommodations, the WSCC may provide or continue to provide compensation to the worker, until such a time as they are able to return to their full duties.

## WSSC Obligations

The WSCC facilitates a collaborative approach to aid workers' early, safe and successful Return to Work. Specific obligations and expectations include:

- Communicate to the employer and worker their Return to Work responsibilities;
- Monitor the activities, progress and cooperation of the worker, employer and other parties (where applicable);
- Ensure all applicable parties comply with the Return to Work process;
- Coordinate appropriate health care necessary for recovery;
- Arrange and provide appropriate compensation benefits and any applicable allowances to the worker; and,
- Support resolution of disputes arising from the Return the Work process, when necessary.

## Treating Health Care Providers

Health Care Providers play a critical role in the recovery and Return to Work of workers. Specific obligations and expectations include:

- Provide accurate diagnoses, detailed objective findings, up-to-date functional abilities forms and relevant treatment plans;
- Monitor the worker's recovery;
- Refer the worker to specialists or other health care providers, as required;
- Provides reports to the worker and the WSCC about the worker's prognosis and symptoms; and,
- Set goals to promote a worker's recovery and Return to Work.





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## **RETURN TO WORK**

### *Other Parties*

Where applicable, other parties can assist, support and participate in a worker's recovery and Return to Work.

These parties may include, but are not limited to:

- Worker's Advisor
- Labour association representatives;
- Local community representatives;
- Indigenous associations; and,
- Family or friends of the worker.

The worker must authorize, in writing, the participation of these parties prior to the parties active involvement.

### **Return to Work Programs**

The WSCC promotes an early and safe return to work, and provides support and resources to help achieve the Return to Work goal(s) through one or more of the following return to work programs: Modified Duties, Alternate Duties, Graduated Return to Work, and/or Workplace/Worksite Modifications.

#### *Modified Duties*

Modified duties pertain to the regular pre-incident work duties, but are modified to ensure that they align with the worker's functional abilities, based on medical evidence, as reported by their Health Care Provider. Modified duties may be temporary or permanent, depending on the nature of the injury.

#### *Alternate Duties*

Alternate duties are duties the worker previously did not perform. A worker performs alternate duties when they are unable to return to their incident employer and perform their pre-injury duties. Alternate duties may require additional training.

#### *Graduated Return to Work*

The employer reduces or modifies the worker's work hours to match the worker's tolerance levels, as reported by their Health Care Provider. The objective is to allow a steady progression of hours until the worker completes a full return to work.









## HISTORY

## Safe Advantage: Return to Work

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## Child Care Expenses

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## VOCATIONAL REHABILITATION ELIGIBILITY

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to work with their pre-incident employer. The goal of vocational rehabilitation is to assist workers to regain employability. Vocational rehabilitation does not guarantee employment.

This policy explains how the WSCC determines if a worker is eligible for vocational rehabilitation programs. The policy lists the Hierarchy of Re-Employment Goals, information about a worker's Vocational Rehabilitation Plan and criteria used to determine discontinuance of a worker's vocational rehabilitation.

## DEFINITIONS

Disability:

“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the Workers’ Compensation Acts)

## Employability

Being in possession of the skills and abilities that allow a worker to be employed in suitable work.

### Return to Work:

A process to assist the worker return to safe and productive work, with their pre-incident employer, as soon as medically possible.

Suitable Work:

Includes work:

- within their functional abilities;
- the worker already has the skills to do, or can be safely trained to do;
- that does not pose a health or safety risk to the worker, co-workers or the general public;
- that restores pre-injury earnings, where possible, or provides reasonable earnings for an appropriate occupation based on existing regional socio-economic conditions; and,









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## VOCATIONAL REHABILITATION ELIGIBILITY

- A pre-existing condition, as described in Policy 03.12, Pre-Existing Conditions, complicates the work-related disability and prevents the worker from returning to work with the pre-incident employer; or,
- The worker's pre-incident employer prevents the worker from returning to their previous work, or other suitable work with their employer; or,
- Medical opinion indicates that ongoing exposure to conditions in the worker's previous work could cause a recurrence or significant aggravation of the work-related disability, or impairment.

## Hierarchy of Re-Employment Goals

The worker's Case Manager uses the Hierarchy of Re-Employment Goals to determine if vocational rehabilitation is appropriate for the worker. Each goal, beginning with goal one, must be considered and deemed unsuitable before the next goal is considered.

Vocational rehabilitation programs are not offered by the WSCC unless the worker falls within goal four, five or six.

Goal	Description
1) <b>Same work with the same employer</b>	The worker returns to the pre-incident employment.
2) <b>Modified work with the same employer</b>	The worker returns to suitable, similar or comparable work with the pre-incident employer. Some work restrictions or modifications are required.
3) <b>Different work with the same employer</b>	The worker returns to the pre-incident employer with alternate suitable work.
4) <b>Same work with a different employer</b>	The worker is unable to return to the pre-incident employer, but can complete similar work. Suitable work in the same or related industry is considered.
5) <b>Modified work with a different employer</b>	The worker is unable to return to the pre-incident employer and work restrictions or modifications are required with the new employer.





## VOCATIONAL REHABILITATION ELIGIBILITY

**6) Different work  
with a different employer**

The worker is unable to return to the pre-incident employer and pre-incident work.

Refer to Policy 05.02, Vocational Rehabilitation Programs, for program information.

## Vocational Rehabilitation Plan (VR Plan)

The Case Manager, worker and vocational rehabilitation counsellor develops The VR Plan. The WSCC may consult with potential employers, the treating physician, the WSCC Medical Advisor and other expert health care or service providers deemed necessary. The VR plan may include volunteer activities or temporary employment activities to be completed by the claimant during breaks in academic programs or training activities.

The Case Manager and worker sign the VR Plan, acknowledging agreement to the worker's goals. The Case Manager provides a copy of the VR Plan to the worker. Changes to the VR Plan are not common. If the VR Plan requires change, a written addendum is signed by the Case Manager, the worker and the Manager of Claim Management and Pensions.

The Case Manager and counsellor monitor worker progress. The WSCC fulfills its vocational rehabilitation obligations to a worker when the worker regains employability or becomes employed.

## Discontinuance of Vocational Rehabilitation Services

The goal of vocational rehabilitation services is for the worker to regain employability or to become employed. As such, a worker is obligated to accept suitable work that is offered to them during or after their vocational rehabilitation.

The intent of suitable work is to provide employment circumstances similar to the worker's pre-incident work earnings or earnings in a comparable occupation in the claimant's geographical area. Criteria such as hours of work, location, and previous work history are considered when determining what qualifies as suitable work. Suitable work would not normally include excessive work hours (+40 hours/week) or wages earned through secondary employment.

When a worker regains employability or is offered suitable work, the WSCC will discontinue the worker's vocational rehabilitation services, including any allowances to













# Workers' Safety & Compensation Commission

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## VOCATIONAL REHABILITATION PROGRAMS

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to work with their pre-incident employer. The goal of vocational rehabilitation is to assist workers regain employability. Vocational rehabilitation does not guarantee employment.

This policy describes vocational rehabilitation programs available to eligible workers.

## DEFINITIONS

Disability:

“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the Workers’ Compensation Acts)

Employability:

Being in possession of the skills and abilities that allow a worker to be employed in suitable work.

Suitable Work:

Includes work:

- within their functional abilities;
- the worker already has the skills to do, or can be safely trained to do;
- that does not pose a health or safety risk to the worker, co-workers or the general public;
- that restores pre-injury earnings, where possible, or provides reasonable earnings for an appropriate occupation based on existing regional socio-economic conditions; and,
- that adds value to the employer's business/organization and promotes the worker's healthy recovery and return to work.





# Workers' Safety & Compensation Commission

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## VOCATIONAL REHABILITATION PROGRAMS

Supplementary Pension Increase  
(SPI):

The percent adjustment to pensions made by the WSCC, used to maintain a pension's purchasing power.

### Vocational Exploration:

A process to evaluate the worker's aptitudes, academic history, work history and employment interests. Vocational Exploration assists the Case Manager, the worker, and the vocational rehabilitation counsellor to understand a worker's skills and develop employment goals.

Vocational Rehabilitation Allowance:

“...an allowance, not exceeding the compensation payable under section 38 for total disability, [provided] while the worker is undergoing vocational rehabilitation” (per ss. 46(d) of the *Workers’ Compensation Acts*).

Vocational Rehabilitation Plan  
(VR Plan):

A written document that outlines the worker's re-employment goal and the steps the worker takes to achieve this goal. The VR Plan is used to monitor the worker's progress and determine the success or failure of vocational rehabilitation.

## POLICY

Vocational rehabilitation is offered to workers unable to return to work with their pre-incident employer, but capable of regaining employability. The Case Manager, worker and vocational rehabilitation counsellor work together to determine which programs are best suited to the worker.

### Eligibility

The Case Manager determines a worker's eligibility for vocational rehabilitation programs using the Hierarchy of Re-Employment Goals and other criteria as detailed in Policy 05.01, Vocational Rehabilitation Eligibility.

## PROGRAMS

### *Vocational Exploration*





## VOCATIONAL REHABILITATION PROGRAMS

All workers referred by their Case Manager for vocational rehabilitation must participate in Vocational Exploration.

Information gathered during Vocational Exploration is used to develop the VR Plan. Vocational Exploration should be complete within two months of referral to a vocational rehabilitation counsellor. Vocational Exploration does not continue beyond two months without the approval of the Manager of Case Management and Pensions.

In addition to an evaluation of the worker's interest, aptitude and academic history, Vocational Exploration may include, but is not limited to:

- Labour Market Analysis: identifies job market trends; or,
- Transferable Skills Analysis: identifies the worker's employment history, and current skills and abilities.

As part of Vocational Exploration, the WSCC may offer Job Skills services to the worker. Job Skills services assist the worker to develop a résumé and prepare for job interviews. Job Skills services are offered to the worker for a maximum of two weeks during Vocational Exploration. The Manager, Case Management and Pensions, approves any extension of services beyond two weeks.

Vocational Exploration assists the Case Manager, worker and counsellor to determine if the worker can regain employability. Vocational Exploration also identifies the worker's physical or mental restrictions in regards to a workplace or type of work that is possible.

## Work Assessment

A Work Assessment is arranged with employers or training institutions to determine the worker's functional abilities related to specific work duties. Worker participation in Work Assessment does not mean the employer will hire the worker participating in the program.

Work Assessment does not extend beyond one month without the approval of the Manager of Case Management and Pensions in consultation with the involved employer or training institution.

## Job Search

Job Search assists the worker to find employment opportunities. The 13-week maximum allowance is a cumulative total, regardless of whether Job Search is used consecutively or at different times.





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Last Non-Substantive Change – February 10, 2020









## VOCATIONAL REHABILITATION PROGRAMS

Workers may seek vocational rehabilitation extensions by written request. The request must explain the reason for the extension, such as delays in the VR Plan's completion, and the extension period required. The Manager, Case Management and Pension, may approve a worker's written request for a program extension when one of the following situations occurs:

- Completion of the program is likely to assist the worker to regain employability;
- Prescribed medical treatment for the work-related disability or impairment delays or interrupts the worker's progress; or,
- The worker's disability or impairment results in slower than expected progress.

## Alternate Program Assistance

Workers may receive Alternate Program Assistance to assist with self-employment. The Case Manager determines eligibility for Alternate Program Assistance after Vocational Exploration is complete and all other vocational rehabilitation options are explored and considered inappropriate.

A worker seeking Alternate Program Assistance must present a business plan, in addition to a feasibility study, to the Case Manager within one month of completing Vocational Exploration. The one month period may be extended to accommodate a claimant's special circumstances with the approval of the Manager of Case Management and Pensions. The feasibility study is completed by a financial advisor who is:

- A person with a professional accounting or certified financial planning designation such as a CA, CMA or CGA, CFA or CAFM;
- A qualified officer from a financial institution; or
- A person with a minimum experience of five years as a Financial Planning Consultant.

The WSCC requires confirmation of the independent financial advisor's qualifications.

Alternate Program Assistance is approved by the Manager, Case Management and Pensions. To receive approval, the Alternate Program Assistance must cost less than the WSCC's expected financial contribution for the alternative VR Plan.

Alternative Program Assistance is a one-time payment to the worker. The WSCC fulfills its vocational rehabilitation commitment to the worker when Alternate Program Assistance is paid.

## Term Supplement





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Last Non-Substantive Change – February 10, 2020









# Workers' Safety & Compensation Commission

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## VOCATIONAL REHABILITATION ALLOWANCES AND GRANTS

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to work with their pre-incident employer. The goal of vocational rehabilitation is to assist workers to regain employability. Vocational rehabilitation does not guarantee employment.

This policy describes applicable allowances and grants for workers participating in a WSCC approved Vocational Rehabilitation Plan (VR Plan).

## DEFINTIONS

### All-Terrain Vehicle:

“...a motorized vehicle that runs on wheels, tracks, skis, air cushions or any combination of wheels, tracks, skis, or air cushions and is designed for cross-country travel on land, water, snow, ice, marsh, swamp or on other natural terrain and, without limiting the generality of this definition, includes:

- a) an amphibious vehicle,
- b) a snow vehicle,
- c) a motorized vehicle mounted on three wheels,
- d) a pedal bicycle with motor attachment, and
- e) any other vehicle prescribed to be included, but does not include any vehicle that weighs more than 900 kg or any other vehicle prescribed as an exception to this definition;” (per ss. 1(1) of the *All-Terrain Vehicles Acts*)

Motor Vehicle:

“...a vehicle propelled or driven by power other than muscular power and includes a trailer, but does not include

- a) an aircraft, a marine vehicle or an all-terrain vehicle,
- b) a device that runs or is designed to run exclusively on rails, or
- c) a mechanically propelled wheelchair.” (as per ss. 1(1) of the *Motor Vehicles Acts*)





# Workers' Safety & Compensation Commission

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## VOCATIONAL REHABILITATION ALLOWANCES AND GRANTS

Suitable Work:

Includes work:

- within their functional abilities;
- the worker already has the skills to do, or can be safely trained to do;
- that does not pose a health or safety risk to the worker, co-workers or the general public;
- that restores pre-injury earnings, where possible, or provides reasonable earnings for an appropriate occupation based on existing regional socio-economic conditions; and,
- that adds value to the employer's business/organization and promotes the worker's healthy recovery and return to work.

Vocational Rehabilitation Plan  
(VR Plan):

A written document that outlines the worker's re-employment goal and the steps the worker will take to achieve this goal. The VR Plan is used to monitor the worker's progress and determine the success or failure of vocational rehabilitation.

Workplace/Worksite:

Where a worker regularly works on behalf of the employer.

## POLICY

## Subsistence Allowance

The WSCC provides a Subsistence Allowance to workers to pay for meals, incidental expenses and overnight accommodation when participating in vocational rehabilitation.

The WSCC may provide a Subsistence Allowance when a worker:

- Attends a vocational rehabilitation program outside of their primary place of residence, for less than 30 days, and must maintain a second residence;
- Attends a WSCC-approved appointment; or
- Receives a relocation grant and en-route to the new residence is required to obtain overnight accommodation.

The WSCC provides a Subsistence Allowance in accordance with Section 6 of the Northwest Territories and Nunavut *Workers' Compensation General Regulations*.

Workers attending vocational rehabilitation outside of their home community for more than 30 days while maintaining a residence in their home community receive payment for





## Transportation Allowance

The Manager, Case Management and Pensions, may approve Travel Allowances for transportation to a worker's home community in the event of a family emergency or personal medical appointment in the home community.

A worker receiving relocation assistance from a new employer, a government agency or another third party does not receive the Relocation Grant if the third party's relocation









Workers are responsible for the repair, maintenance, and replacement of all items paid for by the WSCC Tools and Equipment Grant.

## Workplace/Worksite Modification Grant

The Workplace/Worksite Modification Grant assists a new employer with the duty to accommodate, mandated in the Northwest Territories and Nunavut *Safety Acts* and *Human Rights Acts*.

The WSCC may assist with the modification of a workplace/worksites when the modification permits worker access to the new workplace/worksites and permits the worker to meet employment requirements. Alterations are made with the employer's written consent, including confirmation that the modifications result in the worker's employment.

The Workplace/Worksite Modification Grant is provided to first-time employers of workers who have recently completed the VR Plan.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Section 46; 47
Nunavut <i>Workers' Compensation Act</i> :	Section 46; 47
Northwest Territories <i>Workers' Compensation General Regulations</i> :	subsection 3
Nunavut <i>Workers' Compensation General Regulations</i> :	subsection 3
Northwest Territories <i>Safety Act</i> :	Sections 4; 5
Nunavut <i>Safety Act</i> :	Sections 4; 5
Northwest Territories <i>Human Rights Act</i> :	Section 10
Nunavut <i>Human Rights Act</i> :	Section 10





## POLICY RELATED DOCUMENTS

## HISTORY

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Chairperson





# Workers' Safety & Compensation Commission

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## PENSION ENTITLEMENT

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides pensions to:

- permanently injured or diseased workers whose injury or disease arose out of and during the course of employment; or
- a worker's spouse or dependants in the case of a workplace death.

A worker or a worker's spouse or dependants establish their entitlement to a pension, as defined in this policy, by filing a claim with the WSCC.

## DEFINITIONS

Compensation:

“...any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this Act as a result of a worker’s personal injury, disease or death;” (per ss.1(1) of the *Workers’ Compensation Acts*)

Disability:

“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the Workers’ Compensation Acts)

Family Member:

“...in respect of a person

- a) a brother, sister, half-brother, or half-sister of the person;
- b) a parent, step-parent, or grandparent of the person; and
- c) a person who stands or stood in the place of a parent for the person;" (per ss. 1(1) of the *Workers' Compensation Acts*)

Impairment:

“means the condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker’s personal injury or disease” (per 1(1) of the Workers’ Compensation Acts)

Net Annual Remuneration:

“...the amount of the worker’s annual remuneration minus the amount of the worker’s annual deductions,





# Workers' Safety & Compensation Commission

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## PENSION ENTITLEMENT

determined in accordance with the regulations.” (per S. 59 of the *Workers’ Compensation Acts*)

Permanent Medical Impairment  
(PMI):

An impairment which remains after the passage of a sufficient period of time to allow maximum medical recovery, which is when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

### Partial Impairment (PI):

A partial reduction in physical, functional, mental or psychological abilities. The WSCC determines PI using the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

Total Impairment (TI):

A total reduction in physical, functional, mental or psychological ability. The WSCC determines TI using the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*. Subsection 41(4) of the *Workers' Compensation Acts* defines TI as:

- a) total and permanent loss of sight of both eyes;
- b) the loss of both feet at or above the ankle;
- c) the loss of both hands at or above the wrist;
- d) the loss of one hand at or above the wrist and one foot at or above the ankle;
- e) the permanent and complete paralysis of both legs or both arms or one leg and one arm; or
- f) any injury to the head resulting in an incurable and incapacitating reduction of mental abilities.

Spouse:

“...a person is to be considered a spouse of a worker if  
a) a person is married to the worker;





# Workers' Safety & Compensation Commission

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## PENSION ENTITLEMENT

- b) the person has, in good faith, entered into a marriage with the worker that is void or voidable; or
- c) the person is living in a conjugal relationship outside marriage with the worker and
  - i. they have so lived for at least one year; or
  - ii. the relationship is one of permanence and they are together the natural or adoptive parents of a child.

(2) To determine whether a person is a surviving spouse of a worker, the provisions of subsection (1) are to be applied as of the day immediately preceding the day the worker's death occurred.” (per S. 7 of the *Workers' Compensation Acts*)

## Year's Maximum Insurable Remuneration (YMIR)

“...a prescribed maximum remuneration for any year for the purposes of determining

- a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1), and
- b) the assessable payroll of employers for the year.” (per ss. 1(1) of the *Workers’ Compensation Acts*)

## POLICY

## Entitlement for Permanently Disabled Workers

When the worker reaches maximum medical recovery and a permanent physical, functional, mental or psychological abnormality or loss remains, the worker is considered to be impaired, and is assessed to determine whether the worker has a partial impairment (PI) or total impairment (TI). A worker with an impairment receives a monthly pension payment based on the worker's Net Annual Remuneration and the percentage of the worker's impairment, determined in accordance with the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

The monthly pension is calculated by multiplying the permanent medical impairment by the worker's net monthly remuneration. The worker's pension cannot exceed the YMIR.













- other dependants may claim entitlement only in the absence of claims from a spouse, dependent children or a natural parent who is not a surviving spouse.
- dependent children are always entitled, regardless of other claimants.





















## PENSION CONVERSIONS AND ADVANCES

- identify a specific purpose for the conversion and provides documentation supporting their long term financial viability.

Where possible, conversions are paid directly to the supplier of the goods or services requested by the worker.

## Denying Applications

The Vice President, Stakeholder Services, may deny an application for a pension conversion when:

- the worker's impairment is unsettled and there is significant risk of deterioration; or
- the worker has not returned to an employment lifestyle.

The Vice President, Stakeholder Services, denies all applications for a pension conversion when:

- a third party action is underway or contemplated as a result of the incident that caused the worker's injury or death; or
- the worker's claim is under Review or Appeal.

*Independent Financial Advice*

The WSCC offers independent financial advice for workers who request a pension conversion. Independent financial advice is not a substitute for long-term financial planning; it assists the worker in making informed financial decisions concerning a pension conversion and to assist with the collection of financial information required by the WSCC.

Independent financial advice is obtained from an advisor who is:

- a person with a professional accounting or certified financial planning designation such as a CA, or CMA or CGA, CFA or CAFM;
- a qualified officer from a financial institution; or
- a person with a minimum experience of five years as a Financial Planning Consultant.

The WSCC requires confirmation of the independent financial advisor's qualifications.

## Calculating a Pension Conversion

Pension conversions are calculated using a discount factor. The WSCC multiplies the monthly pension by a factor that combines a discount rate and an actuarial life.

There is no dollar limit on the amount of a pension conversion.









## HISTORY

Policy 06.02 (Jun 13/14)	Pension Conversions and Advances (Non-Substantive Change)
Policy 06.02 (Mar 27/12)	Pension Conversions and Advances
Policy 06.02 (Sep 25/08)	Pension Conversions and Advances
Policy 06.02 (Dec 5/03)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Aug 31/01)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Jan 18/01)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Oct 26/95)	Lump Sum Payments and Advances on Pensions
Policy 3.003 (Dec 15/93)	Commutation of Pensions and Lump Sum Payments

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Chairperson





# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides monthly pension payments to workers with an impairment resulting from a work-related injury or disease. In the case of fatal workplace incidents, the WSCC makes these payments to the workers' dependants.

This policy explains how the WSCC calculates impairment compensation.

## DEFINITIONS

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not happen. Annual Remuneration cannot exceed the Year's Maximum Insurable Remuneration (YMIR).
Calendar Year:	A year starting January 1 <sup>st</sup> and ending December 31 <sup>st</sup> .
Consumer Price Index (CPI):	An indicator of changes in consumer prices experienced by Canadians. It is obtained by comparing, over time, the cost of a fixed basket of goods and services purchased by consumers.
Disability:	“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the Workers’ Compensation Acts)
Impairment:	“means the condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker’s personal injury or disease” (per 1(1) of the Workers’ Compensation Acts)
Learner:	“... a person who, although not under a contract of service is...





# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

- (i) undergoing training or probationary work as a preliminary to employment with an employer;” (per ss. 4(1)(b) of the *Workers’ Compensation Acts*).

Net Annual Remuneration: “... the amount of the worker's annual remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations;” (per s. 59 of the *Worker's Compensation Acts*).

Net Monthly Remuneration: “... an amount equal to 1/12 of the net annual remuneration of the worker determined under section 59, for the year in which the personal injury, disease or death occurred;” (per s.1(1) of the *Workers’ Compensation Acts*).

**Partial Employment:** Partial employment is non-seasonal employment that is meant to last less than twelve consecutive months.

Partial Impairment (PI):	A partial reduction in physical, functional, mental or psychological abilities. The WSCC determines PI using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> . The WSCC may consider a worker seriously and permanently disfigured as having a PI.
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Permanent Medical Impairment (PMI):	An impairment which remains after the passage of a sufficient period of time to allow maximum medical recovery, which is when further medical or surgical interventions will have negligible impact on restoration of function. The impairment must result from a compensable injury as determined by a WSCC Medical Advisor, using the most recent version of the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i> .
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# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

Remuneration:	A worker's remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonus, tips and other benefits defined under the <i>Workers' Compensation Acts</i> .
Seasonal Employment:	Work only done during certain times of the year. The work can take place annually.
Similar Employment:	Employment in a similar industry and a geographic region with a similar economic environment to that of the worker's current employment.
Supplementary Pension Increase (SPI):	The annual percentage the WSCC uses to adjust pensions to keep their value even with the rate of inflation.
Total Impairment (TI):	<p>A total reduction in physical, functional, mental or psychological ability. The WSCC determines TI using the <i>American Medical Association Guide to the Evaluation of Permanent Impairment</i>.</p> <p>Subsection 41(4) of the <i>Workers' Compensation Acts</i> deems the following conditions as TI:</p> <ul style="list-style-type: none"> <li>• total and permanent loss of sight in both eyes;</li> <li>• the loss of both feet at or above the ankle;</li> <li>• the loss of both hands at or above the wrist;</li> <li>• the loss of one hand at or above the wrist and one foot at or above the ankle;</li> <li>• the permanent and complete paralysis of both legs or both arms or one leg and one arm; or</li> <li>• any injury to the head resulting in an incurable and incapacitating reduction of mental abilities.</li> </ul>





# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

Work Release Program:

A program that allows an inmate to work outside the correctional facility for wages before they are released.

Year's Maximum Insurable  
Remuneration:

“... a prescribed maximum remuneration for any year for the purposes of determining:

- (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under section 5(1), and
- (b) the assessable payroll of employers for the year.” (per ss. 1(1) of the *Workers’ Compensation Acts*).

## POLICY

## General

There are two categories of impairment compensation:

- partial impairment (PI); and
- total impairment (TI).

The WSCC considers an injury or disease an impairment if permanent physical, functional, mental or psychological abnormality or loss remains once the worker reaches maximum medical recovery.

The WSCC calculates a worker's impairment compensation using the following steps:

- determine or estimate the worker's Annual Remuneration;
- if the worker's Annual Remuneration is greater than the Year's Maximum Insurable Remuneration (YMIR), limit their Annual Remuneration to the YMIR;
- calculate the worker's Net Annual Remuneration; and
- calculate the compensation payable.





## CALCULATION OF PERMANENT COMPENSATION

## Determining or Estimating Annual Remuneration

The WSCC determines a worker's Annual Remuneration as the amount the worker would have earned in that year if their work-related injury or disease did not occur.

When the WSCC determines or estimates a worker's Annual Remuneration, it includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips, and other benefits (including Employment Insurance benefits), defined under the *Workers' Compensation Acts*. A worker's annual remuneration cannot exceed the YMIR for the calendar year in which the injury or disease occurred.

The WSCC takes into account any factors it considers appropriate when determining a worker's annual remuneration. When necessary the WSCC may take into account factors including the workers' remuneration from a representative annual period or the remuneration of a worker in similar employment.

The WSCC may choose a year other than the year of injury/disease for the basis of calculating the worker's Annual Remuneration if:

- the WSCC cannot determine what the worker would have earned in the year of injury/disease; or
- if the Annual Remuneration that would have been earned in the year of injury/disease does not accurately represent the worker's usual annual earnings.

The alternative year is chosen by examining the worker's employment history and using the most recent Annual Remuneration that is representative of the remuneration typically earned by the claimant during an annual period of employment.

### Workers without a Documented Employment History

The WSCC uses the annual remuneration earned by a worker in the same or similar employment to determine the annual remuneration of a worker when documentation cannot prove the worker's employment history.

### Seasonal Employment and Partial Employment of Less than Twelve Consecutive Months

A seasonal or partially employed worker's impairment compensation is calculated using the worker's Annual Remuneration, which is based on the method outlined in this policy above.









## CALCULATION OF PERMANENT COMPENSATION

- students in work training or a similar program provided by a school;
- patients in work training or a similar program provided by a health care facility;
- people committed to a correctional facility, under the *Corrections Acts*, working in a work release program; and
- people the *Workers' Compensation General Regulations* designate as workers.

### Multiple Employers

The Annual Remuneration for a worker with more than one employer is the total of the annual remuneration from all the worker's employers.

## Applying the Year's Maximum Insurable Remuneration

A worker's Annual Remuneration cannot exceed the YMIR for the year of their injury. In cases where the worker's remuneration exceeds the YMIR, their Annual Remuneration will equal the YMIR of the year the injury or disease occurred.

## Calculating Net Annual Remuneration

The WSCC calculates a worker's Net Annual Remuneration by deducting the following from the worker's Annual Remuneration:

- the income tax payable by the worker for the year under the Territorial and Federal *Income Tax Acts* as calculated according to the *Workers' Compensation General Regulations*; and
- the contributions payable by the worker for the year under the *Canada Pension Plan*; and
- the premiums payable by the worker for the year under the *Employment Insurance Act* (Canada).

## Calculating Compensation Payable

### Total Impairment Compensation

The WSCC pays compensation to a worker who suffers Total Impairment (TI) based on 90% of the worker's Net Monthly Remuneration.

If a worker's monthly TI benefit is less than 2.75% of the YMIR for the year of their injury, the WSCC increases their compensation payment to the lower of either 100% of the worker's Net Monthly Remuneration, or 2.75% of YMIR.





## CALCULATION OF PERMANENT COMPENSATION

### *Partial Impairment Compensation*

The WSCC pays compensation to a worker who suffers a Partial Impairment (PI) based on 90% of the Worker's Net Monthly Remuneration multiplied by the percentage of their impairment. The WSCC determines this percentage using the *American Medical Association Guide to the Evaluation of Permanent Impairment* (AMA). This is called the Basic Pension Benefit.

*Other*

The WSCC may adjust a TI or PI to reflect a change in the worker's condition. This may increase or decrease the compensation amount.

## Additional Compensation

### Criteria

The WSCC may pay an injured worker Additional Compensation if the WSCC determines the compensation is inadequate because:

- the percentage of the worker's earning capacity lost because of the impairment is greater than the percentage of the impairment; or
- the worker's Net Annual Remuneration before their injury did not fairly represent the worker's probable earning capacity.

A worker must participate in a vocational rehabilitation program to develop or redevelop employment capabilities before the WSCC considers Additional Compensation. The WSCC may waive this requirement if it considers that there is a justifiable reason why the worker did not participate in a vocational rehabilitation program.

The Director, Claims Services must approve additional compensation for workers.

### Calculating Additional Compensation

The combined total of the worker's Additional Compensation, Basic Pension Benefit and current employment remuneration cannot exceed 90% of the worker's Net Monthly Remuneration.









## CALCULATION OF PERMANENT COMPENSATION

A worker who suffers the recurrence of a partial disability (PD) or total disability (TD) from their original injury or disease is entitled to compensation. If the recurrence is suffered by a worker receiving a pension for a PI for the original injury or disease, the amount is equal to the compensation payable for their disability less their monthly PI pension adjusted for the SPI.

The WSCC determines disability compensation for the recurrence of an original injury or disease using the net monthly remuneration in either the year the original injury or disease occurred, or the year the worker suffered the disability, whichever is greater.

In the case of workers who chose a lump sum pension payment rather than receiving a monthly pension, the WSCC:

- calculates the amount the lump sum would be as a monthly payment;
- includes all SPI's applied to the monthly payment in the adjustment; and
- deducts the monthly payment amount from the disability compensation.

### *Multiple Injuries or Diseases*

If a worker who already receives a pension for a PI suffers another injury or disease the WSCC will pay the worker, if entitled, full disability or impairment compensation. This is in addition to the amount the WSCC already pays the worker for their PI.

## LEGISLATIVE AUTHORITIES

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 41; 42; 43; 44; 45; 57; 58; 59
Nunavut <i>Workers' Compensation Act</i> :	Sections 41; 42; 43; 44; 45; 57; 58; 59
Northwest Territories <i>Workers' Compensation General Regulations</i> :	Sections 1; 10
Nunavut <i>Workers' Compensation General Regulations</i> :	Sections 1; 10

## POLICY RELATED DOCUMENTS

Policy 02.05	Reporting Payroll
Policy 03.03	Arising out of and During the Course of Employment





# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

Policy 03.05	Renewable Resource Harvesters
Policy 03.07	Calculation of Temporary Compensation
Policy 04.01	Payment of Compensation
Policy 06.01	Pension Entitlement
Policy 06.02	Pension Conversions and Advances

## HISTORY

Policy 06.03 (Jun 3/2019)	Calculation of Permanent Compensation (Non-Substantive Change February 10, 2020)
Policy 06.03 (Jun 3/2019)	Calculation of Permanent Compensation
Policy 06.03 (Dec 3/2014)	Calculation of Permanent Compensation
Policy 06.03 (Jun 3/2013)	Calculation of Permanent Compensation
Policy 06.03 (Mar 25/10)	Calculation of Permanent Compensation
Policy 06.03 (Mar 31/08)	Calculation of Permanent Compensation
Policy 06.03 (May 14/04)	Calculation of Permanent Compensation, Non-substantive changes (Seasonal and/or non-permanent employment; Regulation 4.2(1); YMIR definition)
Policy 06.03 (Jan 1/04)	Calculation of Permanent Compensation, Non-substantive changes (Governance Council)
Policy 06.03 (Oct 23/03)	Calculation of Permanent Compensation
Policy 03.07 (Oct 31/02)	Calculation of Compensation Benefits
Policy 03.07 (Apr 19/01)	Calculation of Compensation Benefits
Policy 03.07 (Apr 21/99)	Calculation of Compensation Benefits
Policy 03.07 (Jul 16/98)	Calculation of Compensation Benefits
Policy 03.07 (Oct 1/95)	Calculation of Compensation Benefits
Policy 06.01 (Aug 31/01)	Pension Entitlement
Policy 06.01 (Apr 21/99)	Pension Entitlement
Policy 06.01 (Jan 1/96)	Pension Entitlement
Policy 2.002 (Sep 15/94)	Supplementary Pension Increase
Policy 20-07-02 (Jan 87)	Compensation Calculation (Y.M.I.R.)
Policy 20-07-03 (Feb 21/90)	Minimum Compensation
Policy 20-07-04 (Dec/81)	Temporary Rates
Policy 20-07-05 (Dec/81)	Casual Worker
Policy 20-07-06 (Dec/81)	Concurrent Employment
Policy 20-07-07 (Dec/81)	Calculations for Two or More Jobs
Policy 20-07-10 (Dec/81)	Deductions from TTD Re: Maximum Compensation
Policy 20-07-11 (Dec/81)	Temporary Partial Disability





# Workers' Safety & Compensation Commission

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## CALCULATION OF PERMANENT COMPENSATION

Policy 30-03-13a (Aug 03/93)  
Policy 5.001 (Jan 20/93)  
Regulation C-16 (Nov 5/79)  
Directive D-5 (Mar 28/77)

# Acceptance of Personal Optional Coverage Board and Lodging Calculation – Total Disability Benefits Workers Injured While Employed on Tour of Duty

Chairperson





## DEFINITIONS

Personal Information: “... information about an identifiable individual, including

- a) the individual’s name, home or business address or home or business telephone number,
- b) the individual’s race, colour, national or ethnic origin or religious or political beliefs or associations,
- c) the individual’s age, sex, sexual orientation, marital status or family status,
- d) an identifying number, symbol or other particular assigned to the individual,
- e) the individual’s fingerprints, blood type or





# Workers' Safety & Compensation Commission

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## ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION INFORMATION

- inheritable characteristics,
- f) information about the individual's health and health care history, including information about a physical or mental disability,
- g) information about the individual's educational, financial, criminal or employment history
- h) anyone else's opinions about the individual,
- i) the individual's personal opinions, except where they are about someone else" (s. 2 of the *Access to Information and Protection of Privacy Acts*).

Representative:

An individual or entity acting on behalf of a claimant, employer or other related party. Includes:

- a claimant's legal counsel;
- the Workers' Advisor;
- a union or workers' association official; and
- any other person a claimant or employer designates to represent them.

## POLICY

## General

The WSCC provides information to claimants, employers and other applicants, under the authority of the Northwest Territories and Nunavut *Workers' Compensation Acts*, *Access to Information and Protection of Privacy Acts*.

All requests for information in the custody and control of the WSCC must be made in writing and must be signed by the person requesting the information.

This policy describes when and how the WSCC provides information to claimants, employers, and other individuals without needing to submit an access to information request under authority of the *ATIPP Acts*. This policy also outlines situations where individuals must submit an access to information request under the authority of the *ATIPP Acts*.

## Claimant Access to Claimant Information

Claimants have access to all information that is generated while processing their claim for compensation, aside from personal information of third parties or information as













## Disclosure Requests from Other Individuals

## Media

## ***Auditors***

### ***External Legal Counsel***

**Information and Privacy Commissioner**

## Research

## LEGISLATIVE AUTHORITIES





# Workers' Safety & Compensation Commission

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## ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION INFORMATION

Northwest Territories <i>Workers' Compensation Act</i> :	Sections 63; 95; 110; 161; 162; 163; 164 Subsections 25(5)
Nunavut <i>Workers' Compensation Act</i> :	Sections 63; 95; 110; 161; 162; 163; 164 Subsections 25(5)
Northwest Territories <i>Access to Information and Protection of Privacy Act</i> :	Sections 12; 24; 40; 41; 42; 48; 49; 52
Nunavut <i>Access to Information and Protection of Privacy Act</i> :	Sections 12; 24; 40; 41; 42; 48; 49; 52
Northwest Territories <i>Access to Information and Protection of Privacy Regulations</i> :	Sections 11; 12; 13; 14
Nunavut <i>Access to Information and Protection of Privacy Regulations</i> :	Sections 11; 12; 13; 14

## POLICY RELATED DOCUMENTS

Policy 00.03	Interjurisdictional Agreements
Policy 00.06	Third Party Actions
Policy 04.11	Claims Management
Policy 08.01	Reviewing and Appealing Decisions

## HISTORY

Policy 07.01 (Dec 4/15)	Access to Workers' Safety and Compensation Commission Information
Policy 07.01 (Sep/14/11)	Access to Information
Policy 07.02 (Sep/14/11)	Employer File Information Access
Policy 07.03 (Sep/14/11))	Inspection Reports Information Access
Policy 07.01 (Apr 1/08)	Non-Substantive Change (New Workers' Compensation Act(s))
Policy 07.01 (Apr 22/04)	Access to Claim File Information
Policy 07.01 (Oct 18/01)	Access to Claim File Information
Policy 07.01 (Aug 31/01)	Access to Claim File Information
Policy 07.01 (Apr 01/99)	Access to Claim File Information
Policy 07.01 (Jul 16/98)	Access to Claim File Information
Policy 07.01 (May 26/98)	Access to Claim File Information





**Workers' Safety**  
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## **ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION INFORMATION**

Policy 07.01 (Jan 01/96)	Access to Claim File Information
Policy 1.003 (Jul 22/92)	Access to Claim Files – Issue in Dispute
Policy 1.004 (Jul 22/92)	Authorization of Representatives
Policy 1.005 (Nov 18/94)	Release of Worker's Information to Government Agencies
Board Directive 1.003D (Jul 22/92)	Access to Claim Files – Issue in Dispute
Board Directive 1.004D (Jul 22/92)	Authorization of Representatives

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Chairperson





# Workers' Safety & Compensation Commission

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## Personal Information Privacy Protection

## POLICY STATEMENT

The WSCC will only collect, use, and disclose the least amount of personal information required for the purposes of the operation of programs and services established under the Workers' Compensation Acts of the Northwest Territories and Nunavut. The WSCC follows the privacy principles as established in this policy to ensure that the privacy of personal information is protected. The WSCC upholds its legislative duties to protect privacy, as required under in the Workers' Compensation Acts, Health Information Act, Safety Acts, and Access to Information and Protection of Privacy Acts.

## DEFINITIONS

**Authorized Representative:** An individual or entity acting on behalf of a claimant, employer or other related party. Includes:

- a claimant's legal counsel;
- the Workers' Advisor;
- a union or workers' association official; or
- any other person a claimant or employer designates to represent them.

Claimant: “... a person claiming compensation,” (per ss. 1(1) of the Workers’ Compensation Act(s)).

Employer: “...  
 (a) any person or entity that employs one or more other persons under a contract of service;  
 (b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer under paragraph 6(2)(d).” (ss. 8(1) of the *Workers’ Compensation Act(s)*).

Health Care Provider: “...a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or another class of persons whose qualifications to practice any of the healing professions are accepted by the Commission” (per ss. 1(1) of the Workers’ Compensation Acts).

Personal Information: “means information about an identifiable individual, including:





# Workers' Safety & Compensation Commission

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## Personal Information Privacy Protection

- (a) the individual's name, home, or business address, or home or business telephone number,
- (b) the individual's race, colour, national or ethnic origin or religious or political beliefs or associations,
- (c) the individual's age, sex, sexual orientation, marital status or family status,
- (d) an identifying number, symbol or other particular assigned to the individual,
- (e) the individual's fingerprints, blood type or inheritable characteristics,
- (f) information about the individual's health and health care history, including information about a physical or mental disability,
- (g) information about the individual's educational, financial, criminal or employment history,
- (h) anyone else's opinions about the individual,
- (i) The individual's personal opinions, except where they are about someone else." (s. 2, Access to Information and Protection of Privacy Acts, Northwest Territories and Nunavut).

Public Body:

“means

- (a) a department, branch or office of the Government of the Northwest Territories, or
- (b) an agency, board, commission, corporation, office or other body designated in the regulations, but does not include
- (c) the Office of the Legislative Assembly or the office of a member of the Legislative Assembly or a member of the Executive Council;” (s. 2, Access to Information and Protection of Privacy Acts, Northwest Territories and Nunavut).

Record:

“A record of information, regardless of its form and characteristics, the means by which it was created and the media on which it may be stored, and without limiting the generality of the foregoing, includes









Workers' Safety  
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## Personal Information Privacy Protection

### Privacy Principles

#### *Principle 1 - Accountability*

An organization is responsible for personal information under its control. It must appoint someone to be accountable for its compliance with these fair information principles.

#### *Principle 2 - Identifying Purposes*

The purposes for which the personal information is being collected must be identified by the organization before or at the time of collection.

#### *Principle 3 – Notification and Authorization*

The individual is notified of the purpose for collection, use, or disclosure and the relevant legislation that authorizes these actions, except where inappropriate, or where the knowledge of the collection would compromise its accuracy. When required, authorization of the individual is secured for additional collection, use, or disclosure of personal information.

#### *Principle 4 - Limiting Collection*

The collection of personal information must be limited to that which is needed for the purposes identified by the organization. Information must be collected by fair and lawful means.

#### *Principle 5 - Limiting Use, Disclosure, and Retention*

Unless the individual consents otherwise or it is required by law, personal information can only be used or disclosed for the purposes for which it was collected. Personal information must only be kept as long as required to serve those purposes.

#### *Principle 6 - Accuracy*

Personal information must be as accurate, complete, and up-to-date as possible in order to properly satisfy the purposes for which it is to be used.

#### *Principle 7 - Safeguards*

Personal information must be protected by appropriate security relative to the sensitivity of the information.

#### *Principle 8 - Openness*

An organization must make detailed information about its policies and practices relating to the management of personal information publicly and readily available.









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## Personal Information Privacy Protection

### *Privacy Impact Assessments*

When the WSCC develops a new program or service, or redesigns an existing program or service, a preliminary assessment is undertaken by the project lead to determine whether a Privacy Impact Assessment (PIA) is required. If privacy implications are identified, the project lead is responsible for conducting a PIA, which must be submitted to the Access to Information and Privacy Protection Coordinator for review and confirmation.

The completed PIA is submitted to the applicable Territorial ATIPP Office, and the Information and Privacy Commissioner where deemed appropriate or necessary.

### **Collection of Personal Information**

The WSCC may require a claimant, an employer, or a health care provider to provide any information that it considers necessary in order to make a determination on a claim, manage an employer account, or to ensure regulatory compliance.

The WSCC only collects information that it requires for the operation of programs and services established under the Acts.

The WSCC may collect personal information for purposes which include, but are not limited to:

- making a determination on a claim (including reviews and appeals);
- providing and administering services;
- assigning claims costs;
- administering employer accounts;
- advancement of a third-party legal action by the WSCC;
- law enforcement and investigations;
- regulatory compliance; or
- other purposes allowed for under legislation that the WSCC is responsible for administering or the ATIPP Act.

Where reasonably possible, the WSCC collects personal information directly from the individual. The following outlines exceptions to this rule:

- The collection of personal information is authorized by the Workers' Compensation Act or other enactment;
- The individual has provided knowledgeable consent to another method of collection (e.g. authorizing the collection from a representative);





# Workers' Safety & Compensation Commission

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## Personal Information Privacy Protection

- In instances, where collection from the individual may not result in accurate information being received to verify the eligibility of an individual to participate in a program or receive a benefit established under the Acts, the WSCC may collect this information from a third party; or,
- The information is collected for the purpose of investigating an offence under the Acts, or other law enforcement purpose; or,
- The information is collected for the purpose of collecting a fine or a debt owed to the WSCC.

Examples of the types of personal information that the WSCC collects include, but are not limited to:

- An injured worker's name, phone number, and address;
- Description of incident;
- Employer information;
- Earnings information;
- Medical information specific to the work-related injury/disease; and/or
- Medical information specific to other conditions that may impact the work-related injury/disease.

The stakeholder is required to cooperate with the WSCC in order to ensure that the required information is provided or made available through authorized consents or other means of requesting the required information.

If a claimant is considered to have willfully failed to provide information that the WSCC requires in order to decide a matter related to their claim, the WSCC may reduce, suspend or terminate compensation to the claimant, in accordance with Policy 04.01, Payment of Compensation.

If an employer fails to provide information that the WSCC requires, the employer may be subject to a penalty.

## Notification to Claimant

The ATIPP Acts permit the WSCC to collect, use and disclose personal information necessary to administer the Workers' Compensation Acts. When the WSCC requires the collection of personal information, it will inform the individual who the information is about of the following:

- the purpose for collecting the information;
- the specific legal authority that allows the WSCC to collect the information; and,





- the title and contact information for the employee at the WSCC who can answer questions about the collection.

Notification regarding the collection of information may not be required where it might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected (e.g. investigations of misrepresentation).

*Authorization for Third Party Disclosure of Personal Information to the WSCC*

To expedite the collection of information necessary to make determinations on a claim, the WSCC may request the claimant to provide a signed authorization for disclosure form to allow health care providers and health care facilities to disclose personal health information to the WSCC. The request for authorization for disclosure will include details on the specific nature of the information being requested, the purpose of the collection, proposed uses and further disclosures, and any timelines or other parameters that may limit the scope of the information to be collected.

Where a claimant has signed an authorization for disclosure form for the collection of personal health information, the WSCC will ensure that the claimant is aware of the significance of the consent being provided and how it impacts the way personal information is handled.

### *Withdrawing or Limiting Authorization for Use, Collection, or Disclosure*

A claimant may withdraw or limit their authorization for the use, collection or disclosure of information. If a claimant chooses to withdraw or limit their authorization for the use, collection, or disclosure of their personal information, it may impact whether a claim is entitled and/or a claimant's eligibility for compensation. Any reduction, suspension or termination of compensation due to required information not being provided will be done in accordance with Policy 04.01, Payment of Compensation.

The WSCC will only collect information that it requires in order to determine a matter under its jurisdiction.

## Unsolicited Information

If unsolicited information is received regarding a stakeholder, the WSCC will investigate to determine if the information is relevant and accurate prior to adding it to the stakeholder's record/file.



## Personal Information Privacy Protection

The WSCC will promptly remove any irrelevant or inaccurate unsolicited information identified on a stakeholder's file, and will destroy unsolicited information and dispose of it in accordance with WSCC's records management policies when:

- the unsolicited information is determined to be inaccurate;
- the accuracy of the unsolicited information cannot be determined; or
- the unsolicited information is determined to be irrelevant to the administration of the stakeholder's file.

Where unsolicited information includes accurate and relevant information, as well as information that is either inaccurate or irrelevant, only the relevant and accurate information is retained.

Where unsolicited information is obtained from an identifiable source, the identified source will be advised that the information may be disclosed to the stakeholder. If the identified source wishes to remain anonymous, the information will be treated as anonymous information.

## Use of Personal Information

The WSCC may use personal information:

- only for the purposes for which that information was collected or compiled or for a use consistent with that purpose;
- if the individual the information is about has consented to its use; or,
- for a purpose for which the information was lawfully disclosed to the WSCC under the ATIPP Act.

Where the WSCC uses an individual's personal information to make a decision that directly affects that individual (e.g. a decision regarding claim entitlement), the WSCC will make every reasonable effort to ensure that the information is accurate and complete. In addition, the WSCC will retain that information in accordance with established retention schedules, and for at least one year after collection to provide the individual a reasonable opportunity to access the information.

Personal information provided to the WSCC will only be available to, and used by, those who require access to a particular person's personal information for the purpose of administering that person's file. Note that persons other than the decision maker assigned to an individual's file may require access to that individual's personal information from time to time, as necessary in accordance with their job duties. For example, the ATIPP Coordinator in the case of a privacy breach, an Internal Auditor with respect to an audit, or a Claims Supervisor/Manager for purposes of verification or quality assurance, etc.







An individual may request the Information and Privacy Commissioner of the Northwest Territories, or Nunavut, whichever is most applicable and/or appropriate, to review whether the WSCC has collected, used, or disclosed their personal information in contravention of the Access to Information and Protection of Privacy Act.

## LEGISLATIVE AUTHORITIES

Northwest Territories, <i>Health Information Act</i>	Section 1(1)
Northwest Territories, <i>Access to Information and Protection of Privacy Act</i>	Sections 2; 40; 41; 42, 43
Nunavut, <i>Access to Information and Protection of Privacy Act</i>	Sections 2; 40; 41; 42, 43
Northwest Territories, <i>Workers' Compensation Act</i>	Sections 25; 30; 1(1); 72(3)(d); 73(c); 81; 142(2)(b); 161; 162; 164(2); 166; and 167
Nunavut, <i>Workers' Compensation Act</i>	Sections 25; 30; 1(1); 72(3)(d); 73(c); 81; 142(2)(b); 161; 162; 164(2); 166; and 167
Northwest Territories, <i>Archives Act</i>	Sections 1, 5, 9
Nunavut, <i>Archives Act</i>	Sections 1, 5, 9
Northwest Territories, <i>Safety Act</i>	Section 11
Nunavut, <i>Safety Act</i>	Section 11

## POLICY RELATED DOCUMENTS

Policy 07.01                      Access to Workers' Safety and Compensation  
Commission Information

## HISTORY

## New Policy

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Chairperson





## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) makes decisions on claims for compensation and employers' accounts. Claimants or employers, who disagree with a decision, may request a review of the WSCC's decision. Such a review is conducted by the Review Committee

## DEFINITIONS

Compensation:	“...means any medical aid, payment, money, pension, vocational rehabilitation, counseling or other benefit payable or provided under this Act as a result of a worker’s personal injury, disease or death;” (per ss. 1(1) of the <i>Workers’ Compensation Act(s)</i> ).
Claimant:	“...means a person claiming compensation.” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> )
Evidence	Information that is accepted by a decision-maker as relevant to a matter under consideration and which has value in helping confirm, corroborate, or arriving at a conclusion (e.g. testimony, writings, reports, material objects, or other things).
Documentary Review:	A review of a decision using written information from a claim file or employer file, in addition to any written submissions provided by the review participants.
Oral Hearing:	An opportunity to present a submission or provide information considered to be relevant to a review which is conducted in-person, by teleconference, or by videoconference.
Review Committee	A Committee composed of WSCC staff that will, upon request by a Claimant or Employer, conduct an impartial review of a WSCC decision. (as per s. 112 of the <i>Workers’ Compensation Acts</i> )





## REVIEWING DECISIONS

**Review Requestor:** The individual, or organization, requesting a review of a decision.

Workers' Advisor: "...the Workers' Advisor appointed under subsection 107(3)." (per ss. 1(1) of the *Workers' Compensation Acts*)

## POLICY

## General

The Northwest Territories' and Nunavut's *Workers' Compensation Acts* (Acts) provide the Review Committee with the authority to review a WSCC decision.

The WSCC Review Committee may exercise any of the powers available to the WSCC when making a decision under review.

Claimants and employers or their representatives may, in writing, request a review of a WSCC decision respecting a claim for compensation.

Employers may also request a review of a decision concerning:

- the classification of the employer and the determination of claims experience;
- the liability for, or the amount of, an assessment;
- 
- whether the employer is a successor or related employer, or subject to common control; or
- whether the individual or organization is an employer; or
- whether a person is a worker of the employer.

Industry classification assessment rates set by the Governance Council are not reviewable by the Review Committee.

All WSCC decisions are in effect until the Review Committee renders a decision.

For clarity, an employer remains liable to pay any assessment owing to the WSCC pending the final decision of a review.

When the decision on a claim results in a change to benefits, the effective date is retroactive to the date the worker or dependent was determined to be entitled, or not entitled, to the benefits addressed by the review decision. Instances where the review decision results in an overpayment due to the claimant no longer being entitled to









# Workers' Safety & Compensation Commission

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## REVIEWING DECISIONS

exceeded the allowable time limit. In this situation, the requestor of a review should include any written information which supports the reasons for the late request for review.

The written request for a review submitted by a Review Requestor must contain:

- the claim number or employer account number;
- the date of the decision letter to be reviewed;
- the decision that is disagreed with;
- the reasons for the disagreement;
- the decision the Review Requestor believes the WSCC should make; and,
- whether an oral hearing or a documentary review is being requested.

The Review Committee determines whether the request for review is within its jurisdiction under Section 113 and 114 of the *Acts*.

The Review Committee determines the scope of the review based on the issue(s) identified in the request for review. The Review Committee is unable to decide upon, or address, issues outside of the issues initially communicated by the Review Committee and agreed upon by a Review Requestor. If additional issues are identified during the review process which the Review Requestor wishes to have reviewed, an additional request for review is required.

If the requested review is not within the authority of the Review Committee, it may be determined to be a request for reconsideration. In such instances, the request is forwarded to the original decision maker to decide if a request for reconsideration is accepted. If it is no longer possible for the original decision-maker to receive the request, the request will be submitted to the WSCC staff member currently responsible for decision-making on the account or file. The Review Requestor is advised if this occurs.

All requests for reconsideration not being decided by Review Committee members, are assessed according to the provisions outlined in Policy 00.02, Reconsidering Decisions.

## Evidence

Review Requestors are provided the opportunity to submit all relevant evidence and provide a statement during a review. If a Review Requestor presents new evidence during the review process that has become available after the decision being reviewed was made, the Review Committee may either:

- consider the new evidence when making its decision; or





## REVIEWING DECISIONS

- provide the new evidence to the WSCC employee who made the original decision, or the WSCC employee currently responsible for decision making on the account or file if the original decision-maker is no longer available, and ask that employee to reconsider the original decision.

New evidence must meet two basic criteria:

- it must be credible and relevant to the issue in question; and
- it must give new substantive information not previously available to the decision-maker that could affect the outcome of the decision.

Evidence is not new when it summarizes or reformats information previously considered by the previous decision maker.

The Review Committee member conducting a review is responsible for determining whether evidence, submitted as new evidence, is relevant, credible and substantive.

The Review Committee may accept any evidence, in any form, if it is determined to be relevant or have value in deciding on the issue under review. When new evidence is submitted during a review, the Review Committee member will share that evidence with all the participants of the review.

Participants in a review, or their authorized representatives, must present evidence and make submission that are directly relevant to the issue under review.

## Hearing

The Review Committee holds a documentary review, unless the Review Requestor indicates preference for an oral hearing. Participation in oral hearings may occur in person, by teleconference, or by videoconference. An in-person hearing may occur in Yellowknife or Iqaluit. The Review Committee chooses between these options in discussion with the review participants. The WSCC pays for the costs of teleconferencing or videoconferencing for an oral hearing. The WSCC does not reimburse Review Requestors, witnesses or other parties to the review for expenses incurred as a result of their participation in the Review Committee hearing, including, but not limited to: travel costs or lost wages due to time missed from work.

### Medical Examination

The Review Committee may require a Review Requestor to undergo a medical examination in order to reach a decision. The WSCC compensates workers who attend









# Workers' Safety & Compensation Commission

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## REVIEWING DECISIONS

- substantive new information brought forward by a party to the review which requires an extension of time for review and response by other parties; clarification of issue(s) required by the Review Committee;
- resolution of preliminary issue(s) identified by the Review Committee;
- additional information required by the Review Committee; and
- Review Requestor indicates they are not ready to proceed with the review.

The deferral of a review may not be limited to a single occurrence, but may occur multiple times throughout the review process, if required.

When a review is deferred, the review process is interrupted. As a result, the 50 working-day timeline for the completion of a review will be suspended for the duration of the deferral(s).

If a deferral occurs, the reason for the deferral will be communicated to all the parties participating in a review.

## Reconsidering a Review Committee Decision

The Review Committee may initiate a reconsideration of a Review Committee decision on its own initiative, or by request by a claimant, employer or any other person. Each request for reconsideration is evaluated on a case by case basis taking into account:

- any new evidence;
- whether there were errors or omissions in the evidence considered in the previous decision;
- whether the previous decision was consistent with legislation and WSCC policy;
- whether the requestor has a direct interest in the subject matter of the previous decision; and
- whether the party requesting the reconsideration is dealing with the WSCC in good faith and is providing accurate, timely and complete information to the best of their ability when the request for a reconsideration of a decision is made.

Requests for reconsideration must be received by the Review Committee within 3 months from the date that the review decision was made. If a request for reconsideration is due to new evidence, the Review Committee member responsible for making the decision may exercise their discretion to accept the request for reconsideration beyond 3 months from





the date of their decision, if the new evidence is material and may have led to a different decision. In order for evidence to be considered new evidence, it must meet the criteria outlined for New Evidence in this policy.

Before the Review Committee decides if a request for reconsideration is accepted, it will notify all parties to that decision of the reasons provided in support of the request for reconsideration. Each person participating in a review for which a reconsideration has been received will have the opportunity to respond to the reasons why a reconsideration was requested before the decision to accept the request for reconsideration is made.

When a request for reconsideration is received on the basis that the decision either allowed errors or omissions with regards to evidence or that the decision was inconsistent with WSCC policy, or the Acts, the decision of whether to accept the request for reconsideration will be made by a Review Committee member who did not make the original decision.

If a request for a review is denied by the Review Committee, the Review Requestor may still appeal the decision to the Appeals Tribunal, in accordance with the Acts.

## LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*: Sections 112; 113; 114; 115; 116; 128  
Subsections 94(2); 109(2); 109(3) 126(1)(a).

Nunavut *Workers' Compensation Act*: Sections 112; 113; 114; 115; 116;128  
Subsections 94(2);109(2); 109(3);126(1)(a);

## POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 00.08	Decision Making
Policy 02.11	Successor and Related Employers
Policy 03.07	Calculation of Temporary Compensation
Policy 04.02	Medical Aid and Associated Costs
Policy 08.02	Appealing Decisions
Review Committee Terms of Reference	

## HISTORY

Policy 08.01 (Feb/10/20)	Reviewing Decisions (Non-Substantive Change)
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# Workers' Safety & Compensation Commission

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## REVIEWING DECISIONS

Policy 08.01 (Jun 10/16)	Reviewing Decisions
Policy 08.01 (Sep 11/12)	Reviewing and Appealing Decisions
Policy 08.01 (Sep 24/09)	Reviewing and Appealing Decisions
Policy 08.01 (Sep 25/08)	Reviewing and Appealing Decisions
Policy 08.01 (Feb 19/04)	Reviewing and Appealing Decisions
Policy 08.01 (Apr 01/99)	Decision Review
Policy 08.01 (Jul 24/97)	Decision Review
Policy 08.02 (Feb 14/96)	Decision Review: Appeals Tribunal
Policy 08.01 (Feb 14/96)	Decision Review: Review Committee
Policy 25-07-01 (Apr 04/91)	Provision of Right of Review
Policy 30-01-01 (May 1/89)	Employer Appeals
Policy 9.001 (Apr 21/93)	Re-imbursement of Expenses/Wage Loss
Policy 20-03-02( Apr 21/93)	Re-imbursement of Expenses/Wage Loss
Policy 25-08-02 (Apr 21/93)	Re-imbursement of Expenses/Wage Loss

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Chairperson

















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Chairperson





































## General

## Roles and Responsibilities

The Custodian records all financial transactions of the account and processes instructions from the asset owner, external asset managers (if engaged), other financial institutions who transact on the account, and all depository and clearing corporations.





## Investment Objective

The WSCC's primary investment objective is to achieve a long-term rate of return that is sufficient to allow the Commission to fund its benefit liability, cover its operating costs, and set reasonable and stable assessment rates for employers within an investment risk profile deemed appropriate by the Governance Council.

## Asset Allocation and Portfolio Rebalancing

The WSCC requires that the asset allocation, and any required portfolio rebalancing, occur according to the provisions established in the WSCC *Investment Guidelines*.

Asset class positions and weightings will be monitored monthly using portfolio valuations provided by the Custodian. The Oversight Manager retains responsibilities for rebalancing consistent with the allocation ranges and will consider contributions, withdrawals or asset transfers in making rebalancing transfers among investment managers to maintain adherence to targets. All rebalancing activity will be reported quarterly by the VP, Financial Services to the Audit Committee.

## Oversight Manager Evaluation

The WSCC evaluates the Oversight Manager performance each quarter to ensure the WSCC's investment goals and management of the fund are in accordance with the *Investment Guidelines*.

On a quarterly basis, the Oversight Manager reports to the Audit Committee to:

- provide information concerning new developments affecting the firm and its services;
- review transactions in the latest period, assets held at the end of the period and explain how they relate to the strategy advocated;
- explain the most recent performance;
- provide an economic outlook and strategy under such circumstances; and,
- compliance with the provisions of the *Investment Guidelines* or provide explanations where such provisions were violated.

The WSCC may terminate an Oversight Manager if their performance fails to meet the conditions and criteria set out in their contract. In such cases, Administration recommends termination to the Audit Committee. The Governance Council approves all Oversight Manager contract terminations, notifying the Oversight Manager in writing.









# Workers' Safety & Compensation Commission

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## PROCUREMENT

## POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) is committed to the responsible stewardship of the Workers' Protection Fund. To support this, the WSCC treats all prospective goods and services providers fairly and consistently while seeking to obtain the best value.

This policy applies to all WSCC procurement for goods and services.

## DEFINITIONS

Alternative Dispute Resolution (ADR):	Resolution of a dispute through negotiation, mediation, arbitration, or similar means, as opposed to litigation.
Best Value:	The most advantageous balance of price, quality and performance.
Bid:	An offer to sell or provide goods, services, real property, or a combination of these, that is submitted to the Senior Purchasing and Contracts Officer, on behalf of a Spending Authority, in response to a Request for Tender.
Bidder:	“...a person who submits a bid.” (per ss. 1(1) of the <i>Government Contract Regulations</i> )
Contract:	A legal agreement between two or more parties.
Contract Authority:	A WSCC employee with Spending Authority who is responsible for managing a contract for service on behalf of the WSCC.
Contract for Service:	An agreement in which neither party controls or supervises the other. An employment relationship does not exist.
Final Payment:	The payment that brings the balance owed by the WSCC to zero.
Northern Content:	The dollar value of the goods and services required by





# Workers' Safety & Compensation Commission

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## PROCUREMENT

a contract that is supplied by a northern business.

Northern Incentive Adjustment: An incentive adjustment of 15 percent deducted from the portion of a bid or proposal containing northern content that is applied to Bids and Proposals greater than \$25,000.

Professional Services: “... professional services and advice including services and advice provided by an architect, engineer or accountant...” (per s. 10(1) of the *Government Contract Regulations*)

Progress Payment:	A payment made under a contract when a contractually defined progress milestone is reached.
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Proponent: “...a person who submits a proposal.” (per ss. 1(1) of the *Government Contract Regulations*)

**Proposal:** An offer to provide goods, services, real property, or a combination of these, that is submitted to the Senior Purchasing and Contracts Officer, on behalf of a Spending Authority, in response to a request for proposal.

Request for Proposal (RFP): “...a solicitation, made by public advertisement or private invitation, of proposals in respect of a proposed contract.” (per ss. 1(1) of the *Government Contract Regulations*)

Request for Quotation: The solicitation of a quote by the WSCC for a purchase greater than \$1,000 and less than \$5,000.

Request for Tender (RFT): “...a solicitation, made by public advertisement or private invitation, of bids in respect of a proposed contract.” (per ss. 1(1) of the *Government Contract Regulations*)

Security:	Collateral given or pledged to guarantee the fulfillment of an obligation.
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Sole-Source Contract:	A procurement mechanism to obtain goods or services
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from a specific supplier without seeking competitive bids.

Spending Authority:

The authority required to enter into contracts and initiate payments for the purchase of goods or services on the WSCC's behalf.

This definition refers to the authority itself, as well as to the person with such authority.

### Workers' Protection Fund:

“...the fund continued by subsection 67(1) for the payment of compensation and other outlays and expenses authorized under this Act.” (per ss. 1(1) of the *Workers’ Compensation Acts*)

## POLICY

This policy applies to all contracts the WSCC enters into, excluding contracts for goods or services listed in subsection 2(2) of the *Government Contract Regulations* of the Northwest Territories and those goods and services for which the WSCC pays on behalf of a claimant.

The WSCC only awards a Tender or Proposal to goods or service providers who are in good standing with the WSCC or relevant workers' compensation body, if applicable.

## Spending Authority

Subject to this policy and related Administrative Policies, a Spending Authority may enter into a contract or negotiate the amount payable under a contract, up to the amount of the employee's spending authority. A Spending Authority may also terminate or renegotiate non-monetary contract terms with the President's approval.

The WSCC ensures that only Spending Authorities enter into contracts on the WSCC's behalf. Spending Authorities can only enter into contracts when sufficient funds are available.

Only the Vice President, Corporate Services or another Spending Authority from the Information Services Unit may enter into contracts for the purchase of computer hardware or software.





Workers' Safety  
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## PROCUREMENT

### Purchases Less Than \$5,000

A Spending Authority may purchase goods or services with an estimated value of less than \$5,000 without submitting a Request for Tender or Request for Proposal. These purchases may be made directly from a goods or services provider using a purchase order, Contract for Service, or corporate credit card.

Whenever possible, Northern Businesses will be given priority.

For purchases equal to or greater than \$1,000, but less than \$5,000, a request for quotations where the WSCC seeks at least three quotes, is encouraged as best practice.

The Senior Purchasing and Contracts Officer will be contacted when a purchase for services is greater than or equal to \$5,000 in order to provide guidance with the procurement process.

### Request for Tenders

A Request for Tenders (RFT) is issued to promote competitive bidding.

The WSCC issues an (RFT) when the following are met:

- The Spending Authority estimates that a contract is valued at greater than, or equal to, \$5,000;
- Two or more providers of the required goods or services may exist;
- Bids have a common pricing basis; and
- A set of defined criteria can be used to evaluate the Bids.

A Request for Tenders includes the following information:

- The address to which the bid is submitted;
- The deadline, including the date and hour, to receive the bid;
- The security, if any, required for the tender; and
- The criteria used to evaluate submitted bids.

Additionally, the RFT may list any mandatory requirements which must be present in order to qualify a bid for consideration.

Bidders must comply with all requirements of the RFT. Bids not meeting the stated requirements are not considered unless specific information is provided that explains how the Bidder intends to meet the requirements set by the RFT.













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# Workers' Safety & Compensation Commission

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## PROCUREMENT

- The dollar amount of all unsuccessful proposals.

## Sole-Source

Subject to the approval of the WSCC President, the Spending Authority may sole-source a contract when:

- Goods, services or construction are urgently required and delay is harmful to the public interest;
- Only one party is available and capable of performing the contract; or
- The contract is for professional or legal services and does not exceed \$25,000.

When entering into a sole-source contract, the Spending Authority provides documentation to the Senior Purchasing and Contracts Officer to justify procurement according to the contract criteria. The Senior Purchasing and Contracts Officer reviews all sole-source contracts and forwards them to the President for approval.

The President's approval for a sole-source contract is not required for air-charters, in an emergency situation. In cases of emergency the Vice President, Prevention Services is delegated sole-source contract authority up to a maximum \$15,000 per air-charter.

The President reports sole-source contracts over \$10,000 to the Governance Council Audit Committee quarterly.

## Contributions

The WSCC may enter into a funding contribution partnership when a group provides first aid or public safety programs in the Northwest Territories or Nunavut. Policy 00.09, Partnerships, outlines how the WSCC contributes to these groups.

## Contract Insurance Requirement

The WSCC requires insurance coverage appropriate to each contract signed by a Spending Authority.

## Joint Purchase

The WSCC may join with the Governments of the Northwest Territories or Nunavut for a joint purchase of goods or services. As the purchase is not made by the WSCC directly, the purchasing provisions of the administering government apply.



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Policy 10.03 (Apr 07/05)	Purchasing
Policy 10.03 (May 16/02)	Purchasing
Operation Procedure B.7	Northern Incentive (Rescinded)
Policy 10.03 (Jan/01/04)	Non-substantive change (Governance Council)
Policy 10.03 (Aug 31/01)	Purchasing
Policy 10.03 (Feb 28/01)	Purchasing
Policy 10.03 (Dec 07/00)	Purchasing
Policy 10.03 (May 10/00)	Purchasing
Policy 10.03 (Apr 01/99)	Purchasing
Policy 10.03 (Jan 21/98)	Purchasing
Policy 7.001 (Jul 28/94)	Purchasing
Policy 7.001 (Aug 15/91)	Purchasing
Directive 7.001 (Aug 15/91)	Purchasing

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Includes all WSCC Supervisors, Managers, Senior Managers, and the President.

## POLICY

This policy applies to workers, claimants, employers, suppliers, service providers, WSCC employees, the WSCC President, Governance Council Directors, and all other persons, or bodies suspected of abuses, or offences against the workers' compensation system.

The WSCC uses two approaches to ensure the integrity of the workers' compensation system. The primary approach is a prevention strategy and the secondary approach is the investigation of suspected abuses and offences.

## Approaches

### Primary Approach

To prevent abuses and offences against the workers' compensation system, the WSCC:

- Promotes internal and external participation in the early detection of abuses and offences;
- Communicates to internal and external stakeholders their responsibilities under the Northwest Territories and Nunavut *Workers' Compensation Acts (Acts)*, *Safety Acts* and *Mine Health and Safety Acts*;
- Educates internal stakeholders of their responsibilities through training;
- Identifies priority areas for risk management; and
- Establishes controls to ensure that when an investigation is required, the WSCC quickly initiates and effectively manages the process.

### Secondary Approach

If an abuse or offence against the workers' compensation system is suspected, the WSCC:

- Investigates all allegations of abuse and offence;
- Stops abuses and offences once detected; and
- Pursues administrative remedies and criminal prosecution when appropriate.











## **PREVENTING AND INVESTIGATING ABUSES AND OFFENCES**

Investigation results and any subsequent WSCC actions are noted in Investigation Files.

If information resulting from an investigation is used as evidence in the course of WSCC decision-making (e.g. decisions related to entitlement to compensation, or Employer payroll reporting) the relevant information used as evidence will be included in the applicable claim or employer file.

All information collected during WSCC investigations is subject to the Northwest Territories and Nunavut *Access to Information and Protection of Privacy Acts*.

### **Identifying Suspected Internal Stakeholder Abuses and Offences**

Internal stakeholders who suspect abuses or offences against the workers' compensation system by a co-worker, Manager, Senior Manager or Governance Council Director are encouraged to report any information they have to their immediate supervisor. However, if the internal stakeholder suspecting abuses or offences does not feel comfortable reporting information to their immediate supervisor, the information may be reported to any member of the WSCC Leadership Team or to the Internal Auditor. The President is informed of all suspected abuses and offences reported to members of the WSCC Leadership Team, except where the President is suspected of the abuse or offence.

In cases where the President is suspected of abuses or offences, the WSCC Leadership Team member or Internal Auditor reports the information to the Corporate Secretary, who informs the Governance Council Chairperson.

### **Special Investigations**

Special investigations occur when an internal stakeholder is suspected of abuses or offences. A delegate selected by the President leads a special investigation, reporting to the President. External investigators may assist as required.

In cases where the President is suspected of abuses or offences, the Chairperson of the Governance Council selects a delegate to lead a special investigation, reporting directly to the Chairperson.

### **Acting on Special Investigation Results**

Once a special investigation is complete, the delegate notifies the President of any findings or in the case of an investigation into the President, the Chairperson. If abuses or









# Workers' Safety & Compensation Commission

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## PREVENTING AND INVESTIGATING ABUSES AND OFFENCES

Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.01	Payment of Compensation
Policy 07.01	Claim File Information Access
Policy 07.02	Employer File Information Access
Policy 10.03	Procurement
Policy 11.02	Reporting an Injury

## HISTORY

Policy 10.04 (Jun 03/13)	Preventing and Investigating Abuses and Offences
Policy 10.04 (Mar 05/13)	Preventing and Investigating Abuses and Offences
Policy 10.04 (May 28/09)	Investigating Abuses and Offences
Policy 10.04 (Feb 08/05)	Investigating an Alleged Offence

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Chairperson





# Workers' Safety & Compensation Commission

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## FUNDING STRATEGY

## POLICY STATEMENT

Under the authority of the *Workers' Compensation Acts (Acts)* of the Northwest Territories and Nunavut, the Workers' Safety and Compensation Commission's (WSCC) Governance Council must ensure the proper stewardship of the Workers' Protection Fund (the Fund). To ensure the financial stability of the Fund and the needs of both workers and employers, the Governance Council must maintain the desired ratio of assets to liabilities. This policy outlines the WSCC's funding strategy to ensure the long term financial security and stability of the WSCC and the Fund.

## DEFINITIONS

Assessment Rate:	Financial compensation paid by employers to cover the administrative costs of the WSCC, the cost of compensation to injured workers or their dependants, as well as payment of pensions, medical aid, and rehabilitation.
Funding Ratio:	Total assets over total liabilities.
Provisional Assessment Rate:	The rate employers would pay if there was only one rate for all employers, and the rate the WSCC uses as a starting point when setting individual subclass rates to ensure the financial stability of the Workers' Protection Fund.
Workers' Protection Fund:	"...is one indivisible fund for the purposes of paying compensation and determining assets and liabilities." (per ss. 67(2) of the <i>Workers' Compensation Act(s)</i> ).

## POLICY

## General

The WSCC's funding strategy aims to maintain a balance between the provision of quality benefits to injured workers while maintaining stable and affordable employer assessment rates. The WSCC's long term goal is to remain fully funded with a target funding ratio of 125%, which includes reserve funds.

















# Workers' Safety & Compensation Commission

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## REPORTING AN INJURY, DISEASE OR DEATH

## POLICY STATEMENT

Workers, employers and health care providers are all responsible to report workplace injuries to the Workers' Safety and Compensation Commission (WSCC). This policy outlines each party's responsibilities when reporting a worker's injury, disease or death, in order to ensure the timely and effective adjudication of workers' claims.

## DEFINITIONS

Claimant:	“...a person claiming compensation” (per ss. 1(1) of the <i>Workers’ Compensation Acts</i> ).
Disability:	“means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker’s personal injury or disease, that results in a loss of earning capacity” (per 1(1) of the <i>Workers’ Compensation Acts</i> ).
Disease:	“means an unhealthy condition of the body or mind” (per 1(1) of the <i>Workers’ Compensation Acts</i> ).
Employer:	“The following are considered employers for the purposes of this Act: (a) any person or entity that employs one or more persons under a contract of service; (b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer...” (per ss. 8(1) and 8(1.1) of the <i>Workers’ Compensation Acts</i> ).
First Aid	Immediate assistance given in case of injury until medical aid has been obtained, or where medical aid is not required.
Health Care Provider:	“...a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist or another class of





# Workers' Safety & Compensation Commission

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## REPORTING AN INJURY, DISEASE OR DEATH

persons whose qualifications to practice any of the healing professions are accepted by the Commission” (per ss. 1(1) of the *Workers’ Compensation Acts*).

Injury:

Physical or psychological harm or damage. An injury includes exposure to a foreign or contagious substance that may result in an immediate or delayed reaction.

Medical Aid:

“... includes

- a) drugs, medical devices, medical care, dental care, surgery, psychiatric or psychological care, physical rehabilitation and any other health service provided by a health care provider or health care facility,
- b) the transportation of an injured or diseased worker for the purpose of receiving medical aid, and
- c) any other treatment to facilitate the recovery of an injured or diseased worker or to mitigate the worker's disability or impairment;" (per ss. 1(1) of the *Workers' Compensation Acts*).

Physician:

“...a person who is authorized by law to practice medicine in the place where the person is so practicing” (per ss. 1(1) of the *Workers’ Compensation Acts*).

Worker:

“The following persons are deemed to be workers for the purposes of this Act:

- (a) a person who enters into or works under a contract of service;
- (b) a person who, although not under a contract of service, is
  - i. undergoing training or probationary work as a preliminary to employment with an employer,
  - ii. engaged in, or training for, rescue or recovery services, ambulance services





- iii. temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act* (In Nunavut, the *Emergency Measures Act*);

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to the WSCC at any time upon the WSCC's request.

### Reporting Penalty

An employer who fails to submit a completed *Employer's Report of Incident* or other required documentation to the WSCC within three days is subject to the following penalties:

- \$250 for the first or second failure in a 12-month period;
- \$500 for the third or fourth failure in a 12-month period; or
- \$1000 for the fifth or any subsequent failure in a 12-month period.

A 12-month period for the purpose of assessing penalties does not correspond to a calendar year, but the period of time starting from the first failure to report.

Additionally, penalties may be imposed if the WSCC requests information and it is not provided by the employer within three days.

The Manager of Claims Services may decide to not apply a reporting penalty if the employer complies and provides the WSCC with written justification for the failure to provide information within the required timelines.

## Health Care Providers

A health care provider must submit medical reports to the WSCC within three-days of attending to, examining, or treating a worker who suffered an injury, disease, or death. When the health care provider is an employee of a health care facility the facility is responsible for submission of medical reports or any penalties assessed.

### Reporting Penalty

A health care provider who fails to provide information required by the WSCC within three days may be subject to a \$250 penalty.

The applicable payment for medical aid reports provided by the WSCC may be reduced when medical reports or other required reports and information are not received by the WSCC within three-days of a request being made.

The Manager of Claims Services may decide not to apply a reporting penalty if the health care provider complies and provides the WSCC with written justification for the failure to provide information within the required timelines.









Policy 11.02 (May 28/09)	Reporting An Injury
Policy 11.02 (Mar 31/08)	Reporting An Injury
Policy 11.02 (Feb 08/05)	Reporting An Accident
Policy 11.02 (Aug 04/99)	Reporting An Accident
Policy 11.02 (Apr 01/99)	Reporting An Accident
Policy 11.02 (Jan 01/01)	Reporting An Accident
Policy 20-01-22 (Jan 22/94)	Employer's Report of Accident

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# Reporting Requirements

