NORTHWEST TERRITORIES & NUNAVUT

Policy Manual







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Industrial Safety: 867-669-4418 Mine Safety: 867-669-4412



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

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11.01		Rescinded
11.02	Reporting and Injury, Disease or Death	September 14, 2017



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 An internal governing instrument that provides

Directive: 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.

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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.

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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.

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Research and Analysis

Research and analysis of identified issues may include:

- Internal or external engagement with stakeholders, subject matter experts and other interested groups;
- Interjurisdictional comparisons with other WCBs;
- Analysis of current and historical WSCC data;
- Practices of other insurers or government agencies;
- Literature reviews of workers' compensation and other relevant subjects; and
- Financial, legal and public relations implications.

Consideration

The Policy, Planning and Corporate Reporting Unit drafts a new policy or revises an existing policy when all necessary research and stakeholder engagement is complete. Draft policies are provided to the following groups for consideration prior to being submitted to the Governance Council for approval:

- Program area managers and staff responsible for implementing the draft policy;
- Senior management, who evaluate potential impacts on the WSCC as a whole; and
- General Counsel, who ensures the draft policies are in accordance with applicable legislation and legal principles.

Approval

The President submits final draft policies to the Governance Council for review and approval. To ensure the Governance Council makes informed decisions, a decision item detailing the new policy or proposed revisions to an existing policy, is also submitted to the Governance Council.

Internal Communication

The Policy, Planning and Corporate Reporting Unit distributes new and revised policies to all staff as soon as possible after Governance Council approval. The policies are also posted on the WSCC website.

Staff training is conducted during a policy rollout within three-weeks of approval. The rollout session addresses all changes made to the policy and any employee questions or concerns.

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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	 Title page Page explaining how the policies are organized Table of contents 'Policy Related Documents' section of individual policies 'History' section of individual policies

Grammatical or style changes that do not affect meaning, content or interpretation

Administrative operations that do not impact worker or employer rights or responsibilities

• Titles of staff, sections or divisions

• Adding a comma

• Format of document

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Titles of persons or things, or wording from sources outside the control of the WSCC where there is no change in the substance of the applicable law or policy • The name change of Unemployment Insurance to Employment Insurance

Changes that are clearly contemplated by decisions of the Governance Council

 The correction of cross references in other policies to new, revised or rescinded policies that have been approved by the Governance Council

The President reports any non-substantive policy changes to the Governance Council at their next meeting. Policies revised with only non-substantive changes are signed by the Governance Council Chairperson.

Administrative Policies

The Governance Council delegates responsibility for the creation and revision of administrative policies, in most cases, to the President. The Policy, Planning and Corporate Reporting Unit researches, drafts and revises administrative policies on the President's behalf, and engages program area management and staff. Before submission for approval by the President, administrative policies are reviewed and approved by senior management. The Governance Council approves administrative policies directly related to governance. The President approves all other administrative policies.

Administrative policies requiring Governance Council approval are included in the CPRP and created or revised according to the policy process.

Governance Council Directives

Governance Council directives outline the roles and responsibilities of Governance Council Directors. The Governance Council reviews and approves directives according to the policy process outlined in this policy. Directives are signed by the Governance Council Chairperson. The Policy, Planning and Corporate Reporting Unit researches, drafts and revises Governance Council directives, on behalf of the Governance Council, in consultation with the WSCC Corporate Secretary.

Stakeholder Engagement

Policy 00.07, Stakeholder Engagement, describes how the WSCC engages its stakeholders.

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LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 89; 91 *Compensation Act*: subsection 83(2)

Nunavut *Workers' Compensation* Section 89; 91 Act: subsection 83(2);

POLICY RELATED DOCUMENTS

Policy 00.07 Stakeholder Engagement

HISTORY

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Policy 00.01 (Mar 4/14)	Policy Creation and Revision
Policy 00.01 (Dec 04/12)	Policy Creation and Revision
Policy 00.01 (Mar 05/09)	Policy Creation and Maintenance
Policy 00.01 (Nov 29/05)	Policy Creation and Maintenance
Policy 00.01 (Jan 1/04)	Creation and Maintenance of Policy
	Documents
Policy 00.01 (Jun 13/03)	Creation and Maintenance of Policy
	Documents
Policy 00.01 (Apr 10/03)	Creation and Maintenance of Policy
	Documents
Policy 00.01 (Aug 31/01)	Guidelines on Policy and Operational
	Procedure Development
Policy 00.01 (Apr 1/99)	Guidelines on Policy and Operational
, , ,	Procedure Development
Policy 00.01 (Oct 15/97)	Guidelines on Policy and Operational
,	Procedure Development

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may reconsider any decision it has previously made. At the request of a claimant, employer or any other person, or on its own initiative, the WSCC may rescind, vary, amend or confirm a previous decision.

This policy sets out how decision-makers within Claims Services and Employer Services determine whether to reconsider a decision.

DEFINITIONS

Evidence: Testimony, writings, material objects or other things

accepted by the WSCC to prove or disprove a fact.

Reconsideration: To review a matter previously decided. The previous

decision upheld, varied or reversed.

POLICY

General

Claimants, employers or any other person, may initiate the reconsideration of a previous decision. The WSCC may undertake a reconsideration on its own initiative.

All requests for reconsideration of a decision must be made in writing to the previous decision-maker or successor. Each request for reconsideration is evaluated on a case by case basis. In its evaluation, the WSCC takes into account:

- any new evidence;
- whether there were errors in or omissions of the evidence considered in the previous decision;
- whether the requestor has a direct interest in the subject matter of the previous decision.
- whether the previous decision was consistent with legislation and WSCC policy; and
- whether the party requesting the reconsideration is dealing with the WSCC in good faith.

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New Evidence

New evidence, presented to reconsider a decision must meet two basic criteria:

- it must be relevant to the issue in question; and
- it must be substantive. It gives new 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.

Errors in and Omissions of Evidence

Reconsideration of a decision is granted when the previous decision-maker had errors in or omissions of all relevant evidence available at the time of the decision, this can include:

- relevant evidence that was initially overlooked, or
- evidence that was accepted without any reasonable basis or corroboration.

Consistent with Policy and Legislation

Reconsideration of a decision occurs when the previous decision-maker made a policy error, such as applying an applicable policy incorrectly, or not applying an applicable policy. Reconsideration also occurs when there has been a clear error of law, such as a failure by the previous decision-maker to follow the express terms of the *Workers' Compensation Act*.

Dealt with the WSCC in Good Faith

When evaluating a reconsideration request, the WSCC takes into account whether the requestor is providing accurate, timely and complete information to the best of their ability when the request for a review of a decision is made.

Result of Reconsideration

Following the reconsideration, any amendments made to the previous decision are effective retroactively to the date of the previous decision.

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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*' Subsection 92(4)

Compensation Act:

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POLICY RELATED DOCUMENTS

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HISTORY

Policy 00.02 (Dec 4/13)	Reconsidering a Decision
Policy 00.02 (Sept 15/10)	Reconsidering a Decision
Policy 00.02 (Apr 01/08)	Reconsidering a Decision
Policy 00.02 (Oct 25/04)	Reconsidering a Decision
Policy 00.02 (Aug 01/02)	Reconsideration of Decisions
Policy 03.08 (Feb 15/02)	Reconsideration of Decisions

Chairperson

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INTERJURISDICTIONAL AGREEMENT

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) strives to ensure that employers are assessed in a fair and equitable manner and workers are appropriately compensated for injuries and diseases resulting from work-related incidents. The WSCC mutually co-operates with all compensation boards and commissions across Canada to ensure that when assessment and/or claim related matters involve more than one jurisdiction they are administered or resolved in an effective, efficient and timely manner.

POLICY

The WSCC participates in the Association of Workers' Compensation Boards of Canada (AWCBC) Standing Committee to maintain and develop the *Interjurisdictional Agreement on Workers' Compensation (IJA)* to which it is a signatory.

The stated intent of the IJA is:

- To avoid the double payment of assessments by employers for the same work;
- To help workers or dependents where more than one Board may be involved in a claim;
- To create a system to permit Boards to help another Board's claimants; and
- To provide a system through which disputes between Boards may be resolved.

The *IJA* allows eligible workers their choice of jurisdiction for electing benefits in the event of a work-related incident.

The Governance Council makes decisions on the WSCC's overall participation in the *IJA*. Any amendments to the *IJA* or its Schedules must be approved by the President. The WSCC implements the provisions and participates in pilot projects approved by the Governance Council under this, or any other similar agreement.

LEGISLATIVE AUTHORITIES

Nunavut Workers' Compensation Act: Sections 22; 95

Subsections 23(1); 23(2); 23(6)(b); 23(6)(c);

23(7); 67(4)

Northwest Territories Workers'

Sections 22; 95

Compensation Act:

Subsections 23(1); 23(2); 23(6)(b); 23(6)(c);

23(7); 67(4)

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Chairperson



INTERJURISDICTIONAL AGREEMENT

POLICY RELATED DOCUMENTS

Policy 02.04 Coverage Outside the Northwest Territories and Nunavut Interjurisdictional Agreement on Workers' Compensation, Consolidation, April 2006

HISTORY

Policy 00.03 (Dec 04/13)	Interjurisdictional Agreement
Policy 00.03 (Sept 15/10)	Interjurisdictional Agreement
Policy 00.03 (May 14/04)	Non-Substantive change (General)
Policy 00.03 (Apr 01/99)	Interjurisdictional Agreements
Jan 01/04	Non-Substantive Change (Governance Council)
Policy 00.03 (Jan 17/96)	Interjurisdictional Agreements

Effective: December 1, 2016 Page 2 of 2



POLICY STATEMENT

The Workers' Safety and Compensation Commission established the Year's Maximum Insurable Remuneration (YMIR) as a maximum remuneration for calculating workers' compensation benefits and setting a limit on employers' assessable payroll. The YMIR is a fundamental element of the workers' compensation system.

DEFINITIONS

Harvester:

"The following are considered employers for the Employer: 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)

"...a person whose remuneration comes primarily from harvesting wildlife is deemed to be a worker, if he or she

- (a) is a resident of the Northwest Territories;
- (b) is lawfully harvesting wildlife under a land claims agreement, a treaty or other Aboriginal right or the Wildlife Act; and
- (c) is not harvesting the wildlife under a contract of service." (per ss. 5(1) of the Workers' Compensation Acts)

Provisional Year's Maximum Insurable Remuneration:

The Provisional Year's Maximum Insurable Remuneration is the amount calculated according to Governance Council policy before applying the limitations and criteria used to establish the YMIR.

Effective: June 05, 2015 Page 1 of 5 Motion: 15/06-012



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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Motion: 15/06-012 Last Non-Substantive Change - February 10, 2020



General

The Governance Council establishes this policy to determine the YMIR which is annually recommended to the Ministers responsible for the WSCC per subsection 83(2)(f) of the *Workers' Compensation Acts*.

Effective January 1, 2016, the YMIR for 2016 and each subsequent year thereafter, is an amount calculated by applying the following formula and criteria to the previous years' YMIR.

Calculation of Provisional Year's Maximum Insurable Remuneration

Change to the combined average of the average weekly earnings for the Northwest Territories and Nunavut, calculated by Statistics Canada, is the basis for calculating a given years' YMIR.

For the purposes of this policy:

PYMIR = Provisional Year's Maximum Insurable Remuneration for year under consideration

P = previous year's YMIR

C = % change to the combined average of the average weekly earnings for the two years prior to the previous year's YMIR, rounded to four decimal points.

 $PYMIR = ((P \times C) + P)$

Criteria for Changes to YMIR

The following criteria are applied to the Provisional Year's Maximum Insurable Remuneration to determine the final YMIR that is recommended to the Ministers responsible for the WSCC:

- Increases to YMIR are capped at 3 percent. If the Provisional YMIR is calculated as having an increase greater than 3 percent, YMIR does not increase more than 3 percent.
- If the Provisional YMIR is calculated as less than the previous year's YMIR, the YMIR remains the same as the previous year.

Effective: June 05, 2015

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Motion: 15/06 012

Lost 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 *Workers*' Section 83(2)(f)

Compensation Act:

Nunavut Workers' Compensation Act: Section 83(2)(f)

Northwest Territories *Workers*' Section 1

Compensation General Regulations:

Nunavut Workers' Compensation Section 1

General Regulations:

POLICY RELATED DOCUMENTS

Policy 03.07	Calculation of Temporary Compensation
Policy 06.01	Pension Entitlement
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Policy 06.03 Calculation of Permanent Compensation

Policy 10.05 Funding Strategy

HISTORY

Year's Maximum Insurable Remuneration (YMIR)
Year's Maximum Insurable Remuneration (YMIR)

Effective: June 05, 2015 Page 4 of 5



Policy 00.04 (Mar 19/96) Year's Maximum Insurable Remuneration (YMIR)

Chairperson

Effective: June 05, 2015 Page 5 of 5 Motion: 15/06-012 Last Non-Substantive Change - February 10, 2020



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 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)

"... 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: 20/09-009

Learner:

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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.

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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.

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- (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.

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LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections 3, 4(1)(1.1), 5, 6, 8(1)(1.1), 22 *Compensation Act*: Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)

Nunavut *Workers' Compensation Act*: Sections 3, 4(1)(1.1), 5, 6, 8(1)(1.1), 22

Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h)

Northwest Territories Workers' Section 1

Compensation General Regulations:

Nunavut Workers' Compensation

General Regulations:

Section 1

POLICY RELATED DOCUMENTS

Reconsidering a Decision
Interjurisdictional Agreement
Employer Assessments
Personal Optional Coverage
Coverage Outside the Northwest Territories and
Nunavut
Account Registration
Entitlement
Renewable Resources Harvesters
Calculation of Temporary Compensation
Calculation of Permanent Compensation

HISTORY

Policy 00.05 (Jun 5/15)	Determining Status of Persons Under the Workers'
	Compensation Acts: General (NSC – Feb 10/20)
Policy 00.05 (Jun 5/15)	Determining Status of Persons Under the Workers'
	Compensation Acts: General
Policy 00.05 (Mar 05/13)	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

Effective: October 15, 2020

Chairperson



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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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 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)

"... 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: 20/09-010

Learner:

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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.

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POLICY

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

Employers

A person or entity employing workers is engaging in a contract of service, and therefore is considered an employer under the *Acts*. Employers must register with the WSCC and pay assessments based on their assessable payroll, industrial classification, and resulting assessment rate.

A person or entity not employing workers and engaging in a contract for service is considered not to be employing workers, and therefore not an employer under the *Acts*. Branches, plants, divisions or other components of a single employer are not treated as individual or distinct employers under the *Acts*.

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

Temporary employers cannot register with the WSCC. An employer is defined as temporary if <u>all five</u> 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.

The WSCC may require that an employer provide proof of an employer's coverage outside of NT or NU in order to be considered a temporary employer.

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Employers are responsible for contacting WSCC if they are no longer eligible to be considered temporary employers.

Homeowners

If a contract of service exists between a homeowner and worker(s) performing work on their private residence, the homeowner is an employer under the *Acts*. The homeowner is not an employer under the *Acts* if the relationship is a contract for service as defined in this policy. The WSCC maintains the discretion to determine the nature of the relationship between a homeowner and individuals or entities performing work on their home. This determination is made through application of the provisions in Policy 00.05, Determining Status of Persons under the Acts: General.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections 3, 4, 5, 6, 8, 22

Compensation Act: 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' Section 1

Compensation General Regulations:

Nunavut Workers' Compensation Section 1

General Regulations:

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

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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
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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
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Policy 30-03-13	Personal Optional Coverage
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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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DETERMINING STATUS OF PERSONS UNDER THE WORKERS' COMPENSATION ACTS: EMPLOYERS

	Chairperson

Effective: October 15, 2020



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 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 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)

"... 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

Learner:

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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.

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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.

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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.

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Rescue or Recovery Workers

If a person is engaged in rescue or recovery work and is paid a wage, the employer is the payer of the wage.

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.

Where a person receives paid training for rescue or recovery work, the employer is the person or entity paying the wage and approving the activity.

Incarcerated Workers

Territorial

When persons are:

- 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.

Inmates may:

- 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 first two situations, inmates residing in a custodial facility or camp and perform work on a regular or irregular basis within the custodial facility are not workers under the *Acts* and not entitled to receive compensation.

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

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relationship exist here, except that inmates must at all times return to the camp or custodial facility.

Inmates employed by a private-sector employer during a work release or pre-release program are workers of that employer, and the claim costs are included in the employer's experience account. The employer must pay the appropriate assessments on all wages paid to these inmates. Inmates who are not workers of an employer as described above are workers in the public service.

Inmates of a correctional facility conscripted to fight forest fires under the *Civil Emergency Measures Act* Northwest Territories or *Emergency Measures Act*, Nunavut, and injured in the course of that work, are workers employed in the public service. The claim costs are included in the experience account of the Government of the Northwest Territories or the Government of Nunavut.

Persons serving sentences of community service hours are not workers under the *Acts* and are not entitled to receive compensation.

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

Federal

The *Acts* do not apply to workers injured while incarcerated in a federal facility. Benefits are provided through the *Penitentiary Inmates Accident Compensation Regulations*.

Learners, Students and Apprentices

Learners

A learner is a worker under the *Acts*.

Students

Students working in hospitals or educational institutions are workers under the *Acts* when receiving credit in a work training or similar program provided by an accredited post-secondary school, inside or outside the institution. Students engaging in these arrangements, even when unpaid, are considered workers of the Government of the Northwest Territories or the Government of Nunavut. Compensation benefits are based on the usual remuneration for a beginner in that occupation. The respective governments

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of the Northwest Territories and Nunavut do not pay assessments for students but are responsible for claims costs.

The above does not typically apply to students conducting research for a thesis, secondary students, or students engaged in other non-credit activities.

Apprentices

Apprentices are covered under the Acts when participating or employed in:

- an apprenticeship program, with a sponsoring employer and partially funded by Employment and Social Development Canada (ESDC). The apprentice is a worker of the sponsoring employer. The sponsoring employer must include the apprentice's payroll above that paid by ESDC in the annual payroll report. Compensation benefits are based on the usual apprenticeship rate for that trade or the rate paid to a person similarly employed.
- an apprenticeship program, without a sponsoring employer and ESDC funding. The apprentice is a worker of the Government of the Northwest Territories or the Government of Nunavut. Compensation benefits are based on the usual apprenticeship rate for that trade or the rate paid to a person similarly employed.
- an apprenticeship program with a sponsoring, self-funding employer. The apprentice is a worker of that employer. The employer includes the apprentice's payroll in the annual payroll report.

Benefits for learners, students and apprentices are calculated according to Policy 03.07, Calculation of Temporary Compensation or Policy 06.03, Calculation of Permanent Compensation. Benefits are not extended to extra-curricular sporting, recreational or social activities.

Federal Government Workers

Workers of the federal government are not workers within the scope of the *Acts*. Workers' compensation for federal government workers is determined by the *Government Employees Compensation Act* (GECA).

Short Term Work

Casual workers employed for the purposes of the employer's industry are automatically considered workers under the Act. However, if an individual is undertaking short-term work for an employer or private residence, they are considered to be under a contract for service and therefore not covered under the Workers' Compensation *Acts*. An individual

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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 Workers' Sections 3, 4, 5, 6, 8, 22

Subsections 3(1), 3(3), 91(2)(a), 91 (2)(h) Compensation Act:

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' Section 1

Compensation General Regulations:

Nunavut Workers' Compensation Section 1

General Regulations:

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

Coverage Outside the Northwest Territories and Policy 02.04

Nunavut

Policy 02.06 Account Registration

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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
Policy 00.05 (Mar 12/19)	Change) Determining Status of Persons under the Workers' Compensation Acts: Workers (Non-Substantive
Policy 00.05 (Jun 5/15)	Change) Determining Status of Persons under the Workers' Compensation Acts: Workers
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
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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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POLICY STATEMENT

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.

DEFINITIONS

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 Workers' Compensation Acts)

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 *Workers' Compensation Acts*)

Indemnify: "To reimburse another for a loss suffered because of a

third party's or one's own act or default." (Black's

Law Dictionary, 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. (Black's Law

Dictionary, 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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- (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* (In Nunavut, the *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*)

POLICY

General

The WSCC is required under the Acts to pay compensation to eligible claimants who have an entitled claim resulting from workplace injury. As a result, the *Acts* do not allow an eligible claimant to bring an action against their employer or co-worker when the injury, disease, or death arises out of and during the course of employment. Any rights to a civil action for damages that an eligible claimant may have against any other person for any injury, disease or, death arising out of and during the course of employment is vested in or is transferred to the WSCC.

The WSCC may proceed with a third party action on behalf of an eligible claimant without consent. The WSCC takes responsibility for all costs or damages that may be incurred by the eligible claimant, or their legal or personal representative as a result of the action, including costs or damages awarded by the court to the defendant.

If an eligible claimant wishes to proceed with a third party action without WSCC participation, the claimant or their legal or personal representative requires WSCC's expressed written consent to proceed.

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The WSCC is not liable for any costs or damages incurred as a result of an action taken directly by an eligible claimant, or their legal or personal representative with or without the WSCC's consent.

Upon request from a claimant or their authorized legal representative, the WSCC may release the claimants' relevant information to conduct a third party action. This includes personal and business information provided to the WSCC under the *Acts*, as well as information pertaining to the compensation costs incurred on the claim.

Eligibility

A third party action may be initiated as set out above, if a work-related injury, disease or death involves:

- another worker not acting in the course of employment;
- an employer not acting in the course of its business;
- a vehicle or other mode of transportation insured by a policy of liability insurance, and is caused by an employer who is not the employer of the injured worker or a worker who is not a co-worker of the injured worker; or
- an individual or group who is not a worker or employer to whom the *Acts* apply.

Settlements

The WSCC may settle a third party action at any time during the litigation, for any amount it considers appropriate.

An eligible claimant, their legal or personal representative, cannot, at any time, agree to the settlement of a third party action without WSCC written consent. Any settlement entered into without WSCC written consent is considered null and void.

Distribution of Settlement Funds

All funds awarded as a result of a third party action are distributed according to the Acts.

If a judgment or settlement expressly awards a worker damages for pain and suffering, the WSCC and/or its counsel pays that amount to the worker.

When an eligible claimant cooperates in a successful third party action, the WSCC may pay to the eligible claimant, or the eligible claimant's dependants, up to 25% of the funds remaining after any payment for pain and suffering. Before making this payment, the WSCC deducts any legal costs it incurred in the action.

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Once the preceding payments are made, all WSCC costs resulting from the claim, such as medical aid payments, rehabilitation costs and the present value of any pension, are paid from the award or settlement.

The WSCC may pay any remaining funds to the eligible claimant, or their legal or personal representative.

LEGISLATIVE AUTHORITIES

Nunavut *Workers*' Sections 4; 5; 6; 62; 64; 65; 66

Compensation Act:

Northwest Territories Workers' Sections 4; 5; 6; 62; 64; 65; 66

Compensation Act:

Northwest Territories Section 2(b)

Limitation of Actions Act

Nunavut *Limitation of Actions* Section 2(b)

Act

POLICY RELATED DOCUMENTS

Policy 02.03 Personal Optional Coverage Policy 03.02 Entitlement

Policy 03.03 Arising Out of and During the Course of Employment

Policy 04.10 Employer Cost Transfer and Relief

HISTORY

Policy 00.06 (Feb 10/20) Third Party Actions (Non-Substantive Change) Policy 00.06 (Sep 18/15) Third Party Actions Policy 00.06 (Dec 7/11) Third Party Actions Policy 00.06 (Sep 25/08) Third Party Actions Policy 00.06 (Jun 13/03) Third Party Actions Policy 00.06 (Aug 31/01) Third Party Actions Policy 00.06 (Aug 18/00) Third Party Actions Policy 00.06 (Jan 20/00) Third Party Actions

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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.

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STAKEHOLDER ENGAGEMENT

Stakeholder: Workers, employers and others who have an

interest in the policies and programs of the

WSCC.

Stakeholder Engagement

A committee, administered and coordinated Committee (SEC) 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;

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STAKEHOLDER ENGAGEMENT

- Provides feedback to participating stakeholders at the end of the engagement process;
 and,
- Adheres to all WSCC governing instruments when selecting a policy direction.

Types of Stakeholder Engagement

<u>Basic</u>: This includes posting a request for feedback on the WSCC website and retaining the Stakeholder Engagement Committee (SEC). When the WSCC sends a request to the SEC, it will include the materials, timelines and instructions needed to provide meaningful feedback to the WSCC.

<u>Broad:</u> Includes Basic engagement plus the distribution of a discussion paper to a broad base of stakeholders. A list of key WSCC stakeholders is maintained and will be used for the distribution of engagement requests. Administration would allow for maximum available response time targeting a minimum of 30 days. The available response time will vary depending on the facts of each engagement.

<u>Targeted:</u> Includes Basic engagement plus distribution of a discussion paper to a limited number of stakeholders who are directly impacted by the policy. Again, administration would allow for maximum available response time targeting a minimum of 30 days.

When to Conduct Stakeholder Engagement

All WSCC policies receive the Basic type of stakeholder engagement. Depending on the policy issues, additional types of engagement may be assigned by the Governance Council, the President, or Administration.

Additional approaches to stakeholder engagement will be utilized in the policy under review may result in:

- Significant financial impacts to the WSCC as a whole;
- Significant impacts on the roles and responsibilities of Workers;
- Significant impacts on the roles and responsibilities of Employers:
- Significant changes to the WSCC's strategic plan;
- Significant changes to the intent and direction of Governance Council policy; or
- Conflict between stakeholders or between stakeholders and the WSCC

Feedback

The WSCC provides written feedback to all stakeholders, including the SEC, who participated in the engagement process. Feedback advises stakeholders of the input

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STAKEHOLDER ENGAGEMENT

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* subsections 83(2); 89(c) *Act*:

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

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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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under the Workers' Compensation Acts, subject to the jurisdiction of the Appeals Tribunal. The WSCC decides each matter before it according to the justice and merits of the case, without being bound by its previous decisions.

DEFINITIONS

Balance of Probabilities:	A degree of proof which is more likely than not.
Evidence:	Information that is relevant to a matter under consideration and has value in helping confirm, corroborate, or support a conclusion (e.g. testimony, writings, reports, material objects, or other things).
Fact:	A thing that is known or determined to be true.
Hearsay:	Second hand or third hand knowledge that has not been substantiated or verified, not direct or personal knowledge of the person giving the evidence.
Inference:	A conclusion reached by logical reasoning on the basis of other established facts or credible evidence.
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.

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POLICY

General

The WSCC decides each matter according to the justice and merits of the case on the balance of probabilities.

WSCC decisions are based on:

- The evidence before it:
- The application of the *Acts* and *General Regulations*;
- The application of any policy of the Governance Council that relates to the issue in question; and
- Any medical, legal or other relevant professional opinion the WSCC considers should be accepted.

Decision Making Process

Decision makers assess *information* to determine relevant *evidence*, and from such evidence, arrive at a reasonable outcome.

In order to make a decision, the WSCC must first identify the question that needs to be answered, as well as the criteria or tests set out in WSCC policies that must be met. The question should be as specific as possible. For example, a question such as "is the claimant entitled to compensation?" would typically require several more specific questions to be answered in order to make a determination. Regarding this example, the decision maker would typically ask the following questions to determine if the criteria or tests are met:

- Is the claimant a worker?
- Did the worker sustain an injury?
- Did the injury arise out of the worker's employment?
- Did the injury arise during the course of the worker's employment?
- Is there a medical connection between the injury and the worker's employment?

Initial questions may need to be followed up with further questioning and investigation in order to determine a worker's entitlement to compensation, or any other matter that decision-makers must make a determination on.

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Evidence

Once the question and relevant information and criteria are correctly identified, the WSCC assesses whether there is sufficient evidence to answer the question. If sufficient evidence is not available, the WSCC may require the worker, the employer, or the treating health care provider to submit additional information so that a determination can be made.

Gathering Evidence

When making a decision under the Acts, the WSCC may accept evidence in any form if satisfied of its relevance and probative value.

Information that is determined to not to be relevant to an issue or question is not accepted as evidence.

The Acts require an injured worker, the worker's employer and the treating health care provider to each report on work-related injuries and diseases and the circumstances surrounding the matter to the WSCC. Workers and employers must also report any exposure to toxic, noxious or other hazardous substances that could possibly cause an injury, disease or death in the future.

The WSCC may require a worker, employer or health care provider to provide any information it considers necessary to determine a claim for compensation. In addition, the WSCC has the same investigative powers as a court of superior jurisdiction to compel the attendance of witnesses and examine them under oath, as well as to compel the production and inspection of books, papers, documents and things.

Weighing Evidence

All decisions made by the WSCC under the Acts are made by staff members whose positions are assigned or delegated that function by the WSCC President for the administration of the Acts.

Information is assessed for credibility, reliability, and relevance to the matter under consideration when determining the weight to be given to each piece of selected evidence.

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Hearsay must only be used very cautiously when it is accepted as evidence. Where hearsay cannot be substantiated or verified by other evidence, it would typically be assigned a lesser weight than other evidence that can be corroborated.

If the evidence supporting different findings or conclusions on an issue is evenly weighted, the issue is resolved in favour of the worker. However, this benefit of a doubt presumption is not to be used:

- a) as a substitute for lack of evidence, or
- b) in a purely speculative sense that assumes credible evidence exists, or
- c) when the issue can be decided on the balance of probabilities.

Presumptions

The Acts provide for a number of presumptions in law. That is, once certain facts are determined, further facts are presumed to have occurred, unless on a balance of probabilities the contrary is proven.

The general presumptions provided in the *Acts* include:

- A personal injury, disease or death that arises out of a worker's employment is presumed to have occurred during the course of the worker's employment;
- A personal injury, disease or death that occurs during the course of a worker's employment is presumed to arise out of the worker's employment;
- The death of a worker is presumed to have arisen out of the worker's employment if the worker is found dead at the place where the worker would be during the course of employment; and
- A disease is presumed to have arisen out of a worker's employment and to have occurred during the course of employment if:
 - (a) The worker is disabled or impaired by the disease;
 - (b) The worker was exposed to conditions during the employment that might reasonably have caused the disease; and
 - (c) The exposure to the conditions occurred at any time during the twelve months preceding the disability or impairment.

The WSCC acknowledges that some diseases are the result of exposure that took place prior to the twelve months preceding the disability or impairment, such as exposure to

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asbestos and arsenic toxin. The WSCC reviews these claims on a case-by-case basis using the decision making principles, outlined in this policy.

The Acts also provide a presumption for firefighters. A listed disease is presumed to have arisen out of and during the course of a firefighters' employment if the firefighter is disabled or impaired by the listed disease and has worked for the minimum period of employment (see Schedule 'A').

Medical Evidence

In assessing medical evidence, the WSCC:

- Determines whether all necessary medical evidence was obtained; and
- Determines whether further investigations and/or medical examinations are required.

If further medical evidence is necessary to make a decision, the WSCC may require an injured worker to attend one or more medical examinations in the manner and at the time and place the WSCC may require.

When weighing the medical evidence, the WSCC considers:

- The way the health care provider assembled the evidence when forming an opinion, taking into account such factors as:
 - o Whether or not the health care provider's opinion was based on a complete and accurate medical and factual history;
 - The health care provider's rationale;
 - o The consistency of the health care provider's opinion compared with other medical reports and findings;
 - o The correctness of the facts relied on by the health care provider; and
 - The opinion and any issue of bias or objectivity.
- The comprehensiveness of the medical reports;
- The degree of knowledge of the injured worker's circumstances;
- The nature of the health care provider's examination;
- How close in time the medical report was to the events at issue;
- If there are any special circumstances surrounding the report;
- What is subjective vs. objective medical evidence or findings;
- Relevant peer reviewed medical studies;

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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

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Northwest Territories *Workers'* Sections 10; 14; 14.1; 17; 18; 24; 25; 27; 30;

Compensation Act: 31; 37; 91; 92

Nunavut Firefighters' Presumption Sections 1; 2

Regulations:

Northwest Territories Firefighters' Sections 1; 2

Presumption Regulations:

POLICY RELATED DOCUMENTS

Policy 00.02 Re-Considering a Decision

Policy 03.02 Entitlement

Policy 03.03 Arising out of and During the Course of Employment

Policy 04.13 Conflicting Medical Opinions

HISTORY

Policy 00.08 (Jan 2/20)	Decision Making
Policy 00.08 (Mar 9/17)	Decision Making
Policy 00.08 (Dec 1/13)	Decision Making
Policy 00.08 (Sept 15/10)	Decision Making
Policy 00.08 (May 26/08)	Decision Making
Policy 03.04 (Jan 10/04)	Decision Making

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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

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) recognizes that workplace health and safety requires a collective effort. For this reason, the WSCC enters into partnerships with stakeholders to promote workplace health and safety in the Northwest Territories and Nunavut.

This policy sets out parameters for the development and maintenance of WSCC partnerships.

DEFINITIONS

Contribution Agreement: An agreement between the WSCC and a partner that

sets out the funding provided by the WSCC for the promotion of workplace health and safety and any relevant conditions or procedures regarding the funding. It also defines the partners' obligations

towards one another.

Memorandum of An agreement between the WSCC and a partner which

Understanding: (MOU) although not legally binding, is put in place to outline the terms and details of understanding cooperative relationship between the parties, including each

parties' requirements and responsibilities.

Sponsorship in Kind A donation of a product or service from the WSCC.

This may come in the form of promotional items or

advertising and promotional support.

Partner: An individual or other entity who works with the

WSCC towards achieving a common goal.

POLICY

General

The policy sets guidelines for the development and maintenance of WSCC partnerships. The WSCC enters into two types of partnerships, a Funding Contribution Partnership and a Common Goal Partnership:

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Funding Contribution Partnership

In a Funding Contribution Partnership the WSCC provides a financial contribution to an organization that promotes workplace health and safety. This may include education and training programs, first aid, public safety programs or return work programs for injured workers. Funding Contribution Partners are required to sign a Contribution Agreement with the WSCC.

Partner Criteria

The WSCC may enter into partnerships with other persons or non-profit organizations. For non-profit organizations to be considered for a partnership, they must be in good standing with the applicable Northwest Territories or Nunavut *Societies Act*.

The required criterion of prospective partners varies depending on the goal(s) of the proposed partnership. All prospective partners must:

- have an active interest in northern workplace health and safety;
- have a mandate that aligns with the WSCC's Vision, Mission, and Values; and
- monitor and maintain their own health and safety programs.

Partnership Requests

Funding Contribution Partnership requests are submitted in writing to the WSCC and are evaluated and approved or denied by the Governance Council.

Requests for a Funding Contribution Partnership must include:

- details on how the partnership will contribute to northern health and safety;
- information on the prospective partner's expertise, experience or history;
- a business plan outlining objectives, goals, performance metrics and a detailed work plan and budgets
- a financial reporting procedure;
- an advertising, promotion and communications plan; and
- a minimum two references.

A minimum of four months is required to review a Funding Contribution Partnership request. Although a requestor may meet all the above criteria, it does not guarantee the WSCC will enter into a partnership. As previously stated, the Governance Council makes the final decision to approve or deny a partnership request.

The WSCC may seek to create partnerships with stakeholders on its own initiative; however, the above criteria must be satisfied before any partnership is created.

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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.

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Partner Criteria

The WSCC may enter into partnerships with registered non-profit organizations and private enterprises. To be considered for a partnership, non-profit organizations must be in good standing with the applicable Northwest Territories or Nunavut *Societies Act* and private enterprises must be in good standing with the WSCC and the applicable *Northwest Territories and Nunavut Business Corporation Act*.

The required criterion of prospective partners varies depending on the goal(s) of the proposed partnership. All prospective partners must have an active interest in northern workplace health and safety.

Partnership Requests

Common Goal Partnership requests are submitted in writing to the WSCC and approved by the President.

Each request for a Common Goal Partnership must identify:

- how the partnership will contribute to northern health and safety:
- specific programs and plans for workplace safety; and
- how the WSCC can help achieve the partner's goals.

A minimum of one month is required to review a Common Goal Partnership request.. Although a requestor may meet all the above criteria, it does not guarantee creation of a common goal partnership with the WSCC.

The WSCC may seek to create common goal partnerships with stakeholders on its own initiative; however, the above criteria must be satisfied before any partnership is created.

Common Goal Partnership Maintenance Requirements

Upon President approval, an MOU is signed between the WSCC and the partner, which outlines:

- mutually agreed upon goals; and
- roles and responsibilities of each party

Failure to meet the requirements in the MOU may result in the termination of the partnership.

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WSCC Responsibilities

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

LEGISLATIVE AUTHORITIES		
Northwest Territories <i>Workers'</i> Compensation Act:	Section 94	
Nunavut Workers' Compensation Act:	Section 94	
Northwest Territories Societies Act:		
Nunavut Societies Act:		
Northwest Territories <i>Business</i> Corporation Act		
Nunavut Business Corporation Act		
HISTORY		
00.09 (Mar 16/11)	Partnerships	
		Chairperson

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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.

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.

Multiple Industry Classification: Allows employers engaged in more than one industrial

undertaking to be assigned to more than one subclass

and rate.

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INDUSTRY CLASSIFICATION

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*

Act(s)

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 *Workers' Compensation Acts*).

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;

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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 28th in order for the

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employer's MIC status to change in the current year. Otherwise, the MIC status change will be applied in the next assessment year, as outlined in Policy 01.02, Industry Re-Classification.

In order to qualify for MIC, an employer's business operations must be separate and distinct. The operations of one of the industries must not be either incidental or integral to one of the other industries within an employer's total business mix (e.g. supporting function/ancillary operation). If the operations of one of the industries are either incidental or integral to another, the supporting operations are usually classified the same as the primary industrial undertaking.

Related Business Operations & Associated Employers

If two or more employers, which may be separate legal entities, have business relations resulting in one employer being either integral or incidental to another, the WSCC may classify the employers to the same subclass. In these circumstances, the industry that makes up the predominant or primary industrial activity is generally assigned. Exceptions may apply for a management company, or other company of a similar type, that is a separate limited company, and provides some degree of administrative or management services to one or more unrelated businesses or a group of affiliated businesses/companies.

Capital Construction

In cases where the employer uses staff in a capital construction project, the employer is temporarily assigned to an additional industry classification within an appropriate Construction Subclass for the assessable payroll directly related to the project. This ensures the employer pays an assessment that reflects its construction activities, and claim costs are assigned to the appropriate subclasses.

Mega Project Classification

In special instances, the WSCC may implement a special rate for projects outside of the regular classification system. The Mega Project Classification is assigned according to Policy 02.07, Mega Project Assessments.

Re-Examination

The WSCC may examine an employer's operation to ensure it is correctly classified. Policy 01.02, Industry Re-Classification, provides further details related to this process.

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If an employer disagrees with its industry classification, the employer can first request Employer Services to review it. Policy 00.02, Reconsidering a Decision, provides further details related to this process. If the employer continues to disagree with the classification, it may request a review of the decision by the Review Committee. If the employer is unsatisfied with the outcome of the Review Committee's decision, it may request an appeal to be heard by the Appeals Tribunal. The following policies provide further details related to requests for reviews and appeals: 08.01, Reviewing Decisions, and 08.02, Appealing Decisions.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers'* Subsection 70(2); 71(1); 71(2); 71(3); 76(1);

Compensation Act: 76(2); 79(1); 79(2);

Nunavut Workers' Compensation Act Subsection 70(2); 71(1); 71(2); 71(3); 76(1);

76(2); 79(1); 79(2);

POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 01.02	Industry Re-classification
Policy 02.01	Employer Assessments
Policy 02.05	Reporting Payroll
Policy 02.06	Account Registration
Policy 02.07	Mega Project Assessments
Policy 02.03	Personal Optional Coverage
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions
Policy 10.05	Funding Strategy

HISTORY

Policy 01.01 (Mar 04/14)	Industry Classification
Policy 01.01 (Mar 16/11)	Industry Classification
Policy 01.01 (Apr 1/08)	Industry Classification
Policy 01.01 (Sep 19/05)	Industrial Classification
Policy 01.01 (Aug 04/99)	Industrial Classification
Policy 01.01 (Apr 01/99)	Industrial Classification
Policy 01.01 (Jan 01/96)	Industrial Classification

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Policy 30-02-01a (Dec 13/94) Industrial Classification – Multiple Industry Policy 30-02-01 (May 01/89) Classification of Employer Accounts

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) assigns employers to industry classifications and monitors, reviews and reassigns classifications, as necessary, to ensure the classification of employers' operations continue to accurately reflect the industries in which they operate.

DEFINITIONS

"... a charge calculated by the Commission and levied on Assessment:

an employer..." (per ss. 1(1) of the Workers'

Compensation Acts). Assessments form the Workers'

Protection Fund.

The calendar year during which an assessment Assessment Year:

provides coverage.

An employer's class is the major industrial sector to Class:

which its operations belong (e.g., Mining, Oil & Gas,

Construction, etc.).

The system used by the WSCC to group similar **Industry Classification System:**

> employers in comparable industries based on the primary purpose of the operation. The classes and subclasses in this system represent the economic activities in the Northwest Territories and Nunavut. Codes are applied to employers with similar claims

experience and types of operations.

Misrepresentation: An intentional false or misleading statement or

omission of a relevant fact. This does not include

incorrect information given in good faith.

Multiple Industry Classification: Allows employers engaged in more than one industrial

undertaking to be assigned to more than one subclass

and rate.

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

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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 reclassifications, 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 reclassification 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 1st of the current assessment year.

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Multiple Industry Classification Change

A re-classification will occur if an employer is granted, or renounces, MIC designation, or is removed from MIC due to no longer meeting the eligibility criteria. Policy 01.01, Industry Classification, provides further details on the criteria that must be met in order to be assigned MIC, as well as how multi-industry employers are classified when they either do not meet the MIC criteria, or do not request MIC designation.

If the WSCC receives notification from the employer by February 28th of the current assessment year regarding requests to be granted, or to renounce, MIC designation, the effective date of the classification change is January 1st of the current assessment year. If notice is received after February 28th, then the effective date of the classification change is January 1st of the assessment year following the current year.

Alternative effective dates may apply if the classification change is due to another reason, as detailed in the table later in this policy.

WSCC Industry Classification System Changes

The WSCC may change its industry classification system by:

- Moving an industry from one classification to another;
- Acknowledging a new industry; or,
- Changing how industries are defined.

This may result in the re-classification of employer accounts. If changes to the WSCC Industry Classification System results in re-classification of employers, the effective date of rate changes is January 1st of the year the change takes effect.

WSCC Error

A WSCC Error occurs when the WSCC incorrectly classifies an employer at the time of employer registration or fails to apply a correct classification upon employer notification of operation changes.

If re-classification due to a WSCC Error results in an assessment rate decrease, the effective date of the rate change is up to three years prior to January 1st of the assessment year in which the error was first identified.

If re-classification results in a rate increase, the effective date of the rate change is up to one year prior to January 1st of the assessment year in which the error was identified.

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The number of years subject to re-classification is equal to the number of years in which the WSCC Error occurred, but cannot exceed the limitation periods.

Employer Error

An Employer Error occurs when the employer inadvertently provides false or incomplete information to the WSCC or when the employer fails to notify the WSCC of a change of business operation within the calendar year of change, which results in an incorrect Subclass being assigned. Registered employers who come forward voluntarily to disclose previously unreported information that may have impacted the classification of their business operations may have assessment adjustments made to their employer account.

If re-classification due to an Employer Error results in a rate decrease, the effective date of the rate change is up to one year prior to January 1st of the assessment year in which the error was identified.

If re-classification results in a rate increase, the effective date of the rate change is up to three years prior to January 1st of the assessment year in which the error was first identified.

The number of years subject to re-classification is equal to the number of years in which the Employer Error occurred, but cannot exceed the limitation periods.

Misrepresentation or Non-Compliance

A misclassification may result if an employer misrepresents its operations by intentionally providing false or misleading statements or omitting relevant facts. Non-compliance includes an employer's failure to provide timely, complete, and accurate information to the WSCC regarding their business operations or changes to their business operations, or a failure to act promptly on information requests or information provided by the WSCC.

If re-classification due to Misrepresentation or Non-Compliance results in a rate decrease, the effective date of the rate change is up to one year prior to January 1st of the assessment year in which the misrepresentation/non-compliance was identified.

If re-classification results in a rate increase, the effective date of the rate change is up to five years prior to January 1st of the assessment year in which the misrepresentation/non-compliance was first identified.

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The number of years subject to re-classification is equal to the number of years in which Misrepresentation and/or Non-Compliance occurred, but cannot exceed the limitation periods.

The WSCC determines whether the extent and seriousness of the misrepresentation warrants legal action. Policy 10.04, Preventing and Investigating Abuses and Offences, provides further details related to employer misrepresentation and fraud.

Effective Dates for Re-Classifications

Reason for Re-Classification	Re-Classification to a	Re-Classification to a
	Higher Rate Group	Lower Rate Group
Change to Employer's	Up to January 1 st of the	Up to January 1 st of the
Operations in the current year	current assessment year.	current assessment year.
Change to WSCC's Industry	January 1 st of the	January 1 st of the
Classification System	assessment year the	assessment year the change
	change takes effect.	takes effect.
WSCC Error	Up to January 1 st of the	Up to three years prior to
	assessment year prior to	January 1 st of the
	the year in which the	assessment year in which
	error was identified.	the error was first
		identified.
Employer Error	Up to three years prior to	Up to January 1 st of the
	January 1 st of the	assessment year prior to the
	assessment year in which	year in which the error was
	the error was first	identified.
Mismanuscantation on Non	identified.	I In to one ween prior to
Misrepresentation or Non- Compliance by Employer	Up to five years prior to January 1 st of the	Up to one year prior to January 1 st of the
Compliance by Employer	1	l
	assessment year in which the	assessment year in which the misrepresentation/non-
	misrepresentation/non-	compliance was identified.
	compliance was first	compliance was identified.
	identified.	
	identified.	

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Re-Classifications and Changes to Assessments

When re-classification results in an outstanding balance owed to the WSCC or a credit due to the employer, the appropriate charge or credit will be applied to the employer's current year assessments. If the employer does not have any outstanding assessments due, the credit will be applied to the following year's assessment, or issued as a refund, if requested. If the employer no longer operates in the Northwest Territories or Nunavut, an invoice or refund is issued, as appropriate.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Subsections 70(2); 71(1); 71(2); 71(3); 76(1);

Compensation Act: 76(2); 148(1)

Nunavut *Workers' Compensation Act:* Subsections 70(2); 71(1); 71(2); 71(3); 76(1);

76(2); 148(1)

POLICY RELATED DOCUMENTS

Policy 01.01	Industry Classification
Policy 02.01	Employer Assessments
Policy 02.05	Reporting Payroll
Policy 02.06	Account Registration
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions
D 1' 10.04	D (' 11 (' ('

Policy 10.04 Preventing and Investigating Abuses and Offences

HISTORY

Industry Re-Classification
Industry Re-Classification
Industrial Re-classification of Existing Accounts
Re-Classification of Existing Accounts
Re-Classification of Existing Accounts

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) determines an employer's assessment based on the employer's assessable payroll and industry classification. This policy describes how the WSCC calculates assessments and how employers pay assessments. Assessments paid by all employers in the Northwest Territories and Nunavut sustain the Worker's Protection Fund.

DEFINITIONS

An overdue debt, liability or financial obligation. Arrears:

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.

"... a charge calculated by the Commission and levied Assessment:

on an employer..." (per ss. 1(1) of the Workers'

Compensation Acts)

Class: An employer's class is the primary industrial sector to

which its operations belong within the industry

classification system.

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)



Contract for Service: An agreement in which an employment relationship

does not exist, i.e., two businesses, independent

operations, individuals or other entities.

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)

Employer Payroll Statement: A statement submitted by employers to the WSCC.

An Employer's Payroll Statement 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 Workers'

Compensation Acts.

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.

Effective: September 12, 2014

Motion: 14/09-008

Last Non-Substantive Chang

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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)

POLICY

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.

Calculating an Employer's Assessment

Formula for Calculating an Employer's Assessment

The WSCC calculates an employer's annual assessment using the following formula:

Assessable Payroll X **Industry Classification Employer** Assessment Rate 100 Assessment

Minimum Assessment

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

Effective: September 12, 2014 Page 3 of 8 Motion: 14/09-008 Last Non-Substantive Change – February 10, 2020



Assessments for Peacetime Disaster Workers

Employers do not pay assessments for workers temporarily responding to emergencies or disasters under the Civil Emergency Measures Acts if the workers are not receiving remuneration from their employer during this time.

Workers engaged in or training for rescue, ambulance or firefighting services are covered by the Workers' Compensation Acts as workers of the Government of the Northwest Territories, Government of Nunavut or a municipality or hamlet.

Volunteers

If an employer wishes to provide coverage to volunteers, the employer must contact the WSCC and apply for coverage at which time the WSCC calculates the employer's assessment.

Reconsidering an Assessment

Employers may apply in writing for the WSCC to reconsider their estimated payroll or industry classification if employers do not agree with the WSCC's assessment calculation. Employers cannot request a reconsideration of the rate applied to an industry classification.

The WSCC reconsiders an employer's payroll or industry classification according to Policy 00.02, Reconsidering a Decision.

Security

Employers or directors with a history of late payments, defaults, write-offs or bankruptcy must provide security in the form of an irrevocable letter of credit before registering as a new or returning employer. Current employers with a history of non-compliance and employers governed by a board of directors whose directors are only partially compliant will be evaluated on a case-by-case basis to determine if security is required. Security is equal to the estimated assessment for the current year and is required within 15 days of the WSCC's written request.

The WSCC may require increased security if the security initially provided no longer appears sufficient. The WSCC may release an employer from the secured payment obligation after 36 months of payments, if the WSCC determines that the employer is no longer a financial risk. Defaults on payments or breaches of the security are punishable according to the Workers' Compensation Acts.

Effective: September 12, 2014 Page 4 of 8 Motion: 14/09-008



Paying an Assessment

Employers must pay their total assessment within 30 days of the statement date, unless approved to pay by instalments. Employers are eligible to pay by instalments if they:

- submit an Employer's Payroll Statement for the current year on or before February 28th, or if starting operations or reactivating an account, submit the estimated payroll for the current year within 10 days of starting operations;
- paid their previous year's assessment and any penalties;
- have a history of paying the WSCC on time; and
- are required to pay an assessment of \$1000.00 or more.

New employers must pay their total assessment within 30 days of the statement date. New employers are eligible to pay by instalments if they:

- submit the estimated payroll for the current year within 10 days of starting operations; and
- are required to pay an assessment of \$1000.00 or more.

Instalments for all operations (excluding term operations) are payable as follows:

- the previous year's adjustment and 25% of the current year's assessment is due within 30 days of the statement date or April 1, whichever is later;
- 25% of the current year's assessment is due June 1;
- 25% of the current year's assessment is due August 1; and
- the balance is due October 1.

The WSCC may develop individual payment schedules based on the length of the contract for term employers whose assessment is over \$1,000.00.

If an employer fails to meet the instalment schedule or provide the WSCC with required information, the WSCC may revoke the instalment plan and demand immediate payment of the full assessment balance.

Employers not in arrears that do not meet the above criteria and want to pay their assessment by an instalment schedule, or employers that want to pay by an alternate instalment schedule, may send a written request to the Manager, Employer Services, for consideration. The Manager, Employer Services, makes decisions on employer payment schedules on a case-by-case basis, considering the facts of each case.

Employers on alternate instalment schedules are still subject to legislative penalties.

Effective: September 12, 2014 Page 5 of 8 Motion: 14/09-008



Term Accounts

For term accounts whose assessments are under \$1,000.00, payment is due immediately. The WSCC may develop a payment schedule based on the length of the contract for term employers whose assessment is over \$1,000.00. In this case, the first instalment is due immediately.

The WSCC may require term accounts to provide security. Factors considered when making this determination include but are not limited to:

- the past history of the employer or directors; and
- whether the term account is a prime/principal contractor or sub-contractor.

Default

An employer that does not pay all or part of an assessment by the due date, including any instalment payments or other amount owing to the WSCC, is in default. An employer in default is levied a penalty for each month or portion of a month that the default continues, calculated according to the following formula:

Monthly Penalty = (Adjusted amount in Default x 2%)

The adjusted amount in default is the amount owing on the first day of the month, including any amounts owing from previous monthly default penalties.

For work performed under a contract for service, the principal on a contract is liable for the assessments related to work performed on the principal's behalf. Similarly, a contractor is liable for a subcontractor's assessments related to work performed on the contractor's behalf.

The WSCC may apply one of the following remedies, at its discretion, if an employer, including a principal or contractor, defaults on an assessment payment:

- collect outstanding assessments from the liable employer;
- convert securities deposited with the WSCC into money;
- enforce, as an order and judgment of the courts, a collection certificate filed with the Supreme Court of the Northwest Territories or the Nunavut Court of Justice;
- order the employer to discontinue, or refrain from, employing workers;
- apply to the Supreme Court of the Northwest Territories or the Nunavut Court of Justice for an order preventing the employer from carrying on operations until the outstanding assessment and any related costs are paid; or
- garnish the liable employer's bank account(s).

Effective: September 12, 2014 Page 6 of 8 Motion: 14/09-008 Last Non-Substantive Change – February 10, 2020



Mega Project Assessments

The WSCC negotiates a special financial arrangement for assessments with a developer if their project meets the criteria for a Mega Project, as set out in Policy 02.07, Mega Project Assessments.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 4; 79; 80; 140; 143; 144; 145; 146;

Compensation Act: 147

Subsections 6(2)(c); 76(1); 76(2); 141(1)(e);

142(1)

Nunavut Workers' Compensation Act: Sections 4; 79; 80; 140; 143; 144; 145; 146;

147

Subsections 6(2)(c); 76(1); 76(2); 141(1)(e);

142(1)

Northwest Territories Workers' 17; 18; 19; 20; 21

Compensation General Regulations:

Nunavut Workers' Compensation 17; 18; 19; 20; 21

General Regulations:

POLICY RELATED DOCUMENTS

Policy 00.05 Determining Employer and Worker Status

Policy 01.01 **Industry Classification** Policy 02.05 Reporting Payroll

Policy 02.07 Mega Project Assessments

HISTORY

Policy 02.01 (Jan 1/15) Employer Assessments (Non-Substantive Change) Policy 02.01 (Sep 12/14) **Employer Assessments**

Policy 02.01 (Sep 11/12) **Employer Assessments** Policy 02.01 (May 26/08) **Employer Assessments** Policy 02.01 (Nov 29/05) **Employer Assessments** Policy 02.01 (Apr 22/04) **Employer Assessments**

Policy 02.01 (Aug 31/01) Assessment and Payment of Assessment Policy 02.01 (Nov 30/99) Assessment and Payment of Assessment

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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

Chairperson



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 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 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.

"...a prescribed maximum remuneration for any year Year's Maximum Insurable

Effective: November 30, 2017 Page 1 of 5 Motion: 17/11-007



Remuneration (YMIR):

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

Eligibility

The WSCC determines an individual's status as a worker according to the criteria set out in ss.4, 6 of the Acts and Policies 00.05.01, Determining Status of Persons Under the Workers' Compensation Acts: Employers, and 00.05.02, Determining Status of Persons Under the Workers' Compensation Acts: Workers. Persons under a contract for service are not workers under the Acts. 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 (POC) and on WSCC approval may receive compensation if they suffer compensable injuries. Persons under a contract of service are not eligible for POC because they are workers under the Acts.

Requirements

To be designated as a worker under the Acts, applicants must complete a request for POC. After a POC request is received, the WSCC will review the request and determine if it will be approved. The WSCC denies POC if the applicant's account is not in good standing. Once POC is approved, the applicant is considered to be a worker with all associated rights and responsibilities under the Acts for the duration of their coverage.

Amount of Coverage

While coverage is optional, the amount applicants may apply for is not. The minimum amount of POC available is 37% of the YMIR. The maximum coverage amount available for POC is the YMIR.

Length of Coverage

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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:

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- 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' Sections 4, 6;

Compensation Act:

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

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Entitlement
Calculation of Temporary Compensation
Payment of Compensation
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

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide compensation to workers suffering an injury, disease or death arising out of and during the course of employment while working outside of the Northwest Territories and Nunavut.

DEFINITIONS

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 assessable payroll.

Assessment: "... a charge calculated by the Commission and levied

on an employer...;" (per ss.1(1) of the Workers'

Compensation Acts)

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 who 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)

Northwest Territories: All of Canada north of the 60th parallel of north

latitude, west of the boundary of Nunavut and east of the boundary of Yukon, extending two hundred

nautical miles out to sea from all points of land.



Nunavut:

All that part of Canada north of the 60th parallel of north latitude and east of the boundary of the Northwest Territories that is not within Quebec or Newfoundland and Labrador, extending two hundred nautical miles out to sea from all points of land. Also includes all islands in Hudson Bay, James Bay and Ungava Bay that are not within Ontario, Manitoba and Quebec.

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
 - temporarily engaged in carrying out (iii) 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)*

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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

General

When WSCC registered employers operate outside of the Northwest Territories and Nunavut they must comply with other jurisdictions' applicable workers' compensation legislation. The WSCC may extend coverage to employers' workers while working outside the Northwest Territories and Nunavut if:

- the other jurisdiction does not require the employer to register;
- the other jurisdiction does not extend coverage to that employer; or
- employers are operating in a jurisdiction without workers' compensation legislation.

Criteria for Maintaining WSCC Coverage

A worker must meet all three criteria below to maintain WSCC coverage while working outside the Northwest Territories and Nunavut:

- 1. The worker's usual place of employment is in the Northwest Territories or Nunavut.
- 2. The worker's employment involves activities both inside and outside the Northwest Territories or Nunavut for the same employer. Note: work inside the Northwest Territories or Nunavut does not have to be the majority of work performed by the worker; however, the work performed must be an integral part of the employment.
- 3. The period of work performed outside the Northwest Territories or Nunavut does not exceed six months.
 - The WSCC may extend the initial six month period for another six months. Any extension is made on application of the employer before the initial six month period is complete. Six month extension renewals are granted on a case by case basis depending on the circumstances of each employer.

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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.

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Workers' Right of Election

Workers entitled to compensation under the Workers' Compensation Acts (Acts) and the legislation of another jurisdiction have the choice to claim with either the WSCC or another jurisdiction. This is the worker's right of election.

Workers suffering injury, disease or death in another jurisdiction where the employer's industry is not covered under that legislation, do not have the right of election, but may claim with the WSCC.

Workers who receive compensation from another jurisdiction cannot apply for compensation under the Acts unless:

- 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.

Deadline for Election

Workers, their legal representatives or dependants, who choose to claim compensation under the Acts, must notify the WSCC in writing within 60 days of the injury, disease or death. If no written notice is received within 60 days and no extension has been granted according to subsection 23(3) of the Acts, the WSCC presumes that the worker is not choosing to claim compensation with the WSCC.

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.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 4; 8; 22; 23 Compensation Act:

Nunavut Workers' Compensation Act: Sections 4; 8; 22; 23

Interjurisdictional Agreement on Workers' Compensation

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POLICY RELATED DOCUMENTS

Policy 00.03	Interjurisdictional Agreements
Policy 02.03	Personal Optional Coverage
Policy 02.05	Reporting Payroll

HISTORY

Policy 02.04 (Sep 13/16)	Coverage Outside the Northwest Territories and Nunavut
Policy 02.04 (Mar 5/13)	Coverage Outside the Northwest Territories and Nunavut
Policy 02.04 (Nov 30/10)	Coverage Outside the Northwest Territories and Nunavut
Policy 02.04 (Sep 25/08)	Coverage Outside the Northwest Territories and Nunavut
Policy 02.04 (Apr 22/04)	Coverage Outside of the Northwest Territories and Nunavut
Jan 01/04	Non-substantive change ('Board' to 'WCB')
Policy 02.04 (Aug 31/01)	Coverage Outside of the Northwest Territories and Nunavut
Policy 02.04 (Apr 01/99)	Coverage Outside of the Northwest Territories and Nunavut
Policy 02.04 (Mar 19/96)	Coverage Outside of the Northwest Territories
Policy 30-01-09 (May	Extension of Coverage Outside the NWT
01/89)	
Procedure 30-01-09 (May	Extension of Coverage Outside the NWT
01/89)	

Chairperson

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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 *Workers' Compensation Acts*)

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.

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

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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.

"...in respect of an employer, the total of the Payroll:

remuneration paid by an employer in any year

to all its workers." (per ss. 1(1) of the

Workers' Compensation Acts)

A combined work and residential site isolated to Remote Camp:

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)*

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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 28th 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).

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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.

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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

X = 100% = % of total miles flown in the NT/NU Flown miles in NT & NU Total miles flown by worker

Step 2

% of total miles flown in the NT & NU X Annual Remuneration = Assessable 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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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 28th 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 28th of the current year.

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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 28th 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 28th. 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 30th to revise their current year payroll estimate to ensure its accuracy. The penalty is calculated using the following formula:

Penalty = $(AP - (EP \times 125\%)) \times (AR \times 10\%)$ *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.

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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 Workers' Sections 6; 57; 72; 73, 74, 75, 76

subsections 1(1), 3(1); 4(1)(b)(iii); 81(1)(2)(3); Compensation Act:

83(2); 141(1)(6)

Nunavut Workers' Compensation Sections 6; 57; 72; 73, 74, 75, 76

subsections 3(1); 4(1)(b)(iii); 81(1)(2)(3); 83(2); Act:

141(1)(6)

Northwest Territories Workers' Sections 17; 18; 20

Compensation General

Regulations:

Nunavut Workers' Compensation Sections 17; 18; 20

General Regulations:

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

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REPORTING PAYROLL

Policy 03.07 Calculation of Temporary Compensation

HISTORY

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

Chairperson

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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:

Worker's remuneration in NT and NU x YMIR Assessable Payroll Worker's total remuneration in all jurisdictions

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POLICY STATEMENT

All employers who operate or establish a business in the Northwest Territories and/or Nunavut must register with the Workers' Safety and Compensation Commission (WSCC), unless they meet the *Temporary Employer* criteria as set out in WSCC Policy 00.05.01, Determining Status of Persons Under the Workers' Compensation Acts: Employers. Employers who fail to register must pay a penalty to the WSCC.

DEFINITIONS

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.

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 applicable penalties.

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)

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.

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.

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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*)

An entity that carries on a business and does not Independent Operator:

employ any workers.

The person awarding or letting a contract to a contractor Principal:

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;

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- 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.

Registration for Operations that do not meet the Definition of **Employer under the Workers' Compensation Acts**

Business operations that are not considered *employers* under the Acts, including, but not limited to, independent operators, start-ups and prospective bidders may register with the WSCC and receive an account number prior to establishing or commencing business.

In order to receive a WSCC account number, these businesses must register and pay a \$200 annual administrative fee. Business operations registering for the first time must pay the full administrative fee regardless of how many days remain in the calendar year.

The administrative fee enables the WSCC to maintain proper stewardship of the Workers' Protection Fund, while providing businesses that are not considered employers under the Acts with services that may include, but are not limited to:

- Proof of Registration;
- Certificates of Compliance; and
- Clearances for the purpose of bidding on contracts.

Payment of the administrative fee does not result in coverage as provided under the Northwest Territories or Nunavut Workers' Compensation Act (Acts).

Employers, independent operators, or other individuals who are not automatically covered under the Acts but are seeking coverage should refer to Policy 02.03, Personal Optional Coverage.

Unregistered Employers

Penalty for Employers that Fail to Register

Employers who fail to register within 10 business days of establishing or commencing business are charged a penalty.

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The penalty is equal to 15% of the employer's current year assessment, or 15% of the employer's previous year's assessment for those employers who operated in the Northwest Territories or Nunavut for a period of more than six months in the previous year.

The minimum penalty for failing to register including providing all required information is \$25 and the maximum is \$10,000.

The WSCC may increase an unregistered employer's penalty by all or part of the expense the WSCC incurs as a result of the employer's failure to register, including the WSCC's expenses for investigating the employer's failure to register, up to a maximum of \$10,000.

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.

Ceasing to be an Employer

A person or entity that ceases to employ worker's covered under the *Acts* in the Northwest Territories or Nunavut must give written notice to the WSCC within 10 business days after ceasing to be an employer.

Liability for Unregistered Employers

If a principal on a contract for service hires an unregistered employer to perform work in the Northwest Territories or Nunavut, both the principal and the contractor are liable for the cost of any unpaid assessment relating to that contract, as per Policy 02.12, Employer Clearances.

Unregistered employers remain liable for any penalties associated with failing to register.

The WSCC may require either the principal or the contractor to pay the unpaid assessment, or the WSCC may apportion the cost among the parties.

If a contractor hires an unregistered subcontractor to perform work in the Northwest Territories or Nunavut, the principal, contractor and subcontractor are liable for the cost of any unpaid assessment. The WSCC may require the principal, contractor or

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subcontractor to pay the unpaid assessment, or it may apportion the cost among the parties.

Apportionment of liability is determined on a case-by-case basis.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 73; 74; 75; 80 Subsections 141(1)(5)(6) Compensation Act:

Nunavut Workers' Compensation Act: Sections 73; 74; 75; 80

Subsections 141(1) (5)(6)

Northwest Territories Workers' Sections 18

Subsections 17(2)(3); 21(1)(2) Compensation General Regulations:

Sections 18 Nunavut Workers' Compensation

General Regulations: Subsections 17(2)(3); 21(1)(2)

POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 02.01	Employer Assessments
Policy 02.03	Personal Optional Coverage
Policy 02.05	Reporting payroll
Policy 02.12	Employer Clearances

HISTORY

Policy 02.06 (Mar 12/19)	Account Registration
Policy 02.06 (Sep 12/14)	Account Registration
Policy 02.06 (Sep 12/13)	Account Registration
Policy 02.06 (Apr 01/08)	Unregistered Employers
Policy 02.06 (Apr 22/04)	Unregistered Employers
Policy 02.06 (Aug 31/01)	Unregistered Employers
Policy 02.06 (Dec 07/00)	Unregistered Employers
Policy 02.06 (Apr 01/99)	Unregistered Employers
Policy 02.06 (Mar 12/98)	Unregistered Employers

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 Chairperson



POLICY STATEMENT

This policy describes the types of projects that the Workers' Safety and Compensation Commission (WSCC) may consider to be Mega Projects and the principles used when determining financial arrangements for these projects. Financial arrangements developed for Mega Projects:

- seek to minimize the Mega Project's impact on the Workers' Protection Fund and employer assessments;
- ensure the fair and consistent treatment of all employers; and
- allow for reasonable flexibility to address conditions specific to a particular Mega Project.

DEFINITIONS

Assessment: "... a charge calculated by the Commission and levied

on an employer..." (per ss. 1(1) of the Workers'

Compensation Acts)

Class: An employer's class is the primary industrial sector to

which its operations belong within the WSCC's

industry classification system.

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)

Governance Council: The Board of Directors of the WSCC as constituted

by section 84 of the Workers' Compensation Acts.

Mega Project: An individual or collaborative large scale undertaking

that involves large capital input, time and resources.

Subclass: An employer's subclass is the specific industrial sector

to which its operations belong within the WSCC's

industry classification system.

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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)

POLICY

General

The WSCC, at the direction of the President and in conjunction with WSCC's Actuary, examines a project to determine if it meets the criteria to be a Mega Project. Subsequently, the WSCC and its actuary determine whether a special financial arrangement for assessments is required.

Criteria for Determining Mega Projects

To be considered a Mega Project, a project must meet all of the following criteria:

- the estimated total assessment of the project is equal to or greater than \$2,000,000;
- the project is estimated to cause a 20% or greater increase in total assessable payroll for any subclass involved in the project;
- assessable payroll for the project is expected to decline by at least 25% from its peak amount once the project is completed;
- the fluctuations in assessable payroll are not part of the subclass' normal business cycle; and
- any affected subclass cannot absorb the potential experience costs without significantly impacting their assessment rates.

Determining the Need for Special Financial Arrangements

Mega Projects are not common and may require a special rate specific to all employers involved in the project. This rate is outside the regular WSCC classification system.

The WSCC is guided by the following principles when deciding if a special financial arrangement for assessments is required:

Project Duration: How long is the project estimated to last? Longer projects present less risk because there is an opportunity to increase assessment rates, to recover any financial losses before the project is complete.

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- 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

Section 70 Northwest Territories Workers' Compensation Act:

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Nunavut Workers' Compensation Act: Section 70

POLICY RELATED DOCUMENTS

Policy 01.01	Industrial Classification
Policy 01.02	Industrial Re-Classification
Policy 02.01	Employer Assessments
Policy 02.05	Reporting Payroll

HISTORY

Policy 02.07 (Sep 13/16)	Mega Project Assessments
Policy 02.07 (Sep 11/12)	Mega Project Assessments
Policy 02.07 (Mar 31/08)	Mega Project Assessments
Policy 02.07 (Sep 19/05)	Mega Project Assessments

Chairperson

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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

Workers' Compensation Act(s))

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

Act(s)

Not in Good Standing: Where an account holder fails to comply with the

provisions of the *Workers' Compensation Act(s)*.

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.

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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.

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- The services or activities of one employer are transferred to another employer.
- A new employer continues all or most of the former employer's operations or activities.
- The employers do not work at arm's length from each another.

Employer Assets and Liabilities

• Sufficient assets and liabilities were sold or transferred to the new employer to perform business functions previously performed by the former employer.

Service Continuation

- There is continuous production or service with little or no break between the employers' operations.
- One employer uses a logo or trademark that identifies it with another employer or suggests service or operations continuity.

Employer Management

• The management personnel are the same between different employers.

Ownership

- Employers have common ownership.
- Ownership change is among family members or spouses, or if the ownership changes hands for a nominal fee.
- A new employer's financial and operational control remains with the former owners.
- There was a sale of shares or a sale of assets.

Employees

• A new employer employs all or most of the former employer's employees.

Agreements and Benefit Plans

• Any collective bargaining agreement that exists at the time of the sale of the business is continued under the new owner.

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

Compensation Act:

Nunavut Workers' Compensation Act: Sections 9; 91(2)(h)(i); 114(e); 144

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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

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) recommends a principal obtain a clearance letter when undertaking a contractual project to avoid liability for assessments relating to the contract for which their contractor owes the WSCC. Likewise, contractors are recommended to obtain a clearance letter for any subcontractors they are in a contractual relationship with as they are liable for any assessments relating to the contract that their subcontractor owes the WSCC. This policy describes responsibilities of employers and recommended actions they should take to avoid being liable for the assessments of employers that they enter into contractual relations with.

DEFINITIONS

Clearance Certificate: A certificate issued by the WSCC to the seller in

> relation to the sale of a business, or the bulk sale of inventory or equipment used in connection with a business, to confirm that the seller has no outstanding

debt or balance with the WSCC.

A document given by the WSCC to a principal that Clearance Letter:

> indicates a contractor/subcontractor is compliant with requirements under the Workers' Compensation Acts.

Contractor and Subcontractor: The person or entity providing contractual services to

> a principal. Contractors may themselves retain subcontractors, in which case the contractor becomes

the principal in relation to the subcontractors.

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

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"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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The principal is also responsible for requesting a final clearance letter. Upon receiving a request for a final clearance letter, the WSCC will issue one of the following letters to the principal prior to the termination of the contract:

- *Final Clearance Letter*: confirms that all compliance criteria continue to be met. This letter relieves the principal of liability for assessments on the contract; or
- *Do Not Release*: confirms that the compliance criteria have no longer been met and the contractor's account is not in good standing.

If the contractor's account is not in good standing, the principal is liable for the contractor's payment obligations to the WSCC. In this case, the principal may withhold, from any money payable to its contractor, the amount of any assessment relating to the contract for which the contractor/subcontractor would be liable, and may pay that amount to the WSCC.

The principal may, at any time throughout a contract, request in writing an update of the contractor's account status.

If, at any time, the terms of the contract change, the principal is encouraged to update the existing clearance. Examples of changes in a contract's terms include, but are not limited to, a contract extension, changes in the dates of the contract, or changes in the dollar value of the contract.

Temporary Contractors

A principal is unable to request a clearance letter for temporary contractors, as determined according to the criteria for *Temporary Employers* set out in Policy 00.05.01, Determining the Status of Persons Under the Workers' Compensation Acts: Employers.

Requesting a clearance letter is recommended if even one of these criteria is not met.

Contractor Responsibilities

Contractors are responsible for:

- the payment of assessments as per Policy 02.01, Employer Assessments; and
- requesting clearance letters for any sub-contractors they hire for the contract.

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Clearance Certificates for Sale of Business

A purchaser of a business, or the bulk sale of inventory or equipment used in connection with a business, must obtain from the seller a clearance certificate issued by the WSCC that states the WSCC has no claim with respect to the business, inventory or equipment before paying any part of the purchase price or giving the seller any security for it.

A purchaser who does not obtain the clearance certificate is liable to the WSCC for any assessment or other amounts (e.g. penalties) that the seller owes the WSCC at the time of sale, not exceeding the fair market value of the business, inventory or equipment that is being purchased.

LEGISLATIVE AUTHORITIES

Compensation Act:

Nunavut Workers' Compensation Act: Sections 80; 144

POLICY RELATED DOCUMENTS

Policy 02.01	Employer Assessments
Policy 02.05	Reporting Payroll
Policy 02.06	Account Registration
Policy 10.01	Doubtful Accounts and Write-offs

Policy 10.01 Doubtful Accounts and Write-offs

HISTORY

Policy 02.12 (Feb 10/20)	Employer Clearances, Non-Substantive Change
Policy 02.12 (June 5/15)	Employer Clearances

Chairperson

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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 Workers' Compensation Acts)

"...any medical aid, payment, money, pension, Compensation:

> 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*)

"...a contract of service or apprenticeship, written or Contract of Service:

oral, expressed or implied." (per ss. 1(1) of the

Workers' Compensation Acts)

"...an unhealthy condition of the body or mind." (per Disease:

ss. 1(1) of the Workers' Compensation Acts)

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*)

"...a chiropractor, dentist, nurse, occupational Health Care Provider:

> therapist, optometrist, physical therapist, physician, psychologist, or other class of persons whose

professions are accepted by the Commission" (per ss.

qualifications to practice any of the healing

1(1) of the *Workers' Compensation Acts*)

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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 *Acts* which requires the WSCC to assume

certain facts, unless the contrary is proven on the

balance of probabilities.

"The following persons are deemed to be workers for Worker:

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

> undergoing training or probationary i. work as a preliminary to employment with an employer;

engaged in, or training for, rescue or ii. recovery services, ambulance services or firefighting services; or

temporarily engaged in carrying out iii. measures relating to emergencies or disasters under 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)*

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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;

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- 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.

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All claims submitted past the limitation period are evaluated on a case-by-case basis. Reasons that may be determined to be justifiable may include but are not limited to:

- Uncertainty about whether the injury or disease was related to employment; or,
- The worker was medically unable to submit a claim.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections 10; 12; 20; 31; 37

Compensation Act: subsections 13(2); 14(2); 14(4); 14(5)

92(2)(3)

Nunavut Workers' Compensation Act: Sections 10; 12; 20; 31; 37

subsections 13(2); 14(2); 14(4); 14(5)

92(2)(3)

POLICY RELATED DOCUMENTS

Policy 00.05	Determining Employer and Worker Status
Policy 00.08	Decision Making
Policy 02.03	Personal Optional Coverage
Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.06	Occupational Disease
Policy 03.09	Psychiatric and Psychological Disability
Policy 03.12	Pre-Existing Conditions
Policy 04.08	Medical Devices
Policy 06.01	Pension Entitlement

HISTORY

Policy 03.02 (Mar 6/18)	Entitlement
Policy 03.02 (Jun 12/14)	Entitlement
Policy 03.02 (Sep 11/12)	Entitlement
Policy 03.02 (Dec 11/08)	Entitlement
Policy 03.02 (June 10/04)	Entitlement
Policy 03.02 (Aug 31/01)	Entitlement
Policy 03.02 (Apr 01/99)	Entitlement
Policy 03.02 (Jan 01/96)	Entitlement
D-1: 20 01 04 (C 10/02)	A 11 11 41

Policy 20-01-04 (Sep 10/93) Adjudication Process

Policy 20-02-12 (Dec/81) Five Point Check System – Opening New Claims

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

ENTITLEMENT

Secondary Conditions – From Compensable Disability

Chairperson

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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 Acts 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.

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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 nonemployment 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

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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.

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Presumptions

Section 14 of the *Acts* provide for a number of presumptions in law. That is, once certain facts are determined, conclusions can be made in favour of the worker, unless on a balance of probabilities the contrary is proven.

The general presumptions provided in the *Acts* include:

- 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;
- A personal injury, disease or death that occurs during the course of a worker's employment is presumed to arise out of their employment;
- The death of a worker is presumed to have arisen out of their employment if the
 worker is found dead at the place where the worker would be during the course of
 employment; and
- A disease is presumed to have arisen out of a worker's employment and to have occurred during the course of employment if:
 - (a) the worker is disabled or impaired by the disease;
 - (b) the worker was exposed to conditions during the employment that might reasonably have caused the disease; and
 - (c) the exposure to the conditions occurred at any time during the twelve months preceding the disability or impairment.

Section 14.1 of the *Acts* also provides a presumption for firefighters. A disease listed in Section 14.1 the *Workers' Compensation Acts* is presumed to have arisen out of and during the course of a firefighters' employment if the firefighter is disabled or impaired by a listed disease and has worked for the minimum period of employment prescribed in the *Firefighters' Presumption Regulations*.

Further details and guidelines pertaining to the role of legislated presumptions in the decision making process are provided in policy 00.08, Decision Making.

Employer Provided Accommodations

Worker Required to Live in Employer Provided Accommodations

An injury, disease or death suffered by a worker in employer provided accommodations, when the worker is required to live in the employer provided accommodations, arises out of and during the course of employment if one of the two following situations is present:

• The worker was continuously on-call; or

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• The cause of the injury was distinctly connected with the required employer provided accommodations.

When there is no distinct connection between the injury, disease or death and the employer provided accommodations, the WSCC may determine the injury, disease or death did not arise out of and during the course of employment.

Employer provided accommodation is considered required when there is no reasonable alternative because of the distance between any other available accommodations and the worksite or there is a lack of available accommodations in the community.

Optional Employer Provided Accommodations

An injury, disease or death suffered by a worker in optional employer provided accommodations is evaluated the same as a worker living in a private residence.

Remote Camp Workers

A worker who lives in facilities operated by or for the employer has less control over their environment and activities than if they lived in a normal home environment. A worker in a remote camp who lives in accommodations provided by the employer may be considered to be in the course of employment 24 hours a day, even when engaged in personal activities. A range of personal activities may be determined to have occurred during the course of the worker's employment given the circumstances of the worker's living arrangement. However, if a worker engages in an activity that removes them from the course of employment, then a resulting injury, disease or death may not be compensable. For a description of criteria used to determine if remote workers are removed from the course of employment, see the section below regarding disqualification.

Where a remote camp worker is injured using a facility or equipment supplied by the employer, the injury, disease or death is presumed to arise out of employment only if the worker is participating in work activities or the employer provided facilities or equipment are faulty.

Disqualification

An injury, disease or death that occurs when a worker is engaged in the performance of a work-related activity, or an activity that is reasonably incidental to the employment, is

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generally compensable. However, if a worker was engaged in an activity that was a distinct departure from their employment, the claim may be disqualified.

If a worker was engaged in an activity to satisfy a personal need, the worker may have been engaged in an activity that was incidental to the employment. Similarly, engaging in a brief interlude of non-incidental personal activity does not always mean that the worker was not in the course of employment. In determining whether a personal activity occurred in the course of employment, the WSCC considers factors such as:

- The duration of the activity:
- The nature of the activity; and
- The extent to which the activity deviated from the worker's regular employment activities.

In determining whether an activity was incidental to the employment, the WSCC takes into consideration the nature of the work, the nature of the work environment and the customs and practices of the particular workplace.

A claim caused by the worker's serious and wilful misconduct is not compensable, but will be considered by the WSCC if it results in serious disability, serious impairment, or death.

LEGISLATIVE AUTHORITIES

Northwest Territories Worker's Sections 10; 13; 14; 92

Compensation Act:

Nunavut *Worker's Compensation Act*: Sections 10; 13; 14; 92

POLICY RELATED DOCUMENTS

Policy 00.08	Decision Making
Policy 03.02	Entitlement
Policy 03.06	Entitlement of Occupational Disease
Policy 03.09	Psychiatric and Psychological Disability

HISTORY

Policy 03.03 (Mar 6/18)	Arising Out of and During the Course of Employment
Policy 03.03 (Jun 12/14)	Arising Out of and During the Course of Employment
Policy 03.03 (Dec 06/12)	Arising Out of and During the Course of Employment

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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)

Chairperson



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.

For the purposes of the Harvesters' Program, Gross Income:

> "...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)

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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)

"...to hunt, capture, harvest or gather flora or Harvesting Wildlife:

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);

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- 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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Individuals who do not qualify for coverage under the Renewable Resource Harvesters program can purchase coverage by completing an Application for Personal Optional Coverage as per Policy 02.03, Personal Optional Coverage, and Section 6 of the Workers' Compensation Act(s). Personal Optional Coverage can not be combined with the compensation which Harvesters are entitled to under this program.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers'

Compensation Act:

Section 5

Nunavut Workers' Compensation Act: Section 5

Memorandum of Understanding

(MOU):

Between the Workers' Safety and

Compensation Commission [2009] and the GNWT (Department of Industry, Tourism and

Investment [1994]

Memorandum of Understanding

(MOU):

Between the Workers' Safety and Compensation Commission and the

Government of Nunavut (Department of

Environment) [2009]

Workers' Compensation Transition Agreement between the Government of the Northwest Territories and the Government of Nunavut

POLICY RELATED DOCUMENTS

Policy 02.03 Personal Optional Coverage

Arising Out of and During the Course of Policy 03.03

Employment

Calculation of Temporary Compensation **Policy 03.07** Policy 06.03 Calculation of Permanent Compensation

Policy 08.01 Decision Review

HISTORY

Renewable Resource Harvesters Policy 03.05 (May 28/09)

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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 Renewable Resource Harvesters Policy 20-01-25 (May 01/94) Policy 30-01-10 (May 01/89; as Hunters, Fishermen and Trappers amended Mar 29/94)

Chairperson

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Schedule A

ELIGIBLE DISEASES ARISING OUT OF AND DURING THE COURSE OF EMPLOYMENT

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



POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) entitles and adjudicates claims for compensation resulting from occupational diseases. Occupational diseases typically result from cumulative exposure to a harmful substance or industrial process, but may result from a single exposure where the cause can be identified.

DEFINITIONS

Balance of Probabilities: A degree of proof which is more likely than not.

dBA: "means the sound pressure level in decibels

measured on the A scale of a sound level meter;" (per

s.1 of the *Occupational Health and Safety*

Regulations)

"means the condition of having temporarily reduced Disability:

> 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)

Disease: "means an unhealthy condition of the body or mind."

(per ss. 1(1) of the Workers' Compensation Acts)

Firefighter "means a worker who

> (a) is engaged in fighting fires as a full-time, parttime or volunteer member of a fire department,

and

(b) does not exclusively fight forest fires" (per

ss14.1(1) of the *Workers' Compensation Acts*)

Occupational Disease: A disease peculiar to or characteristic of a particular

trade, occupation or industry or peculiar to the specific

employment of a worker.

POLICY

When a worker makes a claim for compensation for an occupational disease, the WSCC applies the criteria in the following sections to determine entitlement.

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Presumptions for Firefighter Occupational Diseases

The Workers' Compensation Acts (Acts) list diseases that are presumed to arise out of and during the course of a worker's employment, unless the contrary is proven on a balance of probabilities:

- the worker is disabled or impaired by the listed disease; and
- the worker is or has been a firefighter for the minimum period of employment as prescribed in the Firefighters' Presumption Regulations (Regulations).

The diseases in the Acts presumed to arise out of and during the course of a firefighter's employment are:

- cardiac arrest within 24 hours after attendance at an emergency response;
- multiple myeloma;
- primary leukemia;
- primary non-Hodgkin's lymphoma;
- primary site bladder cancer;
- primary site brain cancer;
- primary site breast cancer;
- primary site colo-rectal cancer;
- primary site esophageal cancer;
- primary site kidney cancer;
- primary site lung cancer (where the worker was a non-smoker before the date of the disability or impairment for the minimum period prescribed in the *Regulations*);
- primary site prostate cancer;
- primary site skin cancer;
- primary site testicular cancer; and,
- primary site ureter cancer.

Occupational Diseases

All claims for compensation are evaluated on a case by case basis. The WSCC evaluates the causal relationship between the work-related exposures and the disease and determines entitlement based on a balance of probabilities. The WSCC applies the following criteria when assessing the causal connection between a work-related exposure and a disease:

Strength: How significant is the strength of association between the disease and workrelated factors?

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- 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)

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A common cause of HAVS is a worker's exposure to work-related vibration. Workrelated vibration occurring during periods of low temperatures can accelerate the development of this syndrome.

Activities that can cause HAVS include, but are not limited to:

- grinding, chipping, scaling and caulking;
- operating a jack hammer, chainsaw or jackleg (rock) drill;
- stone cutting using pneumatic tools of medium to light weight and high frequency vibration; and
- any process using air compression tools.

Criteria for Entitlement of a Claim for Compensation

A worker should have a history of 3500 hours or more of continuous employment where the worker would have used high frequency, rapid acceleration vibratory tools as an integral function of their job for a causal link to be made to a suspected occupational disease. Exceptions may be granted on a case by case basis (e.g. where there is a temporary interruption in the otherwise continuous exposure, such as in seasonal work).

To be entitled under the Acts, a portion of the work-related exposure leading to the entitlement of HAVS must occur in the Northwest Territories and Nunavut.

Noise-Induced Hearing Loss

A common cause of noise-induced hearing loss is a worker's exposure to high noise levels.

Criteria for Entitlement of a Claim for Compensation

A worker must be exposed to work-related high noise levels in the Northwest Territories or Nunavut to be eligible for compensation for noise-induced hearing loss. Noise-induced hearing loss is compensable when there is a clear history of prolonged occupational exposure (usually two or more years), and where the exposures meet or exceed the minimum threshold time periods as per the following table:

Noise Level (dBA)	Minimum Threshold Time-Period Per Day
	(hours)

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

When information needed to estimate a worker's cumulative exposure to work-related noise levels is not available, the WSCC estimates the exposure by using other employment situations that are subject to similar noise levels and exposure durations as a reference.

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.

Adjustment for Age-Related Hearing Loss

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 agerelated 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.

Claiming Compensation for an Occupational Disease

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:

- 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 one year limitation period if it determines that there is a justifiable reason for the delay.

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In the case of certain occupational diseases, such as hearing loss, a worker's condition can stabilize when the worker leaves the workplace. The WSCC recommends that workers submit claims for compensation for occupational diseases, such as hearing loss, within one year from the time that the worker was no longer subjected to the workplace exposure.

Jurisdiction of Exposure

To be entitled under the Acts, a portion of work-related exposure leading to the entitlement must occur in the Northwest Territories and Nunavut. If a worker's exposure to work-related factors occurred in the Northwest Territories or Nunavut and another Canadian jurisdiction, the WSCC compensates the worker according to section seven of the Interjurisdictional Agreement on Workers' Compensation. Section 7 does not apply to noise-induced hearing loss claims.

LEGISLATIVE AUTHORITIES

Northwest Territories Worker's Sections 10; 20; 37

Compensation Act: subsections 1(1); 13(2); 14(2); 14(4); 14(5);

40(1)

Nunavut Worker's Compensation Act: Sections 10; 20; 37

subsections 1(1); 13(2); 14(2); 14(4); 14(5);

40(1)

Northwest Territories Firefighters

Presumption Regulations:

All

Nunavut Firefighters Presumption

All

Regulations:

POLICY RELATED DOCUMENTS

Policy 00.08 **Decision Making** Policy 03.02 Entitlement

Policy 03.03 Arising Out of and During the Course of Employment

Policy 04.10 **Employer Cost Transfer and Relief**

HISTORY

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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

Chairpersor

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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).

A year starting January 1st and ending December Calendar Year:

31st.

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 Workers'

Compensation Acts)

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.

"...a person who, although not under a contract of Learner:

service is...

undergoing training or probationary (i) work as a preliminary to employment with an employer," (per ss. 4(1)(b) of

the Workers' Compensation Acts).

"...the amount of the workers' annual Net Annual Remuneration:

> remuneration minus the amount of the worker's annual deductions, determined in accordance with

the regulations." (per s. 59 of the Worker's

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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 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

Workers' Compensation Acts.

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.

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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):

"...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 disability compensation:

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

Workers are entitled to disability compensation for those days they would normally receive remuneration in the course of their usual employment other than the day the personal injury or disease occurred.

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,

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• Calculate the disability compensation payable.

In the case of TD compensation, if workers are disabled more than one day their disability compensation starts the day after their work-related incident and continues until:

- they safely return to work;
- the WSCC determines they are fit to safely return to work based on medical or other reasonable evidence; or
- the WSCC suspends or terminates their disability compensation according to Policy 04.01, Payment of Compensation.

Determining or Estimating Annual Remuneration

The WSCC determines a worker's Annual Remuneration as the amount the worker would earn in that calendar year if their work-related injury or disease did not occur. A worker's Annual Remuneration cannot exceed the YMIR for the calendar year in which the injury or disease occurred.

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, and tips. Also included are other compensation defined under the *Workers' Compensation Acts*. This includes the value of board and lodging, store certificates, credits or any remuneration in kind or other substitute for money provided to the worker, as well as benefits received by the worker under the *Employment Insurance Act* (Canada). The WSCC may not provide disability compensation to the worker for the compensation that they continue to receive from their employer following a work-related injury.

For greater clarity, a worker's Annual Remuneration does not include the 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.

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 worker's remuneration from a representative annual period or the remuneration of a worker in similar employment.

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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.

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Stage One

The WSCC calculates the worker's Annual Remuneration for Stage One as the higher of:

- The amount the worker would earn if the worker were receiving remuneration during the entire year at the same rate as during the period of their seasonal or partial employment; or
- The amount the worker would have earned in the year of the injury, disease or death but for the work related injury, disease or death.

To determine how long to apply stage one, the WSCC must determine the period of time that the worker's seasonal or partial employment would have continued but for the work-related injury, disease or death.

The WSCC determines the period of employment by:

- Evaluating the period of time the worker was engaged in the same or similar employment in the previous three years; and
- Selecting the period of employment that is most favourable for the worker.

Stage Two

When a worker's disability lasts beyond the period of employment determined in Stage One, the WSCC may continue to pay disability compensation until:

- The worker returns to work;
- The WSCC determines they are fit to return to work based on medical or other reasonable evidence; or,
- The WSCC suspends or terminates disability compensation payments according to Policy 04.10, Payment of Compensation.

To determine the disability compensation paid beyond the period of time that the worker's seasonal employment or partial employment would have continued, the WSCC first tries to determine the worker's Annual Remuneration as the total remuneration the worker would otherwise have earned in that year but for the work-related injury or disease.

If the WSCC cannot determine what the worker would otherwise have earned in that year but for the work-related injury or disease, then it determines Annual Remuneration according to a representative annual period of the worker's employment history.

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If the WSCC is unable to determine the worker's Annual Remuneration from a representative annual period, then the WSCC determines Annual Remuneration for Stage Two as the remuneration of a worker in the same or similar 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.

Learners

The WSCC determines learners' Annual Remuneration by considering the annual remuneration of entry level positions in the same or similar employment.

Persons with Personal Optional Coverage (POC)

The Annual Remuneration for individuals with Personal Optional Coverage is the amount of coverage approved by the WSCC, up to the YMIR.

For individuals with POC employed elsewhere as a worker or with POC under a separate business, their Annual Remuneration is the total of all remuneration including the amount covered by POC, up to the YMIR.

Renewable Resource Harvesters

The WSCC determines Annual Remuneration for renewable resource harvesters by accepting the amount reported by the Government of the Northwest Territories or the Government of Nunavut, up to the Harvester's YMIR stated in the *Workers' Compensation General Regulations*. The amount reported by the Government of the Northwest Territories or Government of Nunavut includes a credit for country foods. The amount of the credit for country foods is determined by memorandums of understanding between the WSCC and the respective territorial governments.

Other Types of Workers

For categories of workers not explicitly listed in this policy and who are eligible for disability compensation under policy 00.05.02, Determining Status of Persons Under the Workers' Compensation Acts: Workers, the WSCC determines the workers' Annual

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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.

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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.

PD Compensation = TD Compensation X 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.

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Multiple Injuries or Diseases

If a worker who already receives a pension for a PI suffers another injury or disease, the WSCC pays the worker, if entitled, disability compensation without deducting amounts the WSCC already pays the worker for their unrelated PI.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 38; 39; 40; 44; 45; 57; 58; 59

Compensation Act::

Nunavut Workers' Compensation Act Sections 38; 39; 40; 44; 45; 57; 58; 59

Northwest Territories Workers' Sections 1; 10

Compensation General Regulations:

Nunavut Workers' Compensation

General Regulations:

Sections 1; 10

POLICY RELATED DOCUMENTS

Policy 02.05	Reporting Payroll
Policy 03.03	Arising Out of and During the Course of
	Employment
Policy 03.05	Renewable Resource Harvesters
Policy 04.01	Payment of Compensation
Policy 06.01	Pension Entitlement
Policy 06.02	Pension Conversions and Advances
Policy 06.03	Calculation of Permanent Compensation

HISTORY

Policy 03.07 (Jun 13/19)	Calculation of Temporary Compensation
D. I	Calculation (Non-Substantive Change)
Policy 03.07 (Mar 6/18)	Calculation of Temporary Compensation
	Calculation
Policy 03.07 (Jun 12/14)	Calculation of Temporary Compensation
Policy 03.07 (Jun 03/13)	Calculation
Policy 03.07 (Mar 25/10)	Calculation of Temporary Compensation
Policy 03.07 (Mar 31/08)	Calculation of Temporary Compensation
Policy 03.07 (Sep 19/05)	Calculation of Temporary Compensation

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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

Chairperson



POLICY STATEMENT

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:

- Acute stress disorder;
- Post-traumatic stress disorder:
- Somatic symptom disorder;
- Adjustment disorder; or
- An anxiety or depressive disorder.

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.

DEFINITIONS

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.

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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

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employment and is medically compatible with the circumstances of the incident. The following factors are considered when determining if a psychological or psychiatric disorder is work-related and will be entitled.

Cause

To be eligible for compensation, a claimant must be diagnosed with a disorder that results from one or more of the following work-related incidents:

- 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 workrelated 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

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.

Worker / Employer Labour Relations

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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In addition, a worker is not entitled to compensation for a psychiatric or psychological disability or impairment that results from mental stress caused by a worker's relations with the WSCC during the entitlement, adjudication, or management of the worker's claim.

Precipitating Event

In the course of employment, a worker may experience an event or series of events that cause mental stress which leads to a psychiatric or psychological disorder. The precipitating event may be:

- An injury;
- A sudden and unexpected traumatic event; or
- A series of traumatic events identified as a cumulative effect.

If the precipitating event is either a sudden and unexpected single traumatic event, or a series of traumatic events it must arise out of and during the course of employment and

- Traumatic, as determined by the objective standard outlined in this policy;
- Experienced by the worker and based on reasonable and credible information;
- Generally regarded as unexpected in the usual or daily course of the worker's employment or work environment;
- Related to a specific time and place; and,
- Established by the WSCC through information of the event provided by, but not limited to: co-workers, supervisors, family, or the media.

For example, traumatic events include, but are not limited to:

- Being the object of threats of physical violence where the worker believes the threats are serious (e.g., bomb threats, being confronted with a weapon, the threat of sexual assault while in the course of work);
- Being the object of harassment that includes physical violence or threats of physical violence (e.g., the escalation of verbal abuse into physical abuse),
- Being the object of harassment that results in severe psychological harm;
- Being the object of harassment that includes being placed in a life-threatening or potentially life-threatening situation (e.g., tampering with safety equipment, causing the worker to do something dangerous);
- Witnessing a fatality;
- Witnessing or being the object of a horrific accident;
- Witnessing or being the object of an armed robbery;
- Witnessing or being the object of a hostage-taking;

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- Being the object of physical violence, including sexual assault;
- Being the object of death threats; or,
- A natural disaster.

The worker must have suffered or witnessed the traumatic event first hand, or experienced the event first hand through direct communication with the affected individual(s) (e.g., speaking with the victims on the radio or telephone during the traumatic event).

The WSCC may consider an event traumatic even if the worker was exposed to similar events in the past and exhibited no ill effects, or even if other workers exposed to the same event do not experience ill effects.

Onset, Reaction and Diagnosis

Psychiatric and psychological disorders, resulting from trauma, can have an acute or chronic onset.

Acute Reaction

Acute Onset Stress occurs in response to a single incident that is sudden, shocking and specific. A worker's acute reaction to a traumatic event may be immediate, delayed or the result of a cumulative effect.

An acute reaction is said to be *immediate* if it occurs within four weeks of the traumatic event. An acute reaction is said to be *delayed* if it occurs more than four weeks after the traumatic event.

Diagnoses of disorders resulting from acute reactions may include, but are not limited to, acute stress disorder (developed within four weeks), post-traumatic stress disorder (developed after four weeks), adjustment disorder, or an anxiety or depressive disorder.

In the case of delayed acute reaction to a work-related traumatic event, there must be a reasonable link between the worker's psychiatric or psychological disorder and the traumatic event.

Cumulative Effect

A workers reaction to the onset of chronic stress occurs in response to an accumulation of a number of work-related traumatic events over time and/or to a significant event that has lasted for a long time.

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Over time, some workers may be exposed to multiple, sudden, and unexpected traumatic events, due to the nature of their occupation. If a worker has an acute reaction to the most recent traumatic event, their claim may be entitled even if the worker experienced the same traumatic events as part of their employment and was able to tolerate the past traumatic events. A final reaction to a series of sudden and traumatic events is considered to be the result of the cumulative effect.

In the case of a cumulative effect to a series of traumatic events, the WSCC recognizes that each event may affect a worker psychologically. This is true even if the worker does not show the effects until the most recent event. As a result, entitlement may be accepted because of the cumulative effect, even if the last event is not the most significant. In considering entitlement for the cumulative effect, the Adjudicator/Case Manager will rely on clinical and other information supporting that multiple traumatic events led to the worker's current psychiatric or psychological injury. Also, there may be evidence showing that each event had some effect or life disruption on the worker, even if the worker was not functionally impaired by the effect or life disruption.

Diagnosis

In order to be eligible for compensation, a claim must include a diagnosis made according to the most current version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

WSCC Claims Services staff may 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 or disease is consistent with medical evidence and opinion. In the event that new relevant medical evidence is available, the injury or diagnosis must be compatible with the related incident or exposure.

Impairment

Psychiatric and psychological disorders caused by a work-related traumatic event(s) or injury are considered to be treatable. Only once the worker's disability has reached maximum medical recovery are these types of disorders accepted as impairments. If the worker reaches maximum medical recovery in accordance with Policy 04.11, Claims Management, and the disorder remains, the WSCC will consider the ongoing psychiatric or psychological disorder to be an impairment. Policy 06.01, Pension Entitlement, Policy 06.03, Calculation of Impairment Compensation, and the most recent version of the American Medical Association Guide to the Evaluation of Permanent *Impairment* will be used to assess the impairment.

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LEGISLATIVE AUTHORITIES

Nunavut Workers' Compensation Act: Section 37

subsection 13(2); 40(1)

NWT Workers' Compensation Act: Section 37

subsection 13(2); 40(1)

Interjurisdictional Agreement on Worker's Compensation

POLICY RELATED DOCUMENTS

Policy 03.02	Entitlement
Policy 03.03	Arising Out Of and During the Course of Employment
Policy 00.08	Decision Making
Policy 03.06	Occupational Disease
Policy 03.12	Pre-Existing Conditions
Policy 04.11	Claims Management
Policy 06.01	Pension Entitlement

HISTORY

Policy 03.09 (Nov 30/17)	Psychiatric and Psychological Disorders
Policy 03.09 (Jun 13/14)	Psychiatric and Psychological Disorders
(Non-substantive Changes)	
Policy 03.09 (Apr 1/08)	Psychiatric and Psychological Disability
(Non-Substantive Changes)	
Policy 03.09 (Oct 23/03)	Psychiatric and Psychological Disability

Chairperson

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CHRONIC PAIN

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) will provide compensation to a worker who develops Chronic Pain when it results from a work-related injury and there is sufficient credible evidence establishing the condition. Claims for compensation are adjudicated on a case by case basis.

DEFINITIONS

Chronic Pain: Pain that persists beyond the usual healing time for

the type of injury that precipitated or triggered the pain, AND/OR pain that is disproportionate to that expected of the type of injury that precipitated or

triggered the pain.

The complaints of pain and pain behaviour are inconsistent with physical findings (i.e. there is a lack of objective, organic/anatomical findings at the site of the injury to indicate that the injury has not

healed).

Compensation: Any medical aid, payment, money, pension,

vocational rehabilitation, counselling or other benefit

payable or provided as a result of a worker's

personal injury, disease or death.

Marked Life Disruption: Difficulty or dysfunction in several of the following

> areas of a worker's life due to the effect of pain experienced by the worker: physical, behavioural,

cognitive and psychological functioning,

vocational/employment activity, social/recreational

activity, and family relationships.

Maximum Medical Recovery

(MMR)

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 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.

POLICY

General

Chronic Pain is different from long-term or persistent, lingering pain resulting from an identifiable physical condition. Chronic Pain is pain that cannot be readily diagnosed based on physical findings, such as observable or measurable changes in anatomical or neurophysiological characteristics, and are instead commonly based on subjective accounts and/or evidence.

This policy does not apply to cases of persistent, lingering pain due to an identifiable physical condition diagnosed based on objective tests/assessments, or diagnosable psychological/psychiatric conditions. Policies 03.02, Entitlement, and 03.09, Psychiatric and Psychological Disorders, are applicable in these cases.

Eligibility Criteria

Chronic Pain may be compensable when the following conditions are met:

- The pain is causally connected to, and a consequence of, a compensable workrelated injury or disease;
- The pain persists beyond the usual healing time of that expected for the preceding compensable injury or disease and/or the pain is disproportionate to the pain expected from the preceding compensable injury or disease;
- Complaints of pain and pain behaviour are inconsistent with physical findings;
- The pain results in Marked Life Disruption; and,
- Medical opinion confirms the reliability and credibility of the patient's presentation, using thorough questionnaires and medical assessments.

Establishing Eligibility

The following outlines factors that can help guide decision-making related to Chronic Pain claims:

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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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CHRONIC PAIN

Pension Entitlement

When Chronic Pain from a compensable work-related injury results in impairment, the WSCC will grant a worker a pension in accordance with Policy 06.01, Pension Entitlement. The most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment* will be used to assess the impairment.

LEGISTLATIVE AUTHORITIES

Nunavut Workers' Compensation Act: Sections 10; 13(2); 34(4); 37

NWT Workers' Compensation Act: Sections 10; 13(2); 34(4); 37

POLICY RELATED DOCUMENTS

Policy 03.02	Entitlement
Policy 03.03	Arising Out Of and During the Course of Employment
Policy 03.07	Calculation of Disability Compensation.
Policy 03.09	Psychiatric and Psychological Disorders
Policy 03.12	Pre-existing Conditions
Policy 04.11	Claims Management
Policy 06.01	Pension Entitlement
Policy 06.02	Pension Conversions and Advances
Policy 06.03	Calculation of Impairment Compensation

HISTORY

Policy 03.10 (Mar 04/14) Chronic Pain Policy 03.10 (Dec 06 /07) Pain Disorders Policy 03.10 (Apr 19/07) Pain Disorders	Policy 03.10 (Sep 11/18)	Chronic Pain
Policy 03.10 (Dec 06 /07) Pain Disorders Policy 03.10 (Apr 19/07) Pain Disorders	Policy 03.10 (Jun 13/14)	Chronic Pain (Non-Substantive Change)
Policy 03.10 (Apr 19/07) Pain Disorders	Policy 03.10 (Mar 04/14)	Chronic Pain
· 1 /	Policy 03.10 (Dec 06 /07)	Pain Disorders
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Policy 05.10 (Sep 16/04) Pail Disorders	Policy 03.10 (Sep 16/04)	Pain Disorders

Chairperson



ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides severely injured workers or their dependents with special allowances and/or services to alleviate the effects of severe, compensable injuries and to assist in maintaining workers' quality of life. All allowances and services for severely injured workers are considered on a caseby-case basis.

DEFINITIONS

Activities of Daily Living: Basic activities that are performed by individuals on a

daily basis for self-care, which include:

ambulating/locomotion (e.g. walking), transferring (e.g. getting from bed to chair and back), eating, dressing, personal hygiene (e.g. bathing, grooming, bladder and bowel care), and taking medications.

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).

The dwelling where a person lives most of the time. A Primary Residence:

> person can only have one primary residence. Where a person has more than one dwelling, the primary residence is the place where the person spends the

majority of the year.

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.

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ALLOWANCES AND SERVICES FOR SEVERELY INJURED **WORKERS**

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.

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ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

Residential Modification

In order to enhance the mobility, accessibility, safety and independence of severely injured workers, the WSCC may provide a grant for residential modifications. Residential modifications are categorized as either major or minor in nature, as described below.

Major residential modifications are typically invasive in nature, which may include, but are not limited to:

- Kitchen, bedroom, bathroom, or hallway renovations;
- Widening doorways to accommodate a wheelchair; or
- Purchasing and installing equipment such as an elevator, stair glide or other lift device.

Minor residential modifications are typically less invasive in nature, which may include, but are not limited to: the installation of grab-bars, ceiling poles, hand rails, handheld showers, or wing taps for sinks.

The following provisions are applicable to both major and minor residential modifications:

The WSCC must approve the service provider responsible for performing the residential modifications. In addition, a contract or document that outlines the schedule of work, costs, as well as the roles and responsibilities of 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/contractor directly for residential modifications.

The worker is responsible for insurance and regular maintenance costs related to major and minor residential modifications.

The WSCC may require in person verification of the completion of residential modifications by a WSCC representative.

In addition to the general eligibility factors, other conditions affect the type of residential modifications that may be allowed, which include whether the severe injury is permanent or on a temporary basis, and whether the worker is requesting modifications to a home that they own, or a property that they rent.

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Major Residential Modifications

In addition to the general eligibility factors, the following specific conditions apply for major residential modifications:

- 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.

If requesting major residential modifications, the owner must provide proof of home ownership (e.g. title /deed, bill of sale, etc.). If the home owner's primary residence is a condominium, or similar living arrangement, the owner must provide a letter of support from the condo board, or similar entity, where the nature of the modifications warrants their approval. Major residential modifications may be granted in exceptional circumstances when the worker is not the legal home owner, but the worker lives in the home on a permanent basis (e.g. the home is owned by a spouse or family member).

The WSCC will not pay for residential modifications or purchases deemed unnecessary, which may include, but are not limited to:

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

The grant for residential modifications may be applied to the purchase of another residence if a worker's current residence is not suitable for modification or repair. The residential modification grant cannot exceed the estimated cost of modifying the worker's existing residence.

Minor Residential Modifications

Minor residential modifications may be granted to a worker who has a severe injury that has a permanent or temporary impact on their functional ability, regardless of whether they own or rent the home they live in. Minor modifications are typically restricted to the worker's primary residence, provided on a one-time basis, though exceptions may be made on a case-by-case determination.

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In addition to the general eligibility factors considered above, the following specific conditions apply for <u>minor</u> residential modifications when the severely injured worker is a tenant:

- The residential modifications are limited to the rented property that is the worker's primary residence;
- The WSCC must receive written consent from the landlord of the property to be modified;
- The WSCC is not liable for any costs to return the modified property to its original condition under any circumstances (e.g. if the renter moves); and,
- The WSCC may make exceptions regarding eligibility according to the worker's individual circumstances.

The WSCC waives ownership of any residential modifications. Arrangements regarding ownership of the residential modifications are solely between the worker and the landlord.

Vehicle Modification

The WSCC may provide a grant for vehicle modifications to a worker who has suffered a severe injury that has a permanent impact on functional ability in order to allow the injured worker to operate or access the vehicle. The grant for vehicle modifications is limited for use on one vehicle at a time.

The age and condition of the vehicle must be such that the modification is justified according to a licensed automotive mechanic. The inspection of the vehicle must be organized by the worker. The WSCC will pay for the purchase and/or installation of modifications or specialty equipment, as well as the vehicle inspection, upon receipt of an invoice from the service provider.

An injured worker requesting the vehicle modification grant must provide the WSCC with a valid driver's license and proof of insurance prior to payment of the grant. This information must include confirmation that the insurer is aware of the worker's medical condition. The WSCC will not cover insurance costs, or premium increases, due to the nature of the injury or proposed modifications.

The WSCC must approve the service provider responsible for performing the modifications to the vehicle. In addition, a contract or document that outlines the

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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

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door/window), not merely for aesthetic purposes; or other instrumental activities of daily living deemed necessary.

Workers requesting the HMILA must make their request for the allowance. To confirm eligibility for the HMILA a worker must demonstrate with medical evidence that they are unable to maintain their home or live independently as a result of their work-related injury.

This allowance can be provided to workers who own their residence or to workers in a rental or temporary accommodation who are unable to maintain their residence or live independently.

An injured worker who lives in a long-term care facility is not eligible for this assistance. However, if a worker in a long-term care facility has a spouse or dependents continuing to live in the family home, this allowance may be paid to the spouse or dependent. The spouse or dependent must be able to show that they are unable to maintain the home without the support of the injured worker.

The HMILA is provided to the worker for specific and agreed upon uses. The HMILA may only be used for the purposes identified by the WSCC, supported by medical evidence. If the WSCC has reasonable evidence that the HMILA is not being used for the intended purposes, the WSCC will terminate the allowance to the worker. Exceptions may be made on a case-by-case basis, which must be approved by the Director of Claims Services.

When the HMILA is provided to a worker with a severe injury that has permanent impacts, the HMILA is approved by the Director of Claims Services. When the HMILA is provided to a worker with a severe injury that has temporary impacts, the HMILA is approved by the appropriate Manager of Claims Services.

The WSCC must receive documentation (e.g. receipts, invoices, quotes, or reports confirming the provision of services) to show that the allowance is being used for the intended purpose(s). The WSCC pays the service provider directly, where possible. If the allowance is being provided directly to the worker, receipts are required quarterly (i.e. every three months). Exceptions may be granted on a case-by-case basis.

The WSCC may request follow-up assessments every six months to determine if the worker remains eligible for the allowance.

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Attendant's Allowance

A worker who suffers a severe injury that has a permanent or temporary impact on functional ability may be eligible for an attendant's allowance to cover the costs of services related to personal care.

Eligibility for the attendant's allowance is determined based on recommendation from an appropriate health care provider, supported by medical evidence. In order to qualify, the severely injured worker must live in a private residence where assistance with personal care is not already provided.

A family member may be considered by the WSCC to act as the injured worker's attendant. The decision to provide the allowance to a family member is based on medical confirmation of that family member's ability to care for the injured worker and is at the discretion and approval of the Director of Claims Services. The quality of care that the family member provides to the injured worker is reviewed at least once a year, by a WSCC Representative.

In circumstances where an injured worker requires eight or more hours per day of attendant care provided by a family member, respite care may be considered while the family care giver is off duty or on vacation. Respite care may be given for a maximum of four weeks per year. The Director of Claims Services may consider a request for respite care for more than four weeks on a case-by-case basis.

The WSCC provides three levels of Attendant's Allowances:

- Level 1: One to four hours per day, up to a maximum of \$1,000 per month. This allowance is provided to workers with restricted mobility who can feed, partially clean and otherwise care for themselves, but need assistance in some other acts of daily living.
- Level 2: Four to eight hours per day, up to a maximum of \$2,000 per month. This allowance is provided to a worker with restricted mobility who requires assistance in feeding, dressing and washing themselves as well as in some other aspects of personal care and acts of daily living.
- Level 3: Eight to twelve hours per day, up to a maximum of \$4,000 per month. This allowance is provided to a worker with restricted or no mobility who requires extensive assistance in maintaining personal hygiene and in all acts of daily living.

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The Director of Claims Services may approve payment for personal care services that exceed 12 hours per day, if needed. Approval may also be granted for dollar amounts different than the maximum limits set above, depending on the local market value of personal care.

The WSCC must receive documentation (e.g. receipts, invoices, quotes, or reports confirming the provision of services) to show that the allowance is being used for the intended purpose(s). The WSCC pays the service provider directly for personal care services, where possible. If the allowance is being provided directly to the worker, receipts are required quarterly (i.e. every three months).

The WSCC may request follow-up assessments every six months to determine if the worker remains eligible for the allowance.

Relocation Allowance

In special cases a one-time relocation allowance may be provided to a worker who suffers a severe injury that has permanent impacts on their functional ability. These are cases where medical evidence supports relocation as necessary to a severely injured worker's recovery and/or treatment, or to facilitate care. Relocation allowances help cover costs associated with relocating the worker and their immediate family/dependents from one community to another. Relocation allowances must be approved by the Director of Claims Services.

The WSCC must receive documentation (e.g. receipts, invoices, quotes, or reports confirming the provision of services) to show that the allowance is being used for the intended purpose(s). If the worker is deemed eligible for the relocation allowance, the WSCC makes payments directly to the institution or supplier (e.g. shipping company, travel agency), where possible.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 36; 46; 47

Compensation Act: Subsections 34(1); 34(2); 34(3); 35(1)

Nunavut *Workers' Compensation Act*: Sections 36; 46; 47

Subsections 34(1); 34(2); 34(3); 35(1)

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POLICY RELATED DOCUMENTS

Policy 04.01	Payment of Compensation
Policy 04.02	Medical Aid and Associated Costs
Policy 04.08	Medical Devices
Policy 04.15	Support Services for Injured Workers

HISTORY

Policy 03.11 (Oct 1/19)	Allowances and Services for Severely Injured Workers (Non-Substantive Change)
Policy 03.11 (Jun 14/18)	Allowances and Services for Severely Injured Workers
Policy 03.11 (Jan 01/15)	Allowances and Services for Severely Injured Workers
Policy 03.11 (Sep 14/11)	Allowances and Services for Severely Injured Workers
Policy 03.11 (Mar 31/08)	Services for Workers with Severe Injuries
Policy 03.11 (Sep 21/07)	Services for Workers with Severe Injuries
Policy 03.11 (Jun 22/06)	Services for Workers with Severe Injuries
Policy 05.04 (Dec 7/01)	Quality of Life
Policy 05.04 (Aug 31/01)	Quality of Life
Policy 05.04 (Apr 19/01)	Quality of Life
Policy 05.04 (Jan 1/01)	Quality of Life
Policy 05.04 (Apr 1/99)	Quality of Life
Policy 25-01-08 (Apr 12/90)	Quality of Life Services
Policy 25-05-01 (Apr 12/90)	Residential Modifications
Policy 25-05-02 (Apr 12/90)	Vehicle Modifications
Policy 25-05-05 (Apr 12/90)	Special Financial Assistance
Policy 25-05-06 (Apr 12/90)	Attendant's Allowance
Policy 25-05-07 (Apr 12/90)	Independence and Home Maintenance

Chairperson

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POLICY STATEMENT

A pre-existing condition may negatively impact a worker's recovery from a compensable injury or disease. This policy provides direction to Workers' Safety and Compensation Commission (WSCC) decision makers when evaluating a pre-existing condition's effect on a compensable injury or disease and when managing a claim with a pre-existing condition.

DEFINITIONS

Aggravation A permanent worsening of a pre-existing condition,

where a work-related injury results in an increase in symptoms, signs, and/or impairment that never returns to baseline, or what it would have been except for the

aggravation.

Bilateral Injury A medical term meaning that both the right and the left

side of the body or body structure, function or feature are affected. For example, a worker with bilateral hearing loss may have partial or total hearing loss in

both ears.

Disability 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.

Exacerbation A temporary worsening of a pre-existing condition,

where following a brief increase in symptoms, signs, or disability, the worker recovers to a baseline status, or what it would have been had the exacerbation never

occurred.

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 Acts*).

Impairment: The condition of having a permanent physical,

functional, mental or psychological abnormality or

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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 American Medical Association Guide to the Evaluation of Permanent Impairment.

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.

POLICY

General

A worker receives compensation for an injury or disease resulting from a work-related incident. All decisions regarding the entitlement of a claim are made in accordance with Policies 03.02, Entitlement and 03.03, Arising out of and During the Course of Employment.

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

- The pre-existing condition prevents the worker from undergoing treatment for the work-related injury or disease;
- The pre-existing condition prolongs treatment for the work-related injury or disease;
- The current work-related injury or disease exacerbates the pre-existing condition; or
- The current work-related injury or disease aggravates a pre-existing condition.

Management of Claims with Pre-Existing Conditions

Pre-Existing Condition Prevents Treatment

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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,

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and the worker continues to experience an increase in impairment caused by their preexisting condition, then the worker's pre-existing condition is said to be aggravated.

When a pre-existing condition contributes to or causes an impairment, the WSCC determines if the pre-existing condition is medically measurable or immeasurable at the time of the work-related incident.

Measurable

If the extent of a worker's pre-existing condition prior to the work-related incident can be determined, or if after the work-related incident, the extent of the pre-existing condition prior to the work related incident can still be accurately determined, the pre-existing condition is measurable. The WSCC Medical Advisor evaluates the pre-existing condition according to the most recent version of the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

Immeasurable

If the extent of a worker's pre-existing condition prior to the work-related incident can NOT be determined, or if after the work-related incident, the extent of the pre-existing condition pre-work related incident cannot be accurately determined, the pre-existing condition is immeasurable. The WSCC Medical Advisor evaluates the pre-existing condition using medical judgement in combination with the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

Calculating a Permanent Medical Impairment

The WSCC uses the following formula to calculate the permanent medical impairment resulting from a work-related incident when a worker has a pre-existing condition:

- The total impairment after the work-related incident; less
- The total impairment prior to the work-related incident.

The WSCC does not use this formula to determine the impairment that results from a work-related incident if a health care provider determines the injury or disease is so severe, the impairment would exist with, or without, the pre-existing condition.

Enhancement

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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 *Workers*' Sections 10; 12; 13; 14; 42; 45

Compensation Act: Subsection 41(4)

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

Chairperson

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Motion: 17/06-011 Last Non-Substantive Change – February 10, 2020



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.

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.

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.

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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 *Public Trustee Acts* 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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Assigning Compensation

A Worker may request an assignment of compensation to a provincial or territorial social assistance program or Employment and Social Development Canada (ESDC) that financially funds the worker while they wait to receive compensation. The worker makes this request in writing to the WSCC for approval.

The WSCC may assign compensation to a worker's employer. If an employer gives allowances or payments to a worker for a work-related injury or disease, such as through the use of employee sick leave benefits, the WSCC may use the worker's disability compensation to reimburse the employer for costs up to the worker's eligible amount. If the compensation payments exceed the amount assigned to the employer, the WSCC pays the difference to the worker. In instances where a claimant has utilized sick leave benefits, and the WSCC assigns compensation payments to the employer, the employer must reinstate the sick leave benefits used by the claimant. If the employer fails to reinstate any sick leave benefits used by the claimant, the WSCC will direct compensation payments to the claimant in order to compensate them for the use of their sick leave benefits.

The WSCC does not approve compensation assignment:

- For amounts over the compensation payable to an entitled worker; or,
- To creditors to pay debts; for example, legal fees, mortgage or rent, business debts and federal taxes.

Diverting Compensation

Authorized Representative

If a worker or dependant receiving compensation becomes incapable of receiving compensation directly and managing their affairs, the worker's Authorized Representatives (Power of Attorney or Trustee) guide the WSCC. In the absence of this guidance, the WSCC may divert payments to persons able to assume management of the worker's affairs (e.g. worker's spouse or parents).

If no family members are willing or able to assume this responsibility and no private trustee exists, the WSCC may ask the Northwest Territories or Nunavut Public Trustee to administer the affairs of the injured worker or dependant.

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Court Orders

The WSCC recognizes court orders which specifically attaches workers' compensation, and refers them to the WSCC General Counsel to assess any implications. The WSCC only recognizes garnishee requests by the Canada Revenue Agency (CRA) when:

- The debt falls under the federal Income Tax Act, Excise Tax Act, Canada Pension Plan or Employment Insurance Act; and
- The amount is no more than 25% of the worker's periodic payment; and

Compensation is diverted for maintenance orders as specified by court order(s) under the Northwest Territories or Nunavut Maintenance Orders Enforcement Act using the exemption limits set out in that legislation. When such an order is identified, it will be referred to WSCC General Counsel for review.

In both of these cases, the garnishee continues until one of the following occurs:

- The debt is paid in full;
- The CRA or Maintenance Enforcement Program cancels the garnishment; or
- The claimant's compensation is ceased or terminated.

Inmates

For an injured worker receiving compensation and later incarcerated or given an alternate sentence under applicable legislation, the WSCC may:

- Divert compensation to their dependants;
- Hold the compensation in trust until the worker's release or full parole; or
- Entrust the warden of the incarcerating facility to administer the compensation, if the worker requests it and the warden agrees.

When an incarcerated worker is totally disabled from employment, the WSCC confirms their ongoing entitlement to disability compensation by regularly reviewing clinical reports from their health care provider. For an incarcerated worker with an impairment, the WSCC will rate the percentage of impairment when they achieve maximum medical recovery.

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Payments to a worker whose claims are reactivated while incarcerated are processed as a worker who is receiving compensation before incarceration.

When an inmate becomes entitled to compensation while engaged in a work release program, the Adjudicator or Case Manager determines whether the compensation is:

- Paid to the worker;
- Entrusted to the warden of the facility to administer; or
- Held in trust by the WSCC.

Involuntary Admission of a Worker under the Mental Health Act

In cases where a worker is involuntarily admitted under an applicable Territorial or Provincial Mental Health Act, the WSCC may divert any compensation to which the worker is entitled. Diversion of a worker's compensation will be considered if the following occurs:

- A medical practitioner examines a claimant under a Mental Health Act and is of the medical opinion that the claimant is not mentally competent to manage his or her estate;
- The medical practitioner issues a certificate of mental incompetence in the form prescribed by the applicable Mental Health Act;
- The medical practitioner transmits the certificate to a Public Trustee; and,
- The Public Trustee assumes management of the claimant's estate;

If the preceding criteria are satisfied, the WSCC will divert any on-going compensation that a worker is entitled to receive to the Public Trustee named in the worker's certificate of mental incompetence as legally responsible for managing the worker's estate. Any ongoing compensation to which the worker is entitled to receive will cease to be diverted when a notice of discharge has been issued for a worker and received by the worker's Public Trustee.

Recovering Compensation

When a worker or dependant receives compensation they are not entitled to, or the compensation exceeds their entitlement, the WSCC may:

- Attempt to recover the outstanding amount directly from the worker or Dependant;
- Deduct the outstanding amount from future payments; or

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• 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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The WSCC may require an injured worker to:

- Provide information necessary for claim adjudication;
- Undergo and attend medical examinations, following prescribed treatments;
- Use the nearest appropriate health care provider; and/or
- Use a different health care provider if it assists in their recovery.

If a claimant fails to comply with one of the requirements listed above, the WSCC will notify the claimant in writing. The WSCC notifies the claimant of actions they must take to meet these requirements, the timeframe in which the actions must be completed, and the consequences that will result from continued non-compliance. The WSCC may suspend, reduce, or terminate a worker's compensation if the worker wilfully fails to comply with these requirements.

The type or types of compensation that may be suspended, reduced, or terminated is discretionary and is determined, by the WSCC, as appropriate for and proportional with the degree of the claimant's non-compliance. The WSCC may re-instate compensation if a worker complies with WSCC requirements. Any reduction, suspension or termination of a worker's compensation is done in accordance with the *Acts* s. 142.

Travel and Relocation Outside of Canada

The WSCC expects medical aid to be obtained in Canada, and therefore may suspend compensation if a worker travels or relocates outside of Canada while ongoing medical attention is required.

The WSCC may cover medical aid received outside of Canada on a case-by-case basis, as specified in Policy 04.02, Medical Aid and Associated Costs.

A worker who no longer requires ongoing medical attention in Canada may leave Canada with the WSCC's prior approval and continue to receive compensation.

Terminating or Reducing Compensation due to Misrepresentation

The WSCC may terminate a worker's compensation if the worker misrepresented their employment situation to the WSCC, such as being employed and not informing the WSCC. In these cases, wage-loss compensation to which they are not entitled will be

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terminated and the WSCC will attempt to recuperate any over payments of wage-loss compensation that were made to the claimant.

A claimant may have their compensation reduced or terminated if the WSCC discovers evidence of fraudulent activity or malingering. A worker is found to be malingering when they intentionally misrepresent themselves to have a disability or impairment, or misrepresent the degree of their disability or impairment. If the WSCC finds a worker to be malingering, the termination or reduction of their compensation is based on a determination that the worker was not entitled to the compensation they received, or at least not to the extent that they claimed. In these instances, the WSCC has the discretion to determine the extent to which the claimant may still be entitled to any on-going compensation, if any.

If a worker is found to be completely misrepresenting their disability or impairment (e.g. they do not have a disability or impairment, or were not in a workplace incident) a total termination of all compensation, including medical aid, and wage loss compensation, may occur.

If a worker is found to be misrepresenting the extent of their disability or impairment (e.g. their disability or impairment is not as severe as they have claimed) the reduction or termination of their compensation should be reasonably linked to available medical evidence and the extent of the misrepresentation.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections: 1(1); 10; 12; 15; 35; 54; 142

Compensation Act:

Nunavut Workers' Compensation Act: Sections: 1(1); 10; 12; 15; 35; 54; 142

Northwest Territories and Nunavut All

Corrections Acts:

Northwest Territories and Nunavut

Exemptions Acts:

All

Northwest Territories and Nunavut

Maintenance Orders Enforcement

Acts:

All

Northwest Territories and Nunavut All

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Mental Health Acts

Government of Canada *Income Tax* All

Act:

Government of Canada Excise Tax All

Act:

Government of Canada Canada All

Pension Plan:

Government of Canada Employment All

Insurance Act:

Memorandum of Understanding with Respect to the *Administration of Requirements to Pay* Issued to the WSCC between the Canada Customs and Revenue Agency (now the Canada Revenue Agency (CRA)) and the WSCC of the Northwest Territories and Nunavut (2013)

POLICY RELATED DOCUMENTS

Policy 03.05	Renewable Resource Harvesters
Policy 03.07	Calculation of Disability Compensation
Policy 06.01	Pension Entitlement
Policy 06.02	Lump Sum Payment and Advances on Pensions
Policy 06.03	Calculation of Impairment Compensation

HISTORY

Policy 04.01 (Jan 2/20)	Payment of Compensation (Non-Substantive Change)
Policy 04.01 (Oct 1/19)	Payment of Compensation
Policy 04.01 (Sep 14/17)	Payment of Compensation
Policy 04.01 (Jun 05/12)	Payment of Compensation
Policy 04.01 (Mar 25/10)	Payment of Compensation, Non-Substantive
	Change
Policy 04.01 (Nov 24/09)	Payment of Compensation
Policy 04.09 (Mar 31/08)	Non Work-Related Disability
Policy 04.01 (Apr 01/08)	Payment of Compensation, Non-substantive
	Change (New $WC Act(s)$)
Policy 04.01 (Aug 31/01)	Payment of Compensation

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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

Chairperson

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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 *Hospital*

Insurance and Health and Social Services

Administration Act, and any other facility recognized by the Commission as providing a health program or service." (per ss. 1(1) of the Workers' Compensation

Acts)

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 Acts)

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,

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- (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.

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The WSCC provides or pays for medical aid in accordance with respective policies on the matter.

Payment to Health Care Providers

Physicians

In the Northwest Territories payment for medical treatment provided by physicians is made in accordance with the fee schedule negotiated between the Northwest Territories Medical Association and the Government of the Northwest Territories Department of Health and Social Services. Physicians are also paid a reporting fee negotiated between the WSCC and the Northwest Territories Medical Association, and approved by the Governance Council. In the rest of Canada, the WSCC pays for medical treatment provided by physicians as billed.

Other Health Care Providers

The WSCC typically pays for medical treatment provided by health care providers as billed, unless there is an existing fee schedule or agreement in place for the specific treatment/service. The WSCC may negotiate fee schedules with health care providers.

Where the WSCC approves treatment that is provided outside of the Northwest Territories or Nunavut, it is provided and paid for at a rate that the WSCC determines is proper and reasonable (e.g. the amount that the WCB in that province/territory would pay for the same or similar treatment/service).

Late Billing

Health care providers must also submit an account for payment within one year of providing a service to an injured worker. The WSCC does not pay for medical aid when an invoice for payment is submitted more than twelve months after the service is rendered, unless the supplier of medical aid provides a justified reason for the late invoice that the WSCC considers acceptable. If the WSCC decides to pay the late invoice, the WSCC retains the discretion to deduct 25% from the payment of the original invoice amount.

Treatment Outside of Canada

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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A prior WSCC approval is not required for emergency medical attention. The claimant must contact their Claim Owner for direction on any further medical aid as soon as reasonably possible after receiving emergency medical attention.

Medical Aid Payments When Claim Not Entitled

If a worker's claim is denied by the WSCC after examination by a health care provider or visit to a health care facility, the WSCC only pays those fees that were necessary to determine a claim's eligibility, including but not limited to reporting and examination fees.

Autopsy

In the case of a worker's death, the WSCC pays for an autopsy when necessary to determine the cause of death and whether the claim is to be entitled.

Escorts

The WSCC may pay for an escort(s) to accompany a worker for medical, legal or other reasons, including, but not limited to, cases where:

- the seriousness of the worker's medical condition or procedure warrants it;
- provincial or territorial legislation requires a parent or guardian's consent for medical treatment:
- an escort must accompany the injured worker to learn how to perform home care and treatment; or
- language and/or cultural barriers warrant it.

The Claim Owner has discretion to approve an escort in other extenuating circumstances based on the merits of the case.

The WSCC pays transportation costs and subsistence allowances for escorts in accordance with the *Workers' Compensation General Regulations* in force at the time of eligibility, with exception to professional escorts that will be paid as billed. The WSCC may recover costs in full or in part in cases where the WSCC has evidence showing that an escort has failed to fulfill their obligations as outlined in their escort agreement (e.g. escort does not accompany worker from appointment, or during post-operation, when medically necessary).

Depending on the situation, the WSCC may compensate for both a professional escort, for medical reasons, and a non-professional escort, for legal reasons. Dependents are required to travel with an escort.

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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,

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• 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.

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The WSCC covers the worker's travel expenses when receiving medical aid more than 50km from the worker's place of residence according to rates established in the Workers' Compensation General Regulations.

Subsistence Allowance

The WSCC pays a subsistence allowance to workers when they must be away from their home community to obtain medical aid for a work-related injury. The subsistence allowance is only paid when the WSCC requires the claimant to travel for medical aid to a place other than: 1) their home community, or 2) a place to which they maintain a connection. Maintaining a connection means living in a particular location on a permanent or semi-permanent basis, which may be established by providing evidence of rent or mortgage payments, utility bills, or other proof of residence. Evidence must credibly and reliably establish a claimant's connection to their residence.

No subsistence allowance is payable where:

- a worker chooses to travel to a location other than that approved by the WSCC for treatment or to await recovery; or
- the WSCC provides a worker with board and lodging in a hospital or other place of treatment.

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*.

Subsistence allowances are subject to the provisions specified in Appendix 1 of this policy.

Clothing Replacement

The Claim Owner may approve the costs of replacing or repairing articles of clothing destroyed or damaged in a compensable work-related incident.

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.

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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 *Workers*' Sections 17; 18; 19; 20; 25; 28; 29(1); 30; *Compensation Act*: 32; 34(1)(2)(3); 36; 47; 141(1)(5); 142(2)

Nunavut Workers' Compensation Act: Sections 17; 18; 19; 20; 25; 28; 29(1); 30;

32; 34(1)(2)(3); 36; 47; 141(1)(5); 142(2)

Northwest Territories *Workers*' Sections 3;4; 7

Compensation General Regulations: Subsections 4(2)(3); 5(1)(2); 6(1)(2)(3)

Nunavut Workers' Compensation Sections 3;4; 7

General Regulations: 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

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Policy 04.08 Medical Devices

HISTORY

Policy 04.02 (Feb 10/20)	Medical Aid and Associated Costs, Non-
	Substantive Change
Policy 04.02 (Jun 13/19)	Payment for Medical Aid
Policy 04.02 (Dec 03/14)	Payment for Medical Aid
Policy 04.02 (Mar 16/08)	Payment for Medical Aid
Policy 04.02 (Mar 31/08)	Payment for Medical Aid
Policy 04.02 (Sep 16/04)	Payment for Medical Aid
Policy 04.02 (Apr 10/03)	Payment for Medical Aid
Policy 04.02 (Jan 1/04)	Payment for Medical Aid
Policy 04.02 (Feb 15/02)	Payment for Medical Aid
Policy 04.02 (Aug 31/01)	Payment for Medical Aid
Policy 04.02 (Apr 1/99)	Payment for Medical Aid
Policy 04.02 (Nov 18/98)	Payment for Medical Aid
Policy 04.02 (Sep 20/96)	Payment for Medical Aid
Policy 04.02 (Jan 1/96)	Payment for Medical Aid
Policy 20-02-42 (Dec 81)	Clothing Replacement
Policy 20-04-06 (Sep 10/93)	Entitlement Criteria
Policy 20-04-07 (Dec 81)	Travel and Related Expenses
Policy 20-04-08 (Sep 10/93)	Escorts
Policy 20-04-10 (Sep 10/93)	Treatment – Fees
Policy 20-04-21	Subsistence Allowance
Regulation C-11 (Nov 27/78)	Rates of Payment for Medical Assistance
Regulation C-18 (Nov 9/79)	Replacement of Clothing
Regulation C-19 (Nov 20/79)	Replacement of Clothing
Operational Procedure 20-05-07 (Dec	Travel and Related Expenses
81)	-

	Chair	perso

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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.

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC), an injured worker, and the worker's health care providers cooperate to create and participate in a treatment plan based on the available medical evidence and best medical practices to support the workers' recovery from a work-related injury or disease.

This policy outlines how a worker chooses a health care provider and how the worker or WSCC may change health care providers during the course of treatment.

DEFINITIONS

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*)

Medical Evidence: Medical information related to the medical condition

and treatment of the worker.

POLICY

Choice of Health Care Provider

A worker must consult a health care provider when they sustain an injury or disease arising out of and during the course of their employment. The initial health care provider that a worker consults must be the nearest appropriate provider. If more than one appropriate health care provider is available within a reasonable distance, the worker may choose among them.

In the majority of cases, the WSCC accepts the health care providers chosen by a worker. However, in certain cases the WSCC may not approve a worker's initial choice of health care provider if the chosen health care provider impeded or deliberately did not cooperate in a worker's recovery. In these cases the WSCC will inform the worker and assist them in choosing a health care provider that will cooperate in their recovery.

Once the initial health care provider is chosen by the worker, any subsequent change to the worker's health care provider must be authorized by the WSCC in order for the costs associated with a new health care provider to be covered.

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The WSCC recognizes that, in cases where a worker seeks emergency medical attention following an injury or illness, their immediate health care needs may prevent that worker from choosing the nearest or most appropriate health care provider for on-going care. In most of these cases, workers will typically arrange follow-up appointments with health care professionals other than the ones providing immediate or emergency treatment. As a result, workers are considered to make their initial choice of health care professional when they obtain treatment after the immediate or emergency treatment.

In addition, the WSCC recognizes that workers are sometimes unable to visit the same physician due to conditions outside their control, e.g. living in a remote community, or not having consistent access to a family physician. In these circumstances the worker is able to visit an appropriate health care provider to which they have access.

Change of Health Care Provider

Change Required by the WSCC

The WSCC may require an injured worker to change health care providers if the health care provider does not assist in or impedes the worker's recovery.

If this is the case, the WSCC notifies both the worker and health care provider, in writing, when it determines that a change to the worker's health care provider is required.

If the worker does not co-operate with the WSCC's request to see and follow the advice of a health care provider, the WSCC may not pay the costs associated with the claimant's medical aid. Medical aid may not be covered if it is determined that the worker is failing to take reasonable measures to mitigate their disability, or is willfully failing to cooperate in the development of their treatment plan.

Change at the Worker's Request

A worker can request a change of health care provider if they are concerned the health care provider is not assisting in, or is impeding, their recovery. The WSCC will decide if the worker's request to change health care providers is authorized and if the costs associated with the new health care provider and the treatment plan they determine, will be covered.

WSCC Claims Services considers the overall effectiveness of a worker's treatment plan and may consult with the WSCC Medical Advisor or Nurse Advisor before authorizing a change in health care provider. The WSCC does not accept workers' requests to change

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health care providers where, in the WSCC's opinion, the change is unnecessary, or inappropriate.

The WSCC notifies the worker, in writing, of its decision for a request to change health care provider. The health care provider is notified in writing by the WSCC if the health care provider was involved in the worker's request and if the WSCC approves the change.

A worker whose request to change health care provider is denied by the WSCC may continue to visit that health care provider; however, the WSCC may not accept medical reports or other information from that health care provider.

Suspending Compensation

The WSCC may suspend some or all compensation for a worker who refuses to attend a required medical examination, comply with a treatment plan or comply with a WSCC required change in health care provider. The WSCC may re-instate compensation if a worker complies with WSCC requirements.

If the WSCC intends to suspend compensation for a worker, it will provide written notice to the worker prior to suspending compensation so that the worker has an opportunity to comply with the WSCC's request. The written notice provided will specify the actions required of the worker, the period of time the WSCC considers reasonable for the worker to comply, and the actions that the WSCC will take if the worker does not comply. Any reduction, suspension or termination of a worker's compensation is done in accordance with the *Acts* s. 142.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 33: 35

Compensation Act: Subsections 24(1); 34(1); 34(3); 142(2)

Nunavut Workers' Compensation Act: Section 33; 35

Subsections 24(1); 34(1); 34(3); 142(2)

POLICY RELATED DOCUMENTS

Policy 04.01 Payment of Compensation

Policy 04.05 Dental Treatment

Policy 04.04 Complementary and Alternative Treatments

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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

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) compensates a worker for medical aid it determines necessary to diagnose and treat the continuing effects of a work-related injury or disease. The WSCC recognizes five complementary and alternative treatments that may assist in a worker's recovery:

- Acupuncture;
- Chiropractic;
- Massage therapy;
- Physiotherapy; and
- Occupational therapy

Other complementary or alternative treatments may be approved at the discretion of the Manager, Claims Services on a case by case basis.

This policy outlines the required qualifications for practitioners and when a worker can access these treatments.

DEFINITIONS

Acupuncture: A form of medicine involving the insertion of

specialized needles into the skin at specific points on the body to achieve a therapeutic effect. Acupuncture is used to encourage natural healing, improve mood and energy, reduce or relieve pain and improve

function of affected areas of the body.

Chiropractic: The manipulation and adjustment of body structures,

such as the spinal column, so pressure on nerves coming from the spinal cord due to displacement of a

vertebral body may be relieved.

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*)

Massage Therapy: The assessment of the soft tissues and joints of the body

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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

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disability.

POLICY

All complementary and alternative treatments are paid by the WSCC according to Policy 04.02, Payment for Medical Aid.

Acupuncture

Health Care Provider Qualifications

Acupuncturists are considered qualified by the WSCC when they complete a program through or are approved by the Acupuncture Foundation of Canada Institute.

Accessing Treatment

The WSCC approves payment for acupuncture when recommended by a worker's treating health care provider and approved by Claims Services. When approving acupuncture treatments for a claimant, Claims Services indicates the specific number of treatments being approved and the fee established for the treatments. The Medical Advisor may review and provide an opinion regarding the appropriateness of acupuncture in treating the compensable injury.

Chiropractic Treatment

Health Care Provider Qualifications

Chiropractors are considered qualified by the WSCC when they are registered and in good-standing with the Canadian Chiropractic Association.

Accessing Treatment

A worker may access chiropractic treatment directly or when referred by their treating health care provider. If a worker accesses chiropractic treatment before obtaining a diagnosis, a physician must examine and diagnose the worker within 30 days of the worker's work-related injury in order for the chiropractic treatments to be eligible for reimbursement. If the worker's chiropractor and treating health care provider cannot agree on a diagnosis, then Claims Services reviews the information and makes a determination as to whether the worker's treatments will be covered. Additionally, the

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Medical Advisor may be requested to review the relevant medical information and provide an opinion on the appropriateness of continued treatment.

Claims Services may approve chiropractic treatment up to six consecutive weeks in duration during the initial treatment of a work-related injury. Requests for extension beyond six weeks may be reviewed by the Medical Advisor. Requests for extension of treatment sent to the Medical Advisor must clearly outline the requested treatments extension duration, frequency and expected outcomes.

Claims Services 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.

Special requests from a primary health care provider or worker for daily chiropractic treatments or house visits requires Claims Services approval in advance of the treatments.

Massage Therapy

Health Care Provider Qualifications

In the Northwest Territories, massage therapists are considered qualified by the WSCC when they are registered with the Northwest Territories Massage Therapist Association, or the Canadian Massage Therapist Alliance. In Nunavut and the rest of Canada, massage therapists must belong to the Canadian Massage Therapist Alliance or the provincially regulated college of massage therapists in the jurisdiction in which they practice, as applicable.

The WSCC may, on a case-by-case basis, consider practitioners who are not members of the Canadian Massage Therapist Alliance or a provincially regulated college of massage therapists. The WSCC may consider other practitioners who demonstrate to Claims Services that their qualifications meet the criteria established by the Canadian Massage Therapist Alliance.

Accessing Treatment

The WSCC pays for massage therapy prescribed by a treating health care provider and approved by Claims Services. Massage therapy treatments may last up to six consecutive weeks and be as frequent as three times per week. Claims Services may approve an extension of services beyond six weeks on a case-by-case basis.

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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

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treatment(s). A nurse practitioner may conduct the medical clearance assessment in regions where a physician is unavailable.

Other complimentary treatments should typically be limited in scope (e.g. specified number of treatments and duration established at onset of treatment); be focused on the specific work-related injury or disease, as opposed to lifestyle or general health; and be performed/conducted under qualified supervision (therefore, self-directed treatments should typically be avoided).

Other complimentary treatments that may be covered include, but are not limited to, the types of treatments offered by osteopaths, dietitians, counselors, audiologists, speech language pathologists, etc.

If other complementary treatments are approved by the WSCC, the treating health care provider must provide the WSCC with reports on the worker's progress throughout treatment.

The WSCC maintains the right to determine the extent of coverage for other complimentary treatments, and therefore may limit the types of treatments covered, the number and duration of treatments, and establish maximum allowances to cover the costs of these treatments.

Non-Standard and Not Generally Accepted Medical Aid

The WSCC does not normally authorize payment for non-standard and not generally accepted medical aid. On a case-by-case basis, the WSCC may authorize payment for such medical aid upon receipt of written submission, from a treating physician, that presents the case for the proposed medical aid. The case for the proposed non-standard, not generally accepted medical aid must meet all the following criteria:

- All other conventional medical aid has been tried or at least considered and found to be medically inappropriate;
- The medical aid intervention will be used for a medical condition that results from a compensable injury or disease;
- There is sufficient evidence to indicate the medical aid intervention can be expected to produce the intended effects on health outcomes in the particular case under consideration:
- There is sufficient evidence to indicate the medical aid intervention's expected beneficial effects on human health outweigh its expected harmful effects;
- A Physician has provided the claimant with any necessary and/or appropriate,

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COMPLEMENTARY AND ALTERNATIVE TREATMENTS

referrals, prescriptions, or medical documents that are required for the medical aid; and,

• The medical aid in question can be provided legally in Canada from an accredited and / or licensed source.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 36

Compensation Act: Subsections 33(2); 34(1); 34(2); 34(3); 47(1)

Nunavut Worker's Compensation Act: Section 36

Subsection 33(2); 34(1); 34(2); 34(3); 47(1)

POLICY RELATED DOCUMENTS

Policy 04.02 Medical Aid and Associated Costs

Policy 04.03 Choice and Change of Health Care Provider

HISTORY

Policy 04.04 (Jun 13/19)	Complementary and Alternative Treatments
Policy 04.04 (Jun 14/17)	Complementary and Alternative Treatments
Policy 04.04 (Sep 12/13)	Complementary and Alternative Treatments
Policy 04.04 (Jun 15/10)	Complementary and Alternative Treatments
Policy 04.04 (Jun 13/03)	Complementary and Alternative Treatments
Policy 04.04 (Aug 31/01)	Alternative Treatment
Policy 04.04 (Apr 19/01)	Alternative Treatment
Policy 04.04 (Jun 05/00)	Alternative Treatment
Policy 04.04 (Apr 01/99)	Alternative Treatment
Policy 04.04 (Nov 18/98)	Alternative Treatment
Policy 04.04 (Nov 21/96)	Alternative Treatment
Policy 04.04 (Jan 01/96)	Alternative Treatment
Policy 20-04-11 (Sep 10/93)	Treatment-Chiropractic
Procedure 20-04-13 (Sep 10/93)	Medical Rehabilitation
Policy 20-04-14 (Sep 10/93)	Transcutaneaous Electrical Nerve Simulation
Policy 20-31-01 [20-04-22] (Dec	Acupuncture
81)	
Policy 20-31-04 [20-04-23] (Dec	Drugless Practitioners
81)	

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DENTAL TREATMENT

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) will pay for dental treatment required to restore missing, damaged, diseased teeth and/or oral tissue resulting from a work-related injury or disease.

DEFINITIONS

Dental Condition: The overall health status of a person's mouth, which

includes but is not limited to teeth and oral tissue

(gums).

Dentist: "...a person who is authorized by law to practice

dentistry in the place where the person is so practising;" (per s. 1(1) of the *Workers*'

Compensation Acts)

Emergency Dental Treatment: Dental services that are urgently needed to stabilize a

worker's condition following a work-related injury or

disease that impacts a worker's dental condition.

Medical Evidence: Medical information related to the medical condition

and treatment of the worker.

Non-Emergency Dental

Treatment:

Non-urgent dental services related to a work-related injury or disease that is provided under an approved

WSCC treatment plan as medically necessary.

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.

Restoration: Dental treatment provided to return a worker's dental

condition to their pre-work-related incident condition. Restoration includes, but is not limited to, repairing or replacing missing, damaged or diseased teeth and/or

oral tissue.

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DENTAL TREATMENT

POLICY

General

The WSCC covers dental treatment when the dental condition of a claimant has been compromised due to a work-related injury or disease. This may entail emergency treatment, or non-emergency treatment under a pre-approved treatment plan, and may include the restoration of teeth, oral tissue and/or the replacement of dentures or implants.

Emergency Treatment

An injured worker should obtain emergency dental treatment for a work-related incident within 48 hours. The treating dentist must inform the WSCC of emergency treatments within three days after attending to the worker.

Non-Emergency Treatment

The dentist must provide a diagnosis and create a treatment plan before providing non-emergency treatment to the worker. The WSCC must approve the treatment plan before the worker's dentist provides non-emergency medical treatment. When there are two or more potential treatment plans that can restore a worker's dental condition, the WSCC approves the plan that is the most cost effective in the long term.

Any approved treatment should begin within 90 days from the date of claim registration. If the worker unreasonably delays, postpones or does not seek treatment and the worker's condition deteriorates, the WSCC may limit the worker's entitlement to emergency treatment only. Exceptions to the 90 day timeline may be granted on a case by case basis where there is a justified reason for delay, such as when a compensable injury results in a gradual deterioration of the claimant's dental condition, and does not become problematic until after the 90 day period.

Restoration

Dental treatments covered by the WSCC are meant to return the worker's dental condition to its state prior to the work-related injury or disease. The WSCC will not provide compensation for restoration if medical evidence shows that the worker's dental condition was unsound prior to the work-related injury, and was not aggravated or exacerbated by the work-related incident. Exceptions may apply if medical evidence provided by the dentist shows that treatment of the Pre-Existing Condition would contribute to the worker's recovery from their work-related injury or disease.

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DENTAL TREATMENT

Dentures and Implants

The WSCC provides for replacement of dentures or implants that were broken due to a work-related incident in order to restore the worker's pre-incident dental condition. The WSCC must approve the replacement of dentures or implants as part of a worker's treatment plan before the worker receives compensation.

In cases where a worker requires dentures or implants for the first time as a result of a work-related incident, the WSCC pays for the initial restoration, as well as any long term maintenance needed only if it is approved in the treatment plan.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 36

Compensation Act: Subsections 1.(1)(a)(c); 33(1) (2);

34(1)(2)(3); 47(1)

Nunavut Workers' Compensation Act: Section 36

Subsections 1.(1)(a)(c); 33(1)(2);

34(1)(2)(3); 47(1)

POLICY RELATED DOCUMENTS

Policy 03.02	Entitlement
Policy 03.12	Pre-Existing Conditions
Policy 04.02	Payment of Medical Aid
Policy 11.02	Reporting an Injury

HISTORY

Policy 04.05 (Sep 12/13)	Dental Treatment
Policy 04.05 (Jun 15/10)	Dental Treatment
Policy 04.05 (Sep 16/04)	Dental Treatment
Policy 04.05 (Aug 01/02)	Dental Treatment
Policy 04.05 (Aug 31/01)	Dental Treatment
Policy 04.05 (Apr 01/99)	Dental Treatment
Policy 04.05 (Jan 01/96)	Dental Treatment
Policy 20-04-12 (Sep 10/93)	Dental Treatment

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) compensates workers for prescription and non-prescription drugs medically necessary to treat or alleviate the effects of a work-related injury or disease.

The WSCC requires responsible use of prescription and non-prescription drugs. The WSCC monitors drug prescriptions to ensure that drugs are prescribed as appropriate.

DEFINITIONS

Canadian Pharmacists Association (CPA): The national organization of Canadian pharmacists.

Claim Owner:

The WSCC employee responsible for adjudicating or

managing a worker's claim.

Compendium of

Pharmaceuticals and Specialties

(CPS):

The most widely used source of drug information in Canada. It is published by the Canadian Pharmacists Association and lists commonly used pharmaceuticals

in Canada.

Drug Identification Number

(DIN):

The number located on the label of non-prescription and prescription drug products in Canada. The DIN indicates the product has undergone and passed a review of its formulation, labelling and instructions for

use.

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.

Off-label medication Use: The use of a drug beyond what Health Canada has

reviewed and authorized to be marketed in Canada and as indicated on the product label. Usually, this means using a drug for an illness or disease other than the

authorized reasons for use.

Opioids: Psychoactive chemicals, such as morphine or other

opiates, used to relieve moderate to severe pain.

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Prescription Drugs: Drugs listed in the Compendium of Pharmaceuticals

and Specialties and prescribed by an authorized health

care provider.

POLICY

Coverage

Prescription Drugs

The WSCC approves compensation for prescription drugs when there is sufficient medical evidence that the drugs can effectively treat or alleviate the effects of a work-related injury or disease.

Prescription drugs are typically prescribed by physicians, but in some cases nurses, nurse practitioners, and dentists may be authorized to prescribe some medications. Prescription drugs do not include natural products prescribed by naturopathic doctors or other alternative health care providers.

The WSCC only compensates for prescriptions written by a health care provider qualified to prescribe medications listed in the Compendium of Pharmaceuticals and Specialties (CPS) (e.g. physician, nurse practitioner, dentist).

The WSCC generally only covers medications with a valid Drug Identification Number (DIN) as found in the CPS.

Prescription drugs must be used in accordance with the CPS, and follow a proper and advisable course of treatment

Claim owners must consult with the Medical Advisor prior to authorizing payment for off-label medication to determine if the use is appropriate for the compensable injury or disease.

Non-Prescription Drugs

Non-prescription (over the counter) drugs may be covered when all of the following conditions are met:

- it is prescribed or recommended by a physician, nurse practitioner, or dentist;
- the non-prescription drug has a DIN; and,

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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.

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Denying, Suspending or Discontinuing Coverage

The WSCC may deny, suspend or discontinue coverage for prescription and non-prescription drugs when the drugs:

- fail to treat or alleviate the effects of the worker's work-related injury or disease as expected;
- harm or impede the injured worker's recovery, improvement in function, or return to work;
- result in serious side effects; or
- are used in a manner not intended by the health care provider who prescribed or recommended the drugs.

Conditions on Filling Prescriptions

Claimants can only obtain drugs prescribed to treat or to alleviate the effects of their work-related injury or disease from **one physician/health care provider** and **one pharmacy/dispensary** at a time.

The WSCC withholds compensation if an injured worker is receiving the same prescription from more than one health care provider. The WSCC notifies the worker and the prescribing health care providers when it is identified that the WSCC is being invoiced for the same medication prescribed by different health care providers. Payment of compensation for the prescription drugs in question resume once any anomalies are resolved.

The WSCC makes exceptions to this requirement when it is impractical for the claimant to obtain their prescription drugs from the same health care provider and pharmacy over the course of treatment (e.g. claimant or physician relocates; another physician is temporarily covering/replacing the usual treating physician; the claimant works for significant periods of time in various locations, which makes obtaining drugs from one place difficult; etc.).

Opioids

Role of Prescribing Health Care Providers

All health care providers who prescribe or dispense opioid medication for the treatment of pain resulting from a work-related injury or disease are expected to have the requisite

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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.

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Review of Prescription by Medical Advisor

All opioid prescriptions to be used **beyond two weeks** require review by the Medical Advisor to ensure this policy is being adhered to. Compensation for the prescribed opioid drugs is withheld until the Medical Advisor has reviewed the prescription.

Extensions

Opioids are generally not covered beyond the acute phase; however, there may be cases of more severe injury where an extension may be granted. Extensions for coverage beyond **four weeks** require medical opinion or medical evidence that the opioid use is resulting in functional improvement. The WSCC does not pay for extensions of opioid prescriptions until it has received and approved a request from the physician or qualified health care provider that outlines details such as the treatment plan, dosage, frequency, and progress expectations.

Medical Advisor's Review of Extended Use

A request for coverage of opioid prescriptions **beyond 12 weeks** requires that the WSCC Medical Advisor complete an evaluation or review of the case, which may entail an inperson medical exam. Requests that will extend beyond 12 weeks must be sent to the Medical Advisor by the **10**th **week** of use to ensure a review can be completed prior to the use extending beyond 12 weeks.

Suspending or Discontinuing Opioid Medication

The WSCC may suspend or discontinue coverage for prescribed opioids when the drugs:

- do not result in functional improvement and/or pain reduction according to medical evidence and/or medical opinion;
- harm or impede the injured worker's recovery, improvement in function, or return to work;
- result in serious side effects, including but not limited to, addiction; or
- are used in a manner not intended by the health care provider who prescribed the drugs (e.g. worker deviates from conditions outlined in the Opioid Treatment Agreement).

Where there is no functional improvement after 12 weeks of use, **pain reduction alone** is not typically a sufficient basis to continue coverage. In these circumstances, the worker

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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'* Sections 33; 34; 35; 36; 46; 47(1)

Compensation Act:

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

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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
Excessive Prescription Drug Use
Excessive Prescription Drug Use

Chairperson

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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

The WSCC employee responsible for adjudicating or Claim Owner:

managing a worker's claim.

"...in respect of a person Family Member:

a) a brother, sister, half-brother, or half-sister;

b) a parent, step-parent or grandparent of the

person;

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)

"...a chiropractor, dentist, nurse, occupational Health Care Provider:

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 *Workers' Compensation Acts*)

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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POLICY

General

Medical examinations are essential to the effective adjudication and management of a claim. Examinations may be conducted at various stages over the span of a claim (e.g. prior to claim entitlement, during the return to work process, or in determining whether the worker has reached maximum medical recovery).

It is important that an appropriate health care provider conduct the necessary medical exams throughout the claim process. Initial examinations should be conducted by a physician, where possible, or a nurse practitioner in regions where a physician is unavailable. Depending on the circumstances of the case, other health care providers may be appropriate for the initial examination (e.g. a dentist in the case of a dental-related injury).

Medical Examination at the WSCC's Request

The WSCC may require a worker to undergo a medical examination if it is determined to help:

- in the worker's return to work or vocational rehabilitation activities;
- ensure the worker gets timely access to treatment;
- clarify conflicting opinions between health care providers, or a health care provider and the WSCC Medical Advisor, or
- clarify the nature of the injury, disease, or death, work relatedness, the level of disability/impairment, or the impact of the worker's pre-existing conditions.

Workers may be required to attend examinations for other reasons not listed above if deemed appropriate (e.g. where a second opinion is sought; to repair/replace a medical appliance).

The WSCC pays for both the examination and the medical report(s) provided by health care providers.

WSCC Medical Advisor Examination

The WSCC Medical Advisor may examine a worker:

- at the attending health care provider's request;
- at the Review Committee or the Appeals Tribunal's request;
- when the Claim Owner determines that it is necessary for any reason; or

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when the worker's recovery is not proceeding as anticipated.

The WSCC may require a third party to be present during an examination. The Medical Advisor informs the worker that the Nurse Advisor attends the examination if:

- the worker is the opposite gender of the Medical Advisor and must disrobe;
- the Medical Advisor requests it; or
- the worker is a minor. In this case, the worker's parent or guardian may attend.

The Medical Advisor notifies the attending health care provider and Claim Owner of the examination results in writing.

Independent Physician or Specialist Examination

An independent physician or specialist in the area of concern may examine a worker:

- if the original diagnosis is contentious or unclear;
- at the Review Committee or Appeals Tribunal's request;
- if there are conflicting medical opinions between health care providers about the worker's condition; or
- if the Claim Owner determines it is necessary for any reason.

The independent physician or specialist provides a report to the WSCC within three days and the WSCC supplies the attending health care provider, if one can be identified, with a copy of the report.

A medical examination by an independent medical professional may also be required in circumstances where there is a conflict in medical opinions between the worker's health care provider and the WSCC Medical Advisor. Details regarding this are covered in Policy 04.13, Conflicting Medical Opinions.

Second Medical Opinion for Surgeries

Before a worker undergoes surgery, the WSCC usually obtains a second medical opinion from a specialist with qualifications in the area of expertise equal to that of the specialist providing the first opinion. The WSCC covers the costs of medical tests and examinations required by the specialist providing the second opinion to determine if the procedure is beneficial to the worker. In cases of minor surgery, the WSCC Medical Advisor may provide the second opinion.

The Case Manager may waive the requirement for a second medical opinion in cases of expedited appointments, emergency surgeries or when it is cost efficient to do so for travel reasons. The decision to waive this requirement is based on the merits of the case.

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Autopsy/Coroner Examination

In the case of a fatality, the WSCC may arrange for an autopsy of the body of the deceased worker if the WSCC considers it necessary in determining whether the fatality was work-related.

If the coroner is in possession of the body of the deceased worker, the WSCC may request that the coroner arrange for an autopsy to be conducted as part of the postmortem examination.

The WSCC may reject any claim for compensation with respect to the deceased worker if the executor or administrator of the worker's estate refuses to permit an autopsy considered necessary by the WSCC.

Interpreters

The WSCC or the worker may provide an interpreter to translate at a medical examination if the worker faces language barriers. Professional interpreters are paid as billed, or in accordance with established fee structures. Non-professional interpreters, such as a family member, friend or personal representative, acting as an interpreter are not remunerated for interpreting, but are provided transportation and subsistence allowances, where applicable. The injured worker must sign a consent form for the presence of the interpreter, and the interpreter must sign a declaration of confidentiality form prior to the start of the exam/appointment.

Attendance of Support Person at Medical Advisor Examination

The worker may bring a support person to a medical examination, unless the WSCC has reason to believe that the support person will have a disruptive or otherwise inappropriate effect on the examination. The support person may be a family member, supportive friend or a personal representative. Only one support person will be permitted to attend at any given medical examination.

The worker must sign a consent form for the presence of a support person, and the support person must sign a declaration of confidentiality form prior to the beginning of the exam/appointment.

The support person is to attend as an observer and to provide information only if requested by the Medical Advisor. If a support person is present in the medical examination, then the Nurse Advisor may also attend.

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Any person attending a medical examination as a support person must not engage in advocacy for the claimant, attempt to direct the examination, or conduct themselves in an adversarial manner. If, in the opinion of the Medical Advisor, the actions of the support person are obstructing the examination, the support person may be asked to leave. Failure to comply will result in termination of the examination, and the worker's right to compensation may be suspended until a proper examination has been completed. Any disruptive support person will not be allowed to attend any subsequent examination of that worker conducted by the WSCC Medical Advisor.

If the examination is terminated, the Claim Owner will be informed immediately. A written report will also be forwarded to the Claim Owner. The report will explain the reason for the termination of the examination.

The travel costs for a support person to attend the examination are not covered by the WSCC, unless the individual is acting as an interpreter, or is an approved escort (in accordance with Policy 04.02, Medical Aid and Associated Costs).

If a medical exam is discontinued due to the misconduct of the claimant and/or support person, any costs associated with attending the exam that were paid for by the WSCC may be recovered from the claimant (e.g. subsistence allowance, travel costs, examination fees).

Medical Examination at Employer's Request

The employer of a worker who claims compensation may request that the WSCC have the worker undergo a medical examination by a health care provider selected by the WSCC.

When making a request to the WSCC to have a worker undergo a medical examination, the employer's request must include:

- the reason for the examination; and,
- the nature and extent of the examination;

The WSCC determines if the employer's request will be granted by assessing its appropriateness. In order for the employer's request to be granted by the WSCC, the examination must relate to the work-related injury or disease for which the worker's claim has been accepted, which may include pre-existing conditions that have been aggravated or exacerbated by the work-related injury.

The WSCC will not require the worker to undergo the examination if it determines that the examination:

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- is frivolous;
- is likely to impede the worker's recovery;
- is a significant disruption to the worker's life, or,
- is impractical.

If the WSCC establishes that the examination would be inappropriate, the worker and employer are informed that it is not required.

If the WSCC establishes that the examination is necessary, the WSCC directs the worker to undergo the examination and the WSCC pays for the associated expenses.

If the WSCC establishes that the examination is appropriate but not absolutely necessary, the WSCC directs the worker to undergo the examination and the employer pays for the associated costs.

The WSCC is the owner of the health care provider report, regardless of whether the WSCC or the employer pays for the medical examination and medical report.

Upon request, the employer will be provided with updated information pertaining to the cause of the claim and the progress being made by the worker, including the worker's functional abilities.

Compensating a Worker for Attending a Medical Examination

Workers receive an income loss payment when they miss time from work to attend a medical examination. The income loss payment is a medical aid benefit and is calculated the same as total disability compensation, as per Policy 03.07, Calculation of Disability Compensation.

The WSCC compensates a worker for income loss when attending an examination for a compensable injury or disease if the worker misses scheduled time from work due to one or more of the following:

- the WSCC requests the worker be examined by the WSCC Medical Advisor or other health care provider;
- the worker makes a medically justified appointment with an appropriate health care provider and the health care provider submits a report to the WSCC; or
- the worker's WSCC supplied medical appliance requires fitting, refitting, repairing or replacing.

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If an examination shows the worker's condition is not compensable, the WSCC still pays for the medical examination, and any applicable associated costs (e.g. travel), as the exam is necessary to determine if the claim is to be entitled.

If no time-loss has been incurred on a claim, having a claimant only attend a medical examination does not result in a time loss claim for the employer. If the employer continues to pay the worker for the time taken to attend an exam, the WSCC considers these payments to be advances from the employer, and assigns the income loss compensation that the worker is entitled to receive to the employer.

Income loss payments are recorded as medical costs for the purposes of the employer's claim experience account.

However, if attending appointments/sessions where <u>treatment</u> is provided (e.g. physiotherapy sessions) results in time missed from work, <u>it is regarded as a time-loss claim</u>, even if no previous time-loss had been incurred. In these cases, workers are entitled to total disability compensation for time missed from work.

Worker Fails to Attend Medical Examination/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 *Workers'* Sections 24; 25(1)(5); 26; 27; 29; 30; 142;

Compensation Act: 164(1)(a)

Nunavut Workers' Compensation Act: Sections 24; 25(1)(5); 26; 27; 29; 30; 142;

164(1)(a)

POLICY RELATED DOCUMENTS

Policy 03.07 Calculation of Disability Compensation

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Policy 04.01 Payment of Compensation Policy 04.02 Medical Aid and Associated Costs

Policy 04.08 **Medical Devices**

Policy 04.13 **Conflicting Medical Opinions**

HISTORY

Policy 04.07 (Jun 13/19)	Medical Examinations
Policy 04.07 (Dec 03/14)	Medical Examinations
Policy 04.07 (Mar 16/11)	Medical Examinations
Policy 04.07 (Apr 1/08)	Medical Examinations
Policy 04.07 (Sep 16/04)	Medical Examinations
Policy 04.07 (Aug 31/01)	Medical Examinations
Policy 04.07 (Apr 01/99)	Medical Examinations
Policy 04.07 (Jan 01/96)	Medical Examinations
Policy 20-04-05 (Sep 10/93)	Chaperones - Medical Examination
Policy 20-04-09 (Sep 10/93)	Compensation for Appointment

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may pay for medical devices that it considers reasonably necessary to treat or alleviate the effects of a worker's compensable injury or disease.

DEFINITIONS

Activities of Daily Living: Basic activities that are performed by individuals on a

daily basis for self-care, which include:

ambulating/locomotion (e.g. walking), transferring (e.g. getting from bed to chair and back), eating, dressing, personal hygiene (e.g. bathing, grooming, bladder and bowel care), and taking medications.

Claim Owner: The WSCC employee responsible for adjudicating or

managing the worker's claim.

Eyeglasses: Includes prescription eyeglasses, prescription

sunglasses, prescription safety glasses, and contact

lenses.

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)*)

Hearing Device: A hearing aid or other device, such as a telephone

amplifier system, TTY (telephone typewriter), or visual alarm system that decreases the impact of a

hearing impairment.

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 Device: Any equipment, device, or aid used to treat or alleviate

the effects of a worker's injury or disease. Medical devices includes, but is not limited to, orthopaedic

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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.

An artificial device to replace or augment a missing or Prosthesis:

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.

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Coverage and Upgrades

The WSCC provides coverage for the least expensive medical device that is of sufficient quality to meet the needs of the claimant, given the nature of their injury or disease, and the available options that the claimant can reasonably access.

Optional upgrades on medical devices that are not medically necessary to relieve the worker from the effects of the compensable injury or disease are at the worker's own expense.

These provisions apply to all medical devices listed in this policy, as well as non-listed devices that may be covered on a case-by-case basis.

Repair and Replacement of Medical Devices

The WSCC may cover the costs of repairing or replacing approved medical devices in the following circumstances:

- there is a demonstrated deficiency or deterioration in the medical device due to normal wear and tear, or when the medical device has reached its normal life span. This is determined from the WSCC's experience as to normal maintenance requirements and normal lifespan of the device;
- there is a change in the worker's condition such that the medical device is no longer medically suitable for the worker; or
- the medical device is lost, damaged or destroyed during an incident where a workrelated injury or disease occurred. Medical devices are not repaired or replaced if there is no confirmation of a work-related injury or disease.

The WSCC does not cover the costs of repairing or replacing medical devices if the loss or damage is a result of misuse or abuse.

Clothing Allowance

The WSCC may provide an annual allowance of up to \$500 for damage to a worker's clothing as a result of wearing a prosthesis, orthosis or other appliance covered by the WSCC.

The WSCC may also provide an annual allowance of up to \$1000 for damage to a worker's clothing from the use of a wheelchair covered by the WSCC.

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Claimants must apply for the clothing allowance on an annual basis, which includes confirmation from their health care provider that they have a continued need to use the medical device that causes clothing damage (e.g. prosthesis, wheelchair).

Severely injured workers who receive an initial clothing allowance for using an approved device, and whose need for the device is unlikely to change from year to year, may be exempted from applying annually for the allowance.

Claim Owners can approve payment for clothing allowances.

The WSCC may also replace clothing in other circumstances, as detailed in Policy 04.02, Medical Aid and Associated Costs.

Types of Medical Devices

The following includes some of the medical devices covered by the WSCC, and the conditions and criteria for their coverage. The list is not exhaustive. The WSCC may cover other medical devices where the WSCC deems it to be medically necessary in relation to the compensable injury or disease.

Hearing Aids and Other Hearing Devices

The WSCC covers the costs of hearing aids, other hearing devices, and associated costs (e.g. fitting fees, maintenance, batteries, etc.) determined to be medically necessary for a worker who suffers from work-related hearing loss. The WSCC requires a recommendation for an appropriate hearing device from an audiologist or hearing aid practitioner before authorizing a purchase.

The WSCC also requires an audiologist or hearing aid practitioner to re-evaluate the worker's needs when a hearing aid is being replaced. The WSCC authorizes reasonable requests to replace hearing aid batteries.

Prostheses and Orthoses

The WSCC covers the costs of a *prosthesis* determined to be medically necessary due to a work-related injury or disease that results in the loss of a limb or other body part.

The WSCC covers the costs of an *orthosis* determined to be medically necessary due to a work-related injury or disease, including, but not limited to, joint braces, spinal or leg braces, splints or elastic stockings. These items may be provided on a one-time basis to enable the worker to overcome the effects of the injury.

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In cases where a worker has been disfigured (e.g. facial burn) due to a work-related injury or disease, the WSCC may pay for cosmetic restoration for aesthetic rather than functional purposes in order to alleviate the impact of the disfiguration and promote social and psychological well-being.

Special Footwear

The WSCC covers the costs of special footwear when it is medically necessary due to a work-related injury or disease.

Specialized footwear refers to footwear prescribed or recommended by an appropriate health care provider, and refers to footwear matched or customized to address the specific medical issue of the claimant.

The WSCC typically only covers the costs of special footwear or modifications/alterations to the claimant's own footwear, such as metatarsal bars, heel and sole raises and arch supports. The WSCC covers the most cost-effective option that is available.

Special footwear and footwear modifications may be provided as a temporary measure or on a permanent basis, as required.

Ordinary commercial footwear may be covered in certain circumstances for temporary use, usually on a one-time only basis (e.g. authorizing the purchase of oversize shoes in order to fit an orthotic that is required because of the injury). Coverage of ordinary shoes requires a recommendation from an appropriate health care provider or the WSCC Medical Advisor to ensure that it is based on medical need.

Mobility-Related Devices

The WSCC may cover mobility-related devices recommended by a health care provider when it is medically necessary due to a work-related injury or disease.

Mobility-related devices are provided on a temporary or permanent basis, according to need.

Items that may be covered include, but are not limited to, walkers, canes, crutches, manual wheelchairs, scooters, and power wheelchairs.

Coverage for scooters and wheelchairs are typically limited to those who have an impairment resulting in severe limitations to the claimant's ability to walk (e.g. bi-lateral extremity amputations, hip disarticulations, physical impairments, such as paraplegia,

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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 workrelated 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 eve.

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.

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Miscellaneous

The WSCC may approve the purchase of a Medic Alert Bracelet when medically appropriate, or its replacement when necessary.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections: 34(1-3); 36; 41(3); 47(1-2)

Compensation Act:

Nunavut Workers' Compensation Act: Sections: 34(1-3); 36; 41(3); 47(1-2)

POLICY RELATED DOCUMENTS

Policy 04.02 Medical Aid and Associated Costs

Policy 04.07 **Medical Examinations**

HISTORY

Medical Devices
Medical Devices
Medical Devices
Medical Devices
Medical Appliances
Medical Aids
Medical Apparatus
Medical Apparatus
Significant Medical Information
Prosthetics & Assistive Devices - Hearing
Orthopaedic Devices
Eye Glasses
Special Medical Needs - Apparel

Chairperson



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.

"... an unhealthy condition of the body or mind." (as Disease

per ss.1(1) of the Workers' Compensation Acts).

"...a person who has claimed compensation or who is Eligible Claimant:

> entitled to claim and receive compensation." (per ss.1(1) of the *Workers' Compensation Acts*)

Experience Account: Records established and maintained by the WSCC of

the costs of compensation claimed in respect of each

employer.

"means the condition of having a permanent physical, Impairment:

functional, mental or

psychological abnormality or loss, caused by the worker's personal injury or disease" (per 1(1) of the

Workers' Compensation Acts)

An injured worker's employer at the time of injury. Incident Employer:

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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.

"The failure to exercise the standard of care that a Negligence:

> 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 disregardful of others' rights." (Black's Law Dictionary, 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 American Medical Association Guide to the Evaluation of Permanent

Impairment.

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 Workers' Compensation Acts).

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,

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EMPLOYER COST TRANSFER AND RELIEF

• the incident causing or contributing to the compensable injury occurred in the Northwest Territories or Nunavut.

The WSCC initiates Cost Transfers or Cost Relief independently or upon the request of an employer, when appropriate, and informs affected employers, in writing, of any changes to their experience account.

Any employers affected by a Cost Transfer or Cost Relief may request the WSCC to formally review the decision according to Policy 08.01, Reviewing Decisions.

Cost Transfer

Under the *Workers' Compensation Acts* (*Acts*), an eligible claimant cannot sue any employer or worker that is covered under the *Acts*, despite them causing or contributing to the claimant's work-related injury, disease or death. The only course of action possible is for the worker to claim compensation under the *Acts*. In certain circumstances, the WSCC may pursue a civil action on behalf of an eligible claimant to recover damages incurred as a result of an injury, disease or death suffered by a worker due to the fault of a third party (i.e. party not covered under the *Acts*). See Policy 00.06, Third Party Actions, for further details on this.

The WSCC may provide a Cost Transfer when a worker's injury, disease or death is determined to be due to the Negligence of a non-incident employer, or worker of a non-incident employer who is covered under the *Acts*. To initiate a Cost Transfer, the negligent party (employer or worker) must be within the scope or jurisdiction of the WSCC's mandate.

To decide if an employer is eligible for Cost Transfer, the WSCC:

- Investigates to determine whether Negligence was present based on a balance of probabilities. The WSCC identifies and determines Negligence through the use of reasonably available information and evidence related to the incident that contributed to the worker's injury, disease or death.
- If Negligence is determined to have been present, the WSCC then determines the impact of Negligence on the work-related injury, disease or death in order to apportion the claims costs according to the proportion of Negligence of the impacted employers.
- If more than one negligent party is involved, and the proportion of Negligence between them cannot be determined, the claims experience costs are divided equally among the impacted employers.

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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 WSCCapproved 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

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• the pre-existing condition causes impairment functional impact beyond that usually associated with the compensable injury.

The WSCC considers two criteria when evaluating Cost Relief for compensable injuries impacted by a pre-existing condition:

- the severity of the work-related incident; and
- the medical significance of the pre-existing condition in relation to the work-related incident.

The WSCC evaluates the *severity of a work-related* incident on a scale of Minor, Moderate and Major:

- Minor: an incident causing a non-disabling or minimal injury or disease;
- Moderate: an incident causing injury or disease resulting in some limitation to working capacity, and requiring medical care;
- Major: an incident causing significant injury or disease resulting in significant limitation to working capacity, or death.

The WSCC evaluates the *medical significance of a pre-existing condition* on a scale of Minor, Moderate and Major:

- Minor: minimal impact on function; work ability minimally impacted if at all; self-management without ongoing involvement of health care professionals;
- Moderate: may complicate outcome of injury and increase risk of enhanced disability or impairment; may have some impact on function but this has been mitigated by medical attention; medical aid is ongoing;
- Major: requires intensive medical treatment or care; work accommodation may be required, and worker is unable to perform usual daily activities; worker has permanent functional limitations.

The WSCC applies these scales to pre-existing conditions and evaluates the percent of Cost Relief it provides as follows:

Medical Significance of	Severity of Incident	Percent of Cost Relief
Pre-Existing Condition		
	Minor	50
Minor	Moderate	25
	Major	0
	Minor	75
Moderate	Moderate	50
	Major	25
	Minor	90 – 100

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Major	Moderate	75
	Major	50

Cost Relief of 100 percent may only be granted in special circumstances, and is determined on a case by case basis.

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.

Negligence Outside Territorial Jurisdiction

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

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.

LEGISLATIVE AUTHORITIES

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

Compensation Act:

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

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POLICY RELATED DOCUMENTS

Policy 00.06	Third Party Actions
Policy 03.02	Entitlement
Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.06	Entitlement of Occupational Disease
Policy 03.12	Pre-existing Conditions
Policy 08.01	Reviewing Decisions

HISTORY

11131 OK1	
Policy 04.10 (Dec 4/18)	Employer Cost Transfer and Relief
Policy 04.10 (Jun 12/14)	Employer Cost Transfer and Relief
Policy 04.10 (Dec 07/11)	Employer Cost Transfer and Relief
Policy 04.10 (Apr 01/08)	Cost Relief
Policy 04.10 (Oct 25/04)	Cost Relief
Policy 04.10 (Aug 31/01)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (Oct 20/99)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (Apr 1/99)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (Nov 18/98)	Cost Relief
Policy 04.10 (Feb 19/97)	Cost Relief
Policy 04.10 (Jan 01/96)	Cost Relief
Policy 20-01-33 (Nov 18/94)	Cost Relief
Policy 20-02-22 (Sep 10/93)	Secondary Conditions – From Compensable Disability
Policy 20-02-18 (Dec/81)	Adjudication: Pre-existing Conditions
Policy 20-26-01 (Dec/81)	Second Injury and Enhancement Fund

Chairperso	or

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) facilitates collaboration between workers, their employers, the WSCC, health care providers and where applicable, other parties, to support workers' recoveries, and early, safe and successful return to work.

DEFINITIONS

Employability	Being in possession of the skills and abilities
	that allow a worker to be employed in Suitable

Work.

"...a chiropractor, dentist, nurse, occupational Health Care Provider:

> 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 Acts)

Maximum Medical Recovery

(MMR)

The point at which further medical or surgical interventions will have a negligible impact on

restoration of function.

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 Evidence: Medical information related to the medical

condition and treatment of the worker.

"...a person who is authorized by law to Physician:

> practice medicine in the place where the person is so practicing;" (per ss. 1(1) of the Workers'

Compensation Acts)

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.

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Team Member Responsibilities and Obligations

Workers

Workers must commit themselves to achieving maximum medical recovery. Workers must take reasonable measures to mitigate their disability, which includes participating in their medical treatment (e.g. attending appointments; following medical instructions), and participating in their return to work or vocational rehabilitation plans. Workers must maintain ongoing communication with the WSCC about their injury or disease, treatment plans, and any other relevant information pertaining to their recovery and return to work. Failure by the worker to mitigate their disability can result in the reduction, suspension, or termination of compensation if actions required by the worker are not taken.

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

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.

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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.

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Ongoing WSCC Claims Management

The WSCC monitors worker treatment plans. If workers do not respond to treatment as expected, the WSCC may refer the worker for additional assessments or alternate treatments.

To effectively and efficiently manage workers' claims and to ensure there is no interruption in compensation, the WSCC requires:

- Updates from health care providers every two-three weeks, or upon request;
- Medical evidence and recommendations from health care providers regarding work restrictions and supports to assist in the worker's recovery; and,
- A suitable treatment plan established by health care providers, with input from workers and any other applicable team members.

When a non-compensable condition prevents the worker from undergoing treatment for the work-related injury or disease, the WSCC considers ways to accommodate the worker so that they may continue with their required treatment. Further details on this are covered in Policy 03.12, Pre-Existing Conditions.

The WSCC makes all reasonable efforts to consult with workers' health care providers to clarify diagnoses, treatment plans and prognoses for recovery. The WSCC may consult WSCC Medical Advisors to provide opinions concerning a worker's medical condition and recovery. The Medical Advisor only provides their medical opinion and advice. Medical Advisors do not provide guidance on how to adjudicate claims according to legislation and policy.

Discontinuing Compensation

A worker receiving, or entitled to receive, compensation must take all reasonable measures required by the WSCC in order to mitigate their disability, including participation in WSCC authorized treatment plans as well as the return to work process. If the WSCC considers that a worker is not taking reasonable steps, it provides a written notice to the worker, as outlined in Policy 04.01, Payment of Compensation, and Sections 35 and 142 of the *Acts*. Failure to comply with the required actions stated in the written notice, may result in the discontinuance of a worker's compensation through suspension, reduction or termination of benefits.

For further clarity, a worker's compensation, with exception to medical compensation, will be discontinued if the worker:

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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 Wa	orkers' Sections	30: 3	34: 35:	36:	46:	141(1)(2);142	2:

Compensation Act: 148(1)(2); 156; 166(1)

Nunavut Workers' Compensation Act: Sections 30; 34; 35; 36; 46; 141(1)(2);142;

148(1)(2); 156; 166(1)

Northwest Territories *Human Rights* Sec

Act

Sections 5; 7(1)(4)

Nunavut *Human Rights Act* 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

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HISTORY

Policy 04.11 (Sep 11/18)	Claims Management
Policy 04.11 (Jun 03/13)	Claims Management
Policy 04.11 (Nov 24/09)	Claims Management
Policy 04.11 (Apr 01/99)	Early Intervention
Policy 04.11 (Feb 14/96)	Early Intervention

Chairperson



POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) occasionally receives conflicting medical opinions from a worker's health care provider and WSCC Medical Advisors. This policy describes how the WSCC resolves conflicting medical opinions as effectively and efficiently as possible.

DEFINITIONS

Conflicting Medical Opinion: Occurs when a Medical Advisor and a

worker's health care provider disagree on substantive matters of diagnosis, treatment plans or the worker's ability to return to work

on full or modified duties.

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 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) *Workers*'

Compensation Acts)

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 Evidence: Medical information gathered by a health care

provider related to the severity and duration of

a worker's disability or impairment and

treatment of the worker.

Physician: "...a person who is authorized by law to

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practice medicine in the place where the person is so practising;" (per ss. 1(1) of the Workers' Compensation Acts)

The location where a worker regularly works Workplace/Worksite:

on behalf of the employer.

POLICY

Roles and Responsibilities

Claims Services and Medical Advisors

Claims Services is often required to consider medical opinions and other medical evidence when making decisions related to a worker's claim. Claims Services may forward a worker's file to a Medical Advisor for review if there are questions regarding the medical opinions of health care providers or other medical information. This could include but is not limited to: causation, mechanism of injury, or pathology. Claims Services may also ask Medical Advisors to contact health care providers.

The Medical Advisor provides advice to Claims Services regarding the medical opinions or appropriateness of medical treatments prescribed by workers' health care providers. The Medical Advisor bases this advice on a review of the medical evidence on file and when necessary, an examination of the worker. The Medical Advisor may consult the worker's health care provider to clarify or discuss the medical evidence on file.

The Medical Advisor also provides their medical opinion to Claims Services, advising whether additional medical information or medical assessments are required. The Medical Advisor only provides their medical opinion to Claims Services and to the Review Committee as set out below. Medical Advisors do not provide guidance on how to adjudicate claims according to legislation and policy, nor do they make decisions on a claim. Claims Services is the decision making body and determines the weight given to an opinion provided by the Medical Advisor.

The Medical Advisor provides written documentation for any opinions provided to Claims Services. Claims Services keeps written Medical Advisor opinions in worker files, as medical evidence.

Review Committee and Medical Advisors

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When the review of a WSCC decision has been requested by a claimant or an employer, the WSCC Review Committee may be required to review the medical information included in a claimant's file.

In order to review the decision, the Review Committee may forward a worker's file to a Medical Advisor for their medical opinion regarding medical information on file. The Review Committee may also ask Medical Advisors to contact health care providers in order to seek clarification regarding the medical information on file. The Medical Advisor provides written documentation for any opinions provided to the Review Committee.

When the medical opinions provided by the Medical Advisor and received by the Review Committee results in a conflict of medical opinion occurring on the claim, the processes outlined in this policy will apply.

Health Care Providers

The role of health care providers is to promote and where applicable, improve or preserve the health of workers, as well as for managing workers' treatment and assessing workers' progress towards returning to work. Health care providers' responsibilities to the WSCC include providing medical evidence and may include the identification of workers' physical limitations or referring workers for further medical evaluation.

Health care providers must provide written medical evidence to the WSCC pertaining to a worker's disability or impairment and resulting absence from the workplace. The WSCC is responsible for determining if, in light of the medical evidence, a worker's absence from work is compensable under legislation and policy.

Resolving Conflicting Medical Opinions

Step One

If the Medical Advisor disagrees with a health care provider's medical opinion or vice versa, the Medical Advisor must contact the health care provider to seek clarification and if possible, resolve the conflict. If the health care provider does not respond, the Medical Advisor sends a written request for communication to the health care provider. A copy of the request is also sent to the worker to ensure that processing claims for compensation is as transparent as possible.

If the WSCC does not receive a response from the health care provider, dated to within 15 business days of the WSCC's written request, the WSCC may withhold payment or

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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

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the independent medical professional and provide a copy of their submissions to each other as well as to the WSCC and the worker. The independent medical professional reviews the submissions and the relevant evidence. The injured worker may also provide the independent medical professional with relevant information.

The independent medical professional may perform a medical examination of the worker if they deem it necessary. The independent medical professional must examine the worker if the worker requests the examination or if requested by the WSCC.

The independent medical professional's conclusions are final, binding and accepted as the medical opinion that Claims Services use when deciding issues concerning the worker's claim, subject to any new medical evidence becoming available after the decision.

The independent medical professional considers any new medical evidence, submitted to the WSCC after the resolution process began, on a case-by-case basis. To be considered new, medical evidence must meet the criteria in Policy 00.02, Reconsidering a Decision.

Review and Appeal

Although an independent medical professional's medical opinion is the final medical opinion on that issue considered by Claims Services when making decisions, the independent medical professional's opinion is only one factor considered in the Claims Services decision-making process. Claims Services adjudicates all claims on a case-bycase basis and adheres to all requirements of legislation, general regulations and policies.

All decisions made by Claims Services, even when informed by an independent medical professional's opinion, are reviewable by the WSCC Review Committee and the Appeals Tribunal.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 27; 112; 117 Compensation Act: subsection 141(2)

Nunavut Workers' Compensation Act: Sections 27; 112; 117

subsection 141(2)

POLICY RELATED DOCUMENTS

Policy 00.02 Reconsidering a Decision

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Policy 04.07 Medical Examinations

Policy 04.03 Choice and Change of Health Care Provider

HISTORY

Policy 04.13 (Jun 14/17)	Conflicting Medical Opinions
Policy 04.13 (Jun 03/13)	Conflicting Medical Opinions
Policy 04.13 (Nov 24/09)	Conflicting Medical Opinions
Policy 04.13 (Mar 31/08)	Conflicting Medical Opinions

Chairperson



POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) supports an injured worker's safe and early return to work. This policy sets out the WSCC's Return to Work process and programs used to support workers' recoveries, and early, safe and successful return to work.

DEFINITIONS

Employability Being in possession of the skills and abilities that

allow a worker to be employed in suitable work.

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 Acts*).

Maximum Medical Recovery: The point at which further medical or surgical

interventions will have a negligible impact on

restoration of function.

Medical Evidence: Medical information related to the medical condition

and treatment of the worker provided by a Health Care

Provider.

Return to Work: A process to help injured workers return to safe,

productive and suitable employment 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

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- occupation based on existing regional socioeconomic conditions; and,
- 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.

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The WSCC works with employers in identifying suitable work options, as described in this policy, to aid in the Return to Work process. Suitable Work options may include modified or alternate duties, a graduated return to work, or worksite/workplace modifications. Hours of work for either of these alternative work options may vary from the worker's pre-injury employment position and may depend on the availability of appropriate, meaningful tasks and the worker's skills and abilities. The WSCC may pay partial time loss benefits on a case-by-case basis in these situations.

Hierarchy of Return to Work Goals

In developing an injured worker's Return to Work plan, the WSCC applies the following Return to Work hierarchy goals:

Goal	Description	
1) Same work with the same employer	The worker returns to the pre-incident employment.	
2) Modified work with the same employer	The worker returns to suitable, similar or comparable work with the pre-incident employer. Some work restrictions or modifications are required.	
3) Different work with the same employer	The worker returns to the pre-incident employer with alternate suitable work.	

After attempts to meet the Return to Work goals have been exhausted without a successful return to work to the incident employer, the WSCC may provide Vocational Rehabilitation. For a description of Vocational Rehabilitation programs and services, refer to Policies 05.01, Vocational Rehabilitation Eligibility, 05.02, Vocational Rehabilitation Programs, and 05.05, Vocational Rehabilitation Allowances and Grants.

Return to Work Obligations and Expectations

The worker, the employer, the WSCC, health care providers and other parties, where applicable, must collaborate to aid in the early and safe return to work of a worker.

Worker Obligations

Workers commit themselves to achieving maximum medical recovery, and are obligated to take all necessary steps required under the Workers' Compensation Acts (Acts) and

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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 preinjury 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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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.

WSCC 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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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.

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Last New Substanting Change February 10, 2020



Workplace/Worksite Modification

The employer modifies the workplace/worksite, helping the injured worker return to work and meet employment requirements. Workplace/worksite modifications may include:

- Worksite access and exit changes;
- Work station and equipment modifications;
- · Washroom facility modifications; and,
- Purchase and installation of special equipment, materials or technology at the worksite and/or work station.

The WSCC may provide financial assistance to the employer in exceptional circumstances to reduce the financial impact of providing workplace/worksite modifications.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Compensation Act:	Sections 1.1(a); 34; 35(1); 36; 46
Nunavut Workers' Compensation Act:	Sections 1.1(a); 34; 35(1); 36; 46
Northwest Territories <i>Human Rights Act</i>	Sections5; 7(1)(4)
Nunavut <i>Human Rights Act</i>	Sections 7(1); 9(1)(5)

POLICY RELATED DOCUMENTS

Policy 04.01	Payment of Compensation
Policy 04.11	Claims Management
Policy 05.01	Vocational Rehabilitation Eligibility
Policy 05.02	Vocational Rehabilitation Programs
Policy 05.05	Vocational Rehabilitation Allowances and
	Grants
Policy 09.02	Safe Advantage
Policy 11.02	Reporting an Injury, Disease or Death

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HISTORY

Policy 04.14 (Sep 11/18)	Return to Work
Policy 04.14 (Mar 05/15)	Return to Work
Policy 04.14 (Dec 7/11)	Return to Work
Policy 04.14 (Jun 15/10)	Return to Work
Policy 02.10 (Jun 13/07)	Safe Advantage: Return to Work

Chairperson



POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide support services to eligible workers recovering from a work-related injury or disease.

DEFINTIIONS

Vocational Rehabilitation Plan (VR Plan):

A written document that outlines the worker's reemployment 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 of vocational rehabilitation.

POLICY

Pain Management

Pain management services educate workers about, and support them with, pain management strategies.

Workers are eligible for pain management services if either:

- Pain from a work-related injury prevents the worker's return to work or interrupts progress in a WSCC Vocational Rehabilitation Plan (VR Plan); or
- Surgical procedures or prescribed medication are not effective in controlling the worker's pain; and
- In addition to one of the above, a Physician or a Nurse Practitioner has indicated that pain management services will have a have a positive impact on the worker's ability to continue with their treatment plan or VR Plan.

If chronic pain from a claimant's pre-existing condition is delaying or prolonging treatment for the claimant's work-related injury, the claimant may be eligible for a onetime treatment by pain management service providers. Eligibility for treatment of a preexisting condition is outlined in Policy 03.12, Pre-Existing Conditions.

Child Care

The WSCC may approve an allowance for all or a portion of child care expenses, to enable a worker to attend medical or vocational rehabilitation appointments. The WSCC is not responsible for child care expenses not directly associated with appointments required by the WSCC. The worker is responsible for all regular, work day, or shift-cycle child care expenses and casual babysitting expenses.

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The WSCC may provide child care services to the dependants of a deceased worker, in order to assist in the transition to a life without the deceased worker. This is determined on a case by case basis and is at the discretion of the Pension Specialist.

The WSCC requires documented proof of child care costs before providing an allowance for this service.

Counselling Services

The WSCC may provide coverage to the worker counselling services when personal issues delay or jeopardize the worker's recovery from the work-related injury or disease or affects completion of the VR Plan. Counselling services may include:

- Personal and family: for issues of anger, grief, family conflict, substance abuse, nonwork related posttraumatic stress;
- Financial: to address financial situations caused by earning disruption or financial hardship caused by the work-related injury or disease;
- Supportive: to address the worker's physical and mental adjustments post-injury; or,
- First Nations and Inuit: to provide counselling services that are culturally sensitive and specific in approach.

The WSCC may provide counselling services to the dependants of a deceased worker to assist in the transition to a life without the deceased worker.

Substance Abuse Treatment

The WSCC may provide coverage for counselling and substance abuse treatment to the worker when substance abuse results from the work-related injury or disease or its treatment. To be compensable, the worker's substance abuse must affect the worker's recovery from the work-related injury or disease or affect completion of the worker's VR Plan.

If substance dependency existed prior to the work-related incident, any treatment provided by the WSCC is provided in accordance with Policy 03.12, Pre-Existing Conditions.

The worker is expected to resume participation in applicable WSCC-approved programs upon the successful completion of substance abuse treatment.

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Special Financial Assistance

Special Financial Assistance may be provided to an injured worker who is, or likely to be, unable to work for three months or more from the time of the injury and whose Annual Remuneration exceeds YMIR in the year they were injured. This one-time assistance is provided to relieve a financial burden that the worker did not have prior to their injury.

In order to determine the worker's eligibility, the WSCC requires evidence of the workers financial condition before and after the worker suffered the work-related injury. To obtain a full and complete understanding of the worker's financial condition, the WSCC may request documentation, which include, but is not limited to:

- Banks statements, which show payment for rent or mortgages;
- Utility bills;
- Other bills or documentation for necessary expenses (e.g. child care, vehicle, phone, internet);
- A monthly budget of income and expenditures and a breakdown of how the funds are spent.

The WSCC may request the documentation for the following periods:

- Up to six months prior to the injury;
- Up to six months immediately after the injury; and,
- Up to six months prior to the request for financial assistance, if this time period is more than six months after the injury occurred.

In order to receive Special Financial Assistance, the WSCC requires an estimate of the funds required by the worker. If there is no evidence of financial need, the WSCC will not provide financial assistance. For instance, if the requested documentation shows that the worker had ongoing financial issues prior to the injury that are not significantly different after the injury, then the WSCC will not provide the financial assistance. In these cases, the WSCC may instead refer the worker to financial counseling, as outlined in this policy.

If the worker is deemed eligible for Special Financial Assistance, the WSCC makes payments directly to the institution or establishment where payments are required.

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LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Section 36; 46; 47

subsections 34(1); 34(2); 34(3); 41(3) Compensation Act:

Nunavut Workers' Compensation Section 36; 46; 47

subsections 34(1); 34(2); 34(3); 41(3); Act:

POLICY RELATED DOCUMENTS

Policy 03.03	Arising Out of and During the Course of
	Employment
Policy 03.11	Allowances and Services for Severely Injured
	Workers
Policy 03.12	Pre-Existing Conditions
Policy 04.14	Return to Work
Policy 05.01	Vocational Rehabilitation Eligibility
Policy 05.02	Vocational Rehabilitation: Programs
Policy 05.05	Vocational Rehabilitation: Allowances and Grants

HISTORY

Policy 04.15 (Jun 14/18)	Non-substantive change (Special Financial Assistance)
Policy 04.15 (Jun 05/12)	Support Services for Injured Workers
Policy 05.03 (Sep 24/09)	Vocational Rehabilitation: Support Services
Policy 05.03 (Apr 1/08)	Vocational Rehabilitation: Support Services,
-	Non-substantive changes (New Workers'
	Compensation Acts)
Policy 05.03 (Apr 27/06)	Rehabilitation Support Services and Programs
Policy 05.03Aug 31/01	Rehabilitation Support Services and Programs
Policy 05.03 (Apr 1/99)	Rehabilitation Support Services and Programs
Policy 05.03 (Mar 19/96)	Rehabilitation Support Services and Programs
Policy 25-01-05 (Apr12/90)	Counselling Services
Policy 25-03-02 (Apr 12/90)	Supportive Counselling
Policy 25-03-03 (Apr 12/90)	Social Counselling
Policy 25-03-04 (Apr 12/90)	Financial Counselling
Policy 25-03-05 (Apr 12/90)	Related Services – Substance Abuse
Policy 25-03-08 (Apr 12/90)	Related Services – Family Counselling
Policy 25-03-09 (Apr 12/90)	Related Services – Legal Counselling
Policy 25-03-10 (Apr 12/90)	Related Services – Pain Management

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Policy 25-05-04 (Apr 12/90)

Child Care Expenses

Chairperson

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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

Return to Work:

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)

Being in possession of the skills and abilities **Employability** that allow a worker to be employed in suitable 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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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 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 preincident employer, but capable of regaining employability. Vocational rehabilitation may include, but is not limited to, programs such as career counselling, job training or academic programs. Workers returning to work with their pre-incident employer do not receive vocational rehabilitation but may be eligible for return to work programs in Policy 04.14, Return to Work.

The WSCC provides vocational rehabilitation to workers as soon as possible, given the nature and impact of their work-related disability.

Compensation

Workers participating in vocational rehabilitation programs continue to receive any compensation they are entitled to under the Workers' Compensation Acts. The WSCC compensates workers attending approved vocational rehabilitation programs in accordance with Policies 03.07, Calculation of Disability Compensation or 06.03, Calculation of Impairment Compensation. Allowances and grants are also available to workers participating in vocational rehabilitation who meet specific criteria. Policy 05.05, Vocational Rehabilitation Allowances and Grants, describes applicable allowances and grants.

Eligibility

The worker's Case Manager may refer the worker for vocational rehabilitation if:

A work-related disability or impairment prevents the worker from returning to their previous work or to employment comparable to their pre-incident work;

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- 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) Same work with the same employer	The worker returns to the pre-incident employment.
2) Modified work with the same employer	The worker returns to suitable, similar or comparable work with the pre-incident employer. Some work restrictions or modifications are required.
3) Different work with the same employer	The worker returns to the pre-incident employer with alternate suitable work.
4) Same work with a different employer	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) Modified work with a different employer	The worker is unable to return to the pre- incident employer and work restrictions or modifications are required with the new employer.

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6) Different work with a different employer The worker is unable to return to the preincident 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

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which the worker was previously entitled. The WSCC notifies the worker in writing when vocational rehabilitation services are discontinued.

Further, in order to mitigate their disability a worker is required to cooperate with such vocational rehabilitation for suitable employment and/or employability as the WSCC may require. If a worker fails to cooperate with the vocational rehabilitation process including development of the VR Plan, they will be provided with a notice from the WSCC indicating:

- The actions the WSCC requires the worker to take;
- The period of time the WSCC considers reasonable for the worker to take the specified actions; and,
- The consequences for the worker if they fail to comply with the WSCC's direction within the timeframe indicated.

The WSCC may suspend, reduce, or terminate a worker's compensation if the worker wilfully fails to comply with these requirements. The type or types of compensation that may be suspended, reduced, or terminated is discretionary and is determined, by the WSCC, as appropriate for and proportional with the degree of the claimant's non-compliance. The WSCC may re-instate compensation if a worker complies with WSCC requirements. Any reduction, suspension or termination of a worker's compensation is done in accordance with the *Workers' Compensation Acts* s. 142.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers'* Sections 10; 34; 35; 36; 38; 46; 471; 142

Compensation Act: subsections 41(3)

Nunavut Workers' Compensation Sections 10; 34; 35; 36; 38; 46; 47

Act: subsections 41(3)

POLICY RELATED DOCUMENTS

Policy 03.12	Pre-Existing Conditions
Policy 04.01	Payment of Compensation
Policy 04.11	Claims Management
Policy 04.14	Return to Work
Policy 04.15	Support Services for Injured Workers
Policy 05.02	Vocational Rehabilitation Programs
Policy 05.05	Vocational Rehabilitation Allowances and Grants

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HISTORY

Policy 05.01 (Sep 11/18)	Vocational Rehabilitation Eligibility (Non-Substantive Change)
Policy 05.01 (Nov 30/17)	Vocational Rehabilitation Eligibility
Policy 05.01 (Jun 05/12)	Vocational Rehabilitation Eligibility
Policy 05.01 (Sep 24/09)	Vocational Rehabilitation
Policy 05.01 (Apr 1/08)	Vocational Rehabilitation, Non-substantive
,	Change (New Workers' Compensation Acts)
Policy 05.01 (Apr 27/06)	Vocational Rehabilitation
Policy 05.01 (Aug 1/02)	Vocational Rehabilitation
Policy 05.01 (Sep 5/00)	Vocational Rehabilitation
Policy 05.01 (Apr1/99)	Vocational Rehabilitation
Policy 05.01 (Jan 1/96)	Vocational Rehabilitation
Policy 25-01-01 (Apr12/90)	Statutory Authority
Policy 25-01-02 (Apr 12/90)	Statement of Philosophy
Policy 25-01-03 (Apr 12/90)	Policy Statements Overview
Policy 25-01-04 (Apr 12/90)	Policy Statements Table of Contents
Policy 25-01-06 (Apr 12/90)	Eligibility for Services-Board Policy
Policy 25-01-09 (Apr 12/90)	Board Mandate – Referral for Services
Policy 25-01-10 (Apr 12/90)	Eligibility for Services
Policy 25-01-11 (Apr 12/90)	Discontinuance of Services
Policy 25-01-13 (Apr 12/90)	Preventative Rehabilitation Services
Policy 25-01-14 (Apr 12/90)	Delivery of Services
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Chairperson

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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

- 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.

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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 reemployment 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 preincident 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

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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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The WSCC expects the worker using Job Search to apply for a set number of jobs per week, as determined in the VR Plan. Workers must record and report the number of job applications submitted before the WSCC provides the vocational rehabilitation allowance.

Workers in academic or training programs may participate in Job Search during school breaks for up to four weeks at a time, and upon completion of their program.

Job Search Incentive

The WSCC provides workers using Job Search with an incentive to accept suitable work before the end of the 13-week maximum. The incentive is not paid to workers using Job Search who are currently enrolled in a training or academic program and searching for jobs during a break between semesters.

The incentive is provided to workers who accept suitable work prior to 13 weeks. The incentive is a percent of the 13-week maximum allowance and is calculated based on the following criteria.

If suitable work is accepted within:

- 0 21 days of Job Search: 40 percent of remaining allowance not yet paid;
- 22 49 days of Job Search: 25 percent of remaining allowance not yet paid;
- 50 70 days of Job Search: 15 percent of remaining allowance not yet paid; or
- 71 91 days of Job Search: no incentive provided

The incentive is a one-time payment. The WSCC fulfils its vocational rehabilitation obligation to the worker when they accept suitable work.

Training on the Job

When a worker's skills are applicable to employment other than their pre-incident work, the WSCC can provide training on the job. The Case Manager and vocational rehabilitation counsellor negotiate program duration and cost sharing agreements with the employer participating in Training on the Job. The worker becomes an employee of the employer at the start of the program. The WSCC fulfils its vocational rehabilitation obligation to the worker when Training on the Job is complete.

Academic Programs

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A worker's Case Manager may approve a worker's registration in an academic program when:

- Job Search and training on the job were considered and deemed inappropriate for the worker:
- The work-related disability or impairment prevents the worker from working in employment similar to their pre-incident work;
- The worker shows an ability to complete and benefit from an academic program; and
- There is an expectation that employment earnings upon completion of the academic program are comparable or exceed pre-incident work earnings.

Tuition, Books and Supplies

The WSCC pays for any academic fees, books or supplies that are a requirement of the academic program.

The WSCC contributes to the purchase of a computer, up to a maximum of \$2,500, when the computer is a requirement of the academic program.

The worker is responsible for the repair, maintenance and replacement of all items purchased by the WSCC.

Academic Program Allowances

An Academic Program Allowance stops during summer breaks from the worker's academic program. Applicable allowances continue if the worker participates in Job Search or finds paid or unpaid work. The Allowance ensures that the worker receives benefits equal to what they receive while attending school. If a worker's summer earnings are in excess of what the WSCC would pay, the worker does not receive an allowance.

To receive an allowance for summer work the worker must provide a letter from the employer confirming the worker's employment and earnings. The WSCC may also contact the employer at any time to discuss the worker's summer work.

Academic Program Allowances are not paid to workers participating in correspondence or part-time academic programs. The Manager, Case Management and Pensions, can approve allowances for workers whose work-related disability or impairment precludes them from completing an academic program as a full time student.

Vocational Rehabilitation Extension

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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 fulfils its vocational rehabilitation commitment to the worker when Alternate Program Assistance is paid.

Term Supplement

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A worker who is eligible for vocational rehabilitation services may receive a term supplement when the impact of a compensable impairment on the workers' employability is severe.

In circumstances where a worker's Vocational Exploration indicates that employability is not expected before the age of 65, the worker is given the choice of:

- Pursuing an alternative VR Plan until completion or the age of 65, while receiving appropriate allowances; or
- Receiving the equivalent of total disability compensation, less any awards for partial disability or partial impairment, until the age of 65.

Term Supplements are usually only considered for workers 55 years or older.

If the worker is 65 years of age or older at the time that their claim is accepted, and can reasonably confirm their employment would have continued, they may receive a term supplement equivalent to their total disability compensation, less any award for partial disability or partial impairment, to a maximum of 24 months from the time they are determined to be eligible for vocational rehabilitation services.

The Vice President, Stakeholder Services, must approve all Term Supplements.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 10; 34; 35; 36; 38; 46; 47

subsections 41(3) Compensation Act:

Nunavut Workers' Compensation Sections 10; 34; 35; 36; 38; 46; 47

Act: subsections 41(3)

POLICY RELATED DOCUMENTS

Policy 03.03 Arising Out of and During the Course of

Employment

Claims Management Policy 04.11 Policy 04.14 Return to Work

Policy 04.15 Support Services for Injured Workers

Vocational Rehabilitation Eligibility Policy 05.05 Vocational Rehabilitation Allowances and Grants

Policy 06.01 Pension Entitlement

HISTORY

Policy 05.01

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Policy 05.02 (Sep 11/18)	Vocational Rehabilitation Programs (Non-
	Substantive Change)
Policy 05.02 (Nov 30/17)	Vocational Rehabilitation Programs
Policy 05.02 (Jun 05/12)	Vocational Rehabilitation Programs
Policy 05.02 (Sep 24/09)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Apr 01/08)	Vocational Rehabilitation: Re-Employment
	Programs, Non-substantive Changes (New Workers'
	Compensation Acts)
Policy 05.02 (Apr 27/06)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Mar 27/02)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Aug 31/01)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Jun 2/01)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Apr 11/99)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Sep 20/96)	Vocational Rehabilitation: Re-Employment Programs
Policy 05.02 (Jan 17/96)	Vocational Rehabilitation: Re-Employment Programs
Policy 25-01-07 (Apr 12/90)	Employment Placement Services
Policy 25-03-01 (Apr 12/90)	Vocational Counselling
Policy 25-03-06 (Apr 12/90)	Related Services - Educational
Policy 25-03-07 (Apr 12/90)	Related Services - Employment and Job
Policy 25-04-01 (Apr 12/90)	Assessment Services
Policy 25-04-02 (Apr 12/90)	Job Search Assistance
Policy 25-04-03 (Apr 12/90)	Re-Employment Assistance
Policy 25-04-04 (Apr 12/90)	Work Assessment Program
Policy 25-04-05 (Apr 12/90)	Training on the Job Program
Policy 25-04-06 (Apr 12/90)	Academic Training Program
Policy 25-04-08 (Apr 12/90)	Program Absence
Policy 25-04-09 (Apr 12/90)	Program Extension
Policy 25-04-11 (Apr 12/90)	Alternate Program Assistance
Policy 25-04-12 (Apr 12/90)	Retraining Allowance
Policy 25-04-13 (Apr 12/90)	Tuition, Books and Supplies
Policy 25-04-14(Apr 12/90)	Subsistence Allowance
Policy 25-04-15 (Apr 12/90)	Interim Program Allowance
Policy 25-04-16(Apr 12/90)	Transportation Allowance
Policy 25-04-18 (Apr 12/90)	Tools and Equipment
Policy 25-04-19 (Apr 12/90)	Relocation Assistance
Policy 25-04-20(Apr 12/90)	Workplace Modification

Chairperson

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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*)

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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 reemployment 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

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overnight accommodations up to the cost of living in a student residence instead of a Subsistence Allowance.

Transportation Allowance

The WSCC provides a Transportation Allowance to workers attending WSCC-approved training, academic programs or appointments. The allowance pays for travel by the most appropriate, direct and economical means of transportation available. The allowance includes:

- Personal vehicle commuting costs and parking fees, if use of a worker's vehicle is the most direct and economical means of transportation;
- Public transportation costs, including air transportation; and
- Hiring a vehicle or taxi that is accessible to those with a disability or impairment.

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.

Relocation Grant

The WSCC provides a Relocation Grant to cover the costs of moving a worker's household belongings when:

- Suitable work is not available in the worker's place of primary residence;
- Employment at the new community is confirmed, prior to relocation;
- The worker is approved for a WSCC academic or training program and the cost of relocation is anticipated to be equal to or less than the total cost of Subsistence Allowance over that period of time; or
- The worker, living outside of their home community, successfully completes schooling and moves back to their home community or to a new community with confirmed employment.

The Relocation Grant is calculated according to crate charges. The maximum weight paid by the WSCC, including the crate weight is:

- Worker without dependants maximum 1,814 kilograms (4,000 pounds)
- Worker with dependants maximum 6,804 kilograms (15,000 pounds)

The WSCC does not pay to move all-terrain vehicles, motor vehicles, organic material, or pets.

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

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assistance is in excess of what the WSCC covers. A limited Relocation Grant is provided to a worker when third party moving assistance is less than what the WSCC covers. The limited grant ensures that a worker receives relocation funds equal to what the WSCC would otherwise provide.

Workers are responsible for all relocation arrangements and must submit documents for claimed expenses. Workers must receive WSCC approval for a Relocation Grant prior to making any relocation arrangements.

A worker may use a personal vehicle, a trailer or truck rental, or a professional mover to relocate. If the move uses a personal vehicle a Transportation Allowance is provided. A Subsistence Allowance is provided to workers and each dependant, for each 24-hour period workers and dependants travel, while moving to a new residence.

Interim Program Allowance

The WSCC understands that participation in the VR Plan may create financial challenges for the worker. The WSCC may provide an Interim Program Allowance when the worker is accepted to a WSCC-approved academic or training program as described in Policy 05.02, Vocational Rehabilitation Programs, when the worker:

- Requires assistance to remain financially secure between the end of one program and the beginning of another; or
- Will not receive applicable allowances until the beginning of the school term.

If the Interim Program Allowance is to be continued beyond one month the Manager, Case Management and Pensions, must approve the extension.

Tools and Equipment Grant

The WSCC provides tools and equipment to workers if the tools are required to gain employability or employment. The WSCC may provide a grant to purchase tools and equipment, such as, but not limited to:

- Safety equipment and apparel;
- Aids for visually impaired or hearing impaired workers;
- Business clothing required for interviews; or
- Tools required for work

Workers must provide receipts for all tools or equipment purchased and, as applicable, provide the WSCC with a signed note from the employer stating the items required for work.

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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/worksite when the modification permits worker access to the new workplace/worksite 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 Workers' Section 46; 47 Compensation Act:

Nunavut Workers' Compensation Section 46; 47 Act:

Northwest Territories Workers' subsection 3

Compensation General Regulations:

Nunavut Workers' Compensation subsection 3 General Regulations:

Northwest Territories *Safety Act*: Sections 4; 5

Nunavut *Safety Act*: Sections 4; 5

Northwest Territories Human Rights Section 10

Act:

Nunavut *Human Rights Act*: Section 10



POLICY RELATED DOCUMENTS

Policy 03.11	Allowances and Services for Severely Injured Workers
Policy 04.14	Return to Work
Policy 04.15	Support Services for Injured Workers
Policy 05.01	Vocational Rehabilitation Eligibility
Policy 05.02	Vocational Rehabilitation: Programs

HISTORY

Policy 05.05 (Sept 11/18)	Vocational Rehabilitation Allowances and Grants (Non-Substantive Change)
Policy 05.05 (Nov 30/17)	Vocational Rehabilitation Allowances and Grants
Policy 05.05 (Jun 05/12)	Vocational Rehabilitation Allowances and Grants
Policy 05.05 (Sep 24/09)	Vocational Rehabilitation: Allowances and Grants

Chairperson



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	mec	lica	il aid	, paym	ient, money, pens	sion,	

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*)

"means the condition of having temporarily reduced Disability:

> 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)

"...in respect of a person Family Member:

> 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)

"means the condition of having a permanent physical, Impairment:

> 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,

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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;

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- 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.

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The WSCC may increase, decrease or terminate a PI pension if the worker's medical condition changes.

Workers receiving a pension who sustain a subsequent compensable injury or disease are entitled to compensation for the existing impairment in addition to the subsequent disability or impairment compensation. Compensation for each individual impairment or disability is paid up to the YMIR for the year in which the impairment or disability occurred.

Impaired workers can request a pension conversion (full or partial lump-sum payment) or advance. Policy 06.02, Pension Conversions and Advances, lists the criteria and process for a pension conversion or advance.

Entitlement for a Deceased Worker's Spouse

A dependant surviving spouse receives a monthly pension for life. The pension is equal to 3.08 percent of the YMIR in the year of the worker's death.

The WSCC pays an additional lump sum payment equal to 30 percent of the YMIR in the year of the worker's death, to assist a spouse immediately following a worker's death.

Entitlement for Multiple Spouses

The primary surviving spouse is entitled to all compensation which a surviving spouse is entitled under the Acts. The primary surviving spouse is the person considered as the spouse on the day immediately preceding the worker's death.

Any other surviving spouse, as defined in the Acts, is entitled to a pension for a maximum of five years after the date of the worker's death or until that surviving spouse dies, whichever is earlier.

Entitlement for Dependent Children

A healthy child who is dependent on the worker, and under 19 years of age, receives a monthly pension equal to 0.625 percent of the YMIR in the year of the worker's death. The monthly pension continues:

- until the child turns 19 years of age;
- as long as the child is enrolled in an academic institution and meeting the requirements listed below;

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- the child is granted a university degree or college diploma for the first time or completes a course in technical or vocational training, whichever occurs first; or
- if the child is physically or mentally incapable of earning their own living. In this case the child receives a monthly pension for life.

Dependent children, 19 years of age or older, enrolled in an academic institution receive a monthly pension if they:

- meet the requirements of the academic institution they are attending; or
- are enrolled in full time studies as established by the academic institution.

If a dependent child, 19 years of age or older, does not meet the two criteria to receive a monthly pension while enrolled in an academic institution their pension is terminated.

Dependent children 19 years of age or older who withdraw from school re-establish entitlement to compensation if they return to school after an absence of one semester or less.

Dependent children with learning disabilities must meet learning objectives established by the academic institution to maintain entitlement to a pension.

The WSCC may, at any time, request confirmation of academic progress and enrolment in an academic institution.

Entitlement for a natural parent who is not a surviving spouse

Where there is no surviving spouse receiving spousal benefits, natural parents are entitled to receive compensation if they assume full or shared responsibility for a child of the deceased worker.

If two or more persons assume full or shared responsibility for a child of the deceased worker, compensation is divided among them in proportion to their share of responsibility for the child. Compensation ends when the child is no longer entitled to compensation or the natural parent is no longer responsible for the child, whichever comes first.

Entitlement for Other Dependants

Other dependent family members may be entitled to compensation when a deceased worker does not have a surviving spouse or children. In these circumstances, dependency

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is not limited to persons with a blood relationship to the worker. The WSCC determines dependency-based entitlement on a case by case basis.

Under the Acts, priorities for pension entitlement are exclusive of each other. This means that:

- 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.

Special Circumstances

Spousal and Dependent Medical Circumstances

Circumstances that may create a need for additional compensation include but are not limited to:

- a surviving spouse who requires hospitalization and whose children require care in their absence;
- a surviving spouse with a deteriorating medical condition; or
- a dependent child with a congenital disorder, who requires the services of an attendant or placement in an institution.

WSCC Pension Committees are created to determine the amount and type of additional compensation if a surviving spouse or dependent child is or becomes ill and additional compensation is required to maintain the family. Pension Committees consist of the deceased worker's Pensions Specialist, a WSCC Medical Advisor and either the Northwest Territories Manager, Claims Services, or Vice President, Stakeholder Services.

All additional compensation is provided for goods or services and is not considered part of the existing pension. The WSCC takes into account the financial loss caused by the workers death as well as the medical requirements of the spouse or dependent children when providing additional compensation.

Pre-1977 Claims

Prior to January 1, 1977, private insurers provided workers' compensation to employers operating in the Northwest Territories. Insurers operating from 1953 to 1976 provided

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coverage up to the maximum established under legislation. In cases where the claim costs exceeded this maximum, legislation required the employer to assume the extra costs.

Costs of a worker's pension are paid by the Workers' Protection Fund when a worker is entitled to pre-1977 benefits and their employer no longer operates and cannot pay the costs of the pension.

Lump Sum Payments to Pre-1985 Surviving Spouses

A surviving spouse whose pension was terminated upon marriage is eligible for a onetime lump sum special payment if they:

- received or were entitled to receive compensation for the death of a spouse prior to April 17, 1985;
- married after the death of a spouse in a pre-April 17, 1985 work-related incident;
- are living on the date the application for a one-time lump sum special payment is made to the WSCC;
- discontinue or consent to discontinue any application challenging the constitutionality of section 85.1 of the *Workers' Compensation Acts* R. S.N.W.T. 1988, c.w.6 as amended.:
- apply to the WSCC for the lump-sum payment;
- provide a statutory declaration stating that they are a surviving spouse of a deceased worker and that they previously received or were entitled to receive compensation for the death of the worker; and
- provide a release to the WSCC acknowledging the lump-sum payment is in lieu of any other compensation to which the spouse may be entitled.

The one time lump-sum payment is calculated using the following formula:

Lump-Sum Payment = (Surviving Spouse's Claims Costs from April 17, 1985 to Date of Lump-Sum Payment Application + Capitalized Future Claims Costs) x 0.355.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections: 11; 41; 42; 43; 44; 45; 48; 49; 50;

Compensation Act: 51; 55; 56

Subsections: 172(4); 172(5)

Nunavut Workers' Compensation Act: Sections: 11; 41; 42; 43; 44; 45; 48; 49; 50;

51; 55; 56

Subsections: 172(4); 172(5)

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POLICY RELATED DOCUMENTS

Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.05	Renewable Resource Harvesters
Policy 06.02	Pension Conversions and Advances
Policy 06.03	Calculation of Permanent Compensation

HISTORY

Chairperson



POLICY STATEMENT

Workers receiving a pension from the Workers' Safety and Compensation Commission (WSCC) may request a conversion into a full or partial lump sum payment or an advance against their pension. This policy sets out guidelines for converting or advancing sums against WSCC pensions.

DEFINITIONS

Discount Factor: Is the greater of:

> the rate used by the WSCC to calculate its long term pension liabilities, as reported in its financial statements, and

the current long-term risk free real rate of return.

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)

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.

POLICY

General

When evaluating a request for a pension conversion or advance, the WSCC takes into consideration the impact on the worker's long-term financial stability. Pension conversions and advances are not temporary relief for ongoing financial issues and do not

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replace loans provided by commercial lenders. The WSCC does not approve requests that negatively affect the worker's financial stability.

Workers who receive a pension conversion or advance remain entitled to medical treatment or vocational rehabilitation for their compensable injury or disease.

Mandatory Pension Conversions

The WSCC automatically approves a worker's request for a full pension conversion when the worker's impairment is 10 percent or less and the worker is not receiving additional compensation under Section 43 of the Workers' Compensation Acts.

Pension Conversions for Workers with Impairments Greater Than 10 Percent

General

A worker can request a full or partial pension conversion when their impairment is greater than 10 percent. A monthly pension totalling the remainder of the pension is paid to the worker when a partial conversion is approved. A worker stops receiving a monthly pension and any future increases to that pension when a full conversion is approved.

Pension conversions are permanent and cannot be converted back to a monthly pension.

Approving Applications for Pension Conversions

The Vice President, Stakeholder Services, may approve an application for a full or partial pension conversion when the percentage of impairment is greater than 10 percent and:

- the conversion does not put the worker's ability to pay for every-day expenses and on-going financial obligations at risk;
- the worker sustains a viable and stable source of income, such as investments, a business venture or earnings from other employment. If the stable source of income is from other employment, the worker must:
 - have at least five years stable employment history;
 - be in good health considering present age, occupation and employment; and
 - not have an injury that physically prevents the worker from continuing employment; and

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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.

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Reporting Pension Conversions

The President reports all approved pension conversions for impairments greater than 10 percent to the Governance Council quarterly.

Pension Advances

The WSCC may advance sums against a worker's pension, to a maximum of one year's pension income. The Northwest Territories Manager, Claims Services, approves pension advances.

The WSCC reviews requests for pension advances and ensures the advance does not jeopardize the worker's ability to meet day to day expenditures or on-going financial obligations.

The WSCC does not advance a sum against a worker's pension:

- if they are currently paying back a previous advance; or
- if the worker requests a cash advance.

Advances are used for the purchase of specified goods or services. Advances are paid directly to the supplier of the goods or services for which the advance was requested. When an advance is approved and paid, the worker's pension payments are put on hold until the advance is recovered.

If a worker dies before repaying an advance, the WSCC may recover all monies advanced past the date of death from the estate. The Vice President, Stakeholder Services, considers the recovery amount and cost before seeking monies from the estate.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 55

Compensation Act: Subsections 56(1); 56(2); 56(3); 56(4)

Nunavut Workers' Compensation Act: Section 55

Subsections 56(1); 56(2); 56(3); 56(4)

POLICY RELATED DOCUMENTS

Policy 06.01 Pension Entitlement

Policy 06.03 Calculation of Impairment Compensation

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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

Chairperson

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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

DEITHITIONS	
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 st and ending December 31 st .
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

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

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the worker's personal injury or disease" (per 1(1) of the Workers' Compensation Acts)



(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).

"... an amount equal to 1/12 of the net annual Net Monthly Remuneration:

> 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 American Medical Association Guide to the

Evaluation of Permanent Impairment.

The WSCC may consider a worker seriously and permanently disfigured as having a PI.

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.

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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 Workers' Compensation Acts.

Work only done during certain times of the Seasonal Employment:

year. The work can take place annually.

Employment in a similar industry and a Similar Employment:

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): A total reduction in physical, functional, mental

> or psychological ability. The WSCC determines TI using the American Medical Association Guide to the Evaluation of Permanent

Impairment.

Subsection 41(4) of the Workers' Compensation Acts deems the following

conditions as TI:

total and permanent loss of sight in both eves;

- the loss of both feet at or above the ankle:
- the loss of both hands at or above the wrist;
- the loss of one hand at or above the wrist and one foot at or above the ankle;
- the permanent and complete paralysis of both legs or both arms or one leg and one arm; or
- any injury to the head resulting in an incurable and incapacitating reduction of mental abilities.

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Work Release Program: A program that allows an inmate to work

outside the correctional facility for wages

before they are released.

"... 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).

Year's Maximum Insurable Remuneration:

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.

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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.

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Therefore, a Stage 2 wage calculation, as per Policy 03.07, Calculation of Disability Compensation, must be carried out for a seasonally or partially employed worker to determine the impairment compensation amount that the worker is entitled to receive. To be certain, this means that the calculation of impairment compensation for a seasonally or partially employed worker is not based on the Stage One wage calculation used for determining their disability compensation.

Learners

The WSCC determines learners' Annual Remuneration by considering the annual remuneration of entry level positions in the same or similar employment.

Persons with Personal Optional Coverage (POC)

The Annual Remuneration for individuals with Personal Optional Coverage (POC) is the amount of coverage approved by the WSCC, up to the maximum of the YMIR.

For individuals with POC employed elsewhere as a worker or with POC under a separate business, their Annual Remuneration is the total of all remuneration including the amount covered by POC, up to a maximum of the YMIR.

Renewable Resource Harvesters

The WSCC determines Annual Remuneration for renewable resource harvesters by accepting the amount reported by the Government of the Northwest Territories or the Government of Nunavut, up to the Harvester's YMIR stated in the Workers' Compensation General Regulations. The amount reported by the Government of the Northwest Territories or Government of Nunavut includes a credit for country foods. The amount of the credit for country foods is determined by memorandums of understanding between the WSCC and the respective territorial government.

Other Types of Workers

For other workers not already classified, the WSCC determines the worker's Annual Remuneration using the workers' employment circumstances and the remuneration they received. These workers include:

- volunteers;
- people working, or training for, rescue or recovery services;
- ambulance services or firefighting services;
- people working temporarily in activities that relate to emergencies or disasters under the Civil Emergency Measures Acts;

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- 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;
- 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.

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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.

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The WSCC calculates Additional Compensation as follows:

[50% X Permanent Medical Impairment (PMI) Rating] + PMI Rating: The worker is unable to fully return to pre-injury or other comparable employment because of their PI, but can still work in some capacity.

[100% x PMI Rating] + PMI Rating: The worker does not have a TI, but they are not employable in any capacity in the future. The WSCC confirms this using the AMA Guide.

The revised PMI Rating is then applied to the worker's Net Monthly Remuneration to calculate the compensation payable.

Additional Compensation increases an injured worker's pension. The WSCC determines the amount of the increase and when the increase is paid.

When there is a change in the worker's condition, the WSCC may review, reassess or terminate an injured worker's Additional Compensation.

Supplementary Pension Increase (SPI)

The Supplementary Pension Increase (SPI) is an adjustment the WSCC makes to an existing pension to maintain the purchasing power of that pension. In the event of an increase in the cost of living, the WSCC increases pension payments by a calculated percentage on January 1 of each year.

The WSCC uses the weighted average of the Consumer Price Index (CPI) to calculate the SPI:

SPI for January of year
$$X = \left[\left(\frac{12 \text{ month average CPI [July of year } (X - 2) \text{ to June of year } (X - 1)]}{12 \text{ month average CPI [July of year } (X - 3) \text{ to June of year } (X - 2)]} \right] - 1 \right] \times 100$$
Where: $X = \text{Year for Determination}$

The WSCC rounds a positive value SPI to the nearest hundredth of a percentage and it considers a negative value to be zero (0). When the SPI is zero (0), the pension payment amount does not increase.

Other Considerations

Disability Compensation for Recurrence of Original Injury or Disease

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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 *Workers*' Sections 41; 42; 43; 44; 45; 57; 58; 59

Compensation Act:

Nunavut Workers' Compensation Act: Sections 41; 42; 43; 44; 45; 57; 58; 59

Northwest Territories Workers' Sections 1; 10

Compensation General Regulations:

Nunavut Workers' Compensation Sections 1; 10

General Regulations:

POLICY RELATED DOCUMENTS

Policy 02.05 Reporting Payroll

Policy 03.03 Arising out of and During the Course of

Employment

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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

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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

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POLICY STATEMENT

Information obtained by the Workers' Safety and Compensation Commission (WSCC) about employers, and workers or their dependants through the administration of legislation and workplace inspections is confidential. The WSCC may release information under the authority of the Northwest Territories and Nunavut Workers' Compensation Acts, in accordance with the Northwest Territories and Nunavut Access to *Information and Protection of Privacy (ATIPP) Acts.*

DEFINITIONS

Claimant:	" a person claiming compensation;" (p	per ss. I(1) of
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the Workers' Compensation Act(s)).

Claim File: A claimant's complete electronic and paper file

maintained by the WSCC.

Confidential Information: Any information acquired under the legislation

administered by the WSCC.

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) and 8(1.1) of the Workers' Compensation Act(s)).

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

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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

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listed in section 24 of the ATIPP Acts. Claimants may access their information by sending a written request to the WSCC.

A claimant may receive disclosure of third party personal information, or information of a third party listed in section 24 of the ATIPP Acts, by sending a written access to information request to the ATIPP Coordinator.

Claimants or dependants may authorize representatives to access their claim file information. Authorizations for representative access must be made in writing and be signed by the claimant. Authorizations for representative access remain in effect until the claimant writes to the WSCC requesting the representative no longer have access.

Information may also be provided to a guardian, trustee, or lawful custodian of an individual as determined by Section 52(1) of the ATIPP Acts.

Employer Access to Information

Employers may request information from the WSCC about their worker's claims or about their own employer information.

Employers may authorize representatives to make information requests on their behalf. Authorizations for representative access must be made in writing and signed by the employer. Authorizations for representative access will remain in effect until the employer writes to the WSCC requesting that the representative no longer have access.

Employer Access to Claimant Information

Section 25(5) of the Workers' Compensation Acts permits the employer to receive reports about their workers' progress. This information is provided to the employer in the form of a progress report.

Section 164 of the Workers' Compensation Acts requires the WSCC to provide certain information to an employer upon request. This information includes information related to the cause of a claim for compensation, the disposition of that claim, the recovery of the worker and any vocational rehabilitation of the worker. It also includes any other relevant information related to an issue in a review or appeal when the employer is a party. In these situations, the employer's request for information must identify the specific claim related issue(s) for which they are seeking information, and must be directed to the Manager, Claims Services.

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Upon receiving an employer's access to claimant information request, the WSCC notifies the worker of the employer's request. If the requested information contains personal information that is not clearly necessary to meet the purposes of the request, the worker may have 30 days to object to the release of the personal information. If the worker objects to the release of information, the Manager, Claims Services, may grant or deny the employer access or allow restricted access to the claimant's personal information.

The WSCC may also provide the employer with a summary of medical information, rather than a detailed medical file. The decision of the Manager, Claims Services, to grant or deny access is made according to whether or not it is expected that the information will help employers during the claims management and return to work processes.

Information which is absolutely necessary for the purpose for which it was requested will be provided. To request access to the workers personal information other than discussed above, or the information of a third party other than the worker, the employer must submit an access to information request.

Employer Access to Employer Information

Employers may access all information that is generated by the WSCC in the management of their account, with the exception of any third party personal information or any information of a third party as listed in section 24 of the ATIPP Acts. Employers may access this information by sending a written request to the WSCC.

If an employer wishes to obtain third party personal information or any information as listed in section 24 of the ATIPP Acts, the employer must submit an access to information request to the ATIPP Coordinator.

Inspection Report Information Disclosure

All information contained in Inspection Reports are confidential. Relevant information from Inspection Reports may be shared with federal, territorial and municipal regulatory agencies, including the Royal Canadian Mounted Police (RCMP) and municipal law enforcement agencies or other territorial government departments to perform their duties. Any non-governmental individual seeking Inspection Reports must submit an access to information request to the ATIPP Coordinator.

Disclosure to Government Departments and Agencies

The WSCC provides relevant information to government departments or agencies as required by federal or territorial legislation to assist other departments or agencies to

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perform their duties. Section 48 of the ATIPP Acts and Section 95 of the Workers' *Compensation Act(s)* detail the provisions of this information.

Disclosure Requests from Other Individuals

In addition to claimants, employers, and government bodies and agencies that may request information, other individuals may also request disclosure of information that is in the custody and control of the WSCC. This section details specific instances that the WSCC regularly encounters. All other scenarios not contemplated here are managed according to relevant legislation.

Media

The media must submit an access to information request under the authority of the ATIPP Acts in order to access any information in the custody and control of the WSCC.

Auditors

Auditors appointed by the WSCC are given access to information necessary for the performance of their duties.

External Legal Counsel

Under the authority of the ATIPP Acts, the WSCC may release information to its legal counsel for the provision of legal advice and other services.

Information and Privacy Commissioner

Under the authority of the ATIPP Acts, the WSCC releases information to the Information and Privacy Commissioner that is necessary for the performance of their duties.

Research

The WSCC may release non-personal information for the purposes of research. The WSCC may also release personal information for research purposes under the authority of the ATIPP Acts.

LEGISLATIVE AUTHORITIES

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Northwest Territories Workers' Sections 63; 95; 110; 161; 162; 163; 164

Compensation Act: Subsections 25(5)

Nunavut Workers' Compensation Act: Sections 63; 95; 110; 161; 162; 163; 164

Subsections 25(5)

Northwest Territories Access to Sections 12; 24; 40; 41; 42; 48; 49; 52

Information and Protection of Privacy

Act

Nunavut *Access to Information and* Sections 12; 24; 40; 41; 42; 48; 49; 52

Protection of Privacy Act:

Northwest Territories *Access to* Sections 11; 12; 13; 14

Information and Protection of Privacy

Regulations:

Nunavut Access to Information and Sections 11; 12; 13; 14

Protection of Privacy Regulations:

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

Policy 07.01 (Sep/14/11) Commission Information
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)

Policy 07.01 (Oct 18/01)

Policy 07.01 (Aug 31/01)

Policy 07.01 (Apr 01/99)

Policy 07.01 (Jul 16/98)

Policy 07.01 (May 26/98)

Access to Claim File Information

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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 Release of Worker's Information to Government Policy 1.005 (Nov 18/94)

Agencies

Access to Claim Files – Issue in Dispute Board Directive 1.003D (Jul 22/92)

Board Directive 1.004D (Jul 22/92) Authorization of Representatives

Chairperson



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,
	amentarian an athan natatad manter. In also da ac

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.

"... a person claiming compensation;" (per ss. 1(1) of Claimant:

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)).

"...a chiropractor, dentist, nurse, occupational Health Care Provider:

> 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).

"means information about an identifiable individual, Personal Information:

including:

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- (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

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- (a) A document, book, ledger, photograph, image, audiovisual recording, x-ray, map and drawing, and
- (b) A record created or stored in digital or other intangible form by electronic means,but does not include software or a mechanism that produces records." (s. 1 of the Archives Act,Northwest Territories and Nunavut).

Stakeholder: A worker or employer who has personal information

held, handled or administered by the WSCC.

Third Party: A person or entity (e.g. health care facility) other than

the WSCC or the person who has consented to, or has been notified of, the collection of their personal

information.

Use: "in relation to information, means to handle, deal with

or apply information for a purpose, including to reproduce or transform it, but does not mean to collect

or disclose information." (s. 1(1) of the Health

Information Act, Northwest Territories).

POLICY

General

The WSCC requires parties (e.g. claimants, employers, health care providers) to provide information necessary to make determinations on matters under its jurisdiction.

The Access to Information and Protection of Privacy (ATIPP) Acts of the Northwest Territories and Nunavut set out the rules for how public bodies collect, use and disclose personal information. The Workers Compensation Acts of the Northwest Territories and Nunavut also set out rules regarding the collection, use and disclosure of information required for the administration of the Workers' Compensation system, which in some circumstances overrides requirements of the ATIPP Acts. For its operations in the Northwest Territories, the WSCC must also adhere to the *Health Information Act* of the Northwest Territories, where applicable. If there is a conflict between either the ATIPP Acts or the *Health Information Act* and the Workers' Compensation Acts, the Workers' Compensation Acts take precedence.

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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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Principle 9 - Individual Access

Upon request, an individual must be informed of the existence, use, and disclosure of their personal information and be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

Principle 10 - Challenging Compliance

An individual shall be able to challenge an organization's compliance with the above principles.

Protection of Privacy

The WSCC requires all staff and stakeholders to protect the privacy of personal information acquired under the legislation that the WSCC administers. Any collection, use or disclosure of information contrary to this Policy is prohibited. Parties required to protect privacy of personal information under the Acts include, but is not limited to: WSCC employees, Governance Council directors, Employers, Authorized Representatives of claimants or employers, and Contractors that the WSCC has entered into contractual relations with.

Safeguards

The WSCC will protect the personal information it collects and uses by making reasonable security arrangements, which include technical, administrative and physical safeguards to mitigate risks such as loss, theft or unauthorized access, collection, use, disclosure, disposal or modification of personal information.

The WSCC determines when it is appropriate to verify personal information through identification measures. The WSCC is responsible for retaining, transferring and disposing of personal information in accordance with the Archives Acts of the Northwest Territories and Nunavut.

The WSCC has internal policies and procedures to ensure effective management of privacy matters covering topics such as breach management, file transfers, records management, and information security.

The WSCC is responsible for making reasonable efforts to ensure that WSCC staff, claimants, employers, health care providers, and authorized representatives are aware of the legislation, this policy, and procedures that provide the foundation for protecting personal information.

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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);

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- 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,

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• 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.

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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.

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WSCC employees who access or use personal information (e.g. unauthorized viewing) while not having formal authorization will be subject to disciplinary action.

Confidentiality and Conflicts of Interest

A claimant or employer may request that the WSCC assign their file to another WSCC employee if there are confidentiality or conflicts of interest concerns with the person assigned to their file (e.g. decision maker is related to the claimant), which has not been already addressed by the WSCC employee in question.

Claimants/employers should direct their concern to a manager in the division that is making a decision on their file

Right of Correction

Individuals have a right of access to, and a right to request correction of, personal information about themselves held by the WSCC.

Disclosure of Personal Information

The disclosure of personal information collected by the WSCC will be done in accordance with Policy 07.01, Access to Workers' Safety and Compensation Commission Information, and/or the Access to Information and Protection of Privacy Act.

Complaints, Compliance, and Review

The WSCC follows this policy, applicable legislation, and internal procedures to effectively manage and secure personal information.

If a stakeholder identifies an error or privacy breach regarding their personal information, or has a concern with the way the WSCC has their handled personal information, the stakeholder should notify the WSCC immediately so that the matter can be addressed.

The WSCC takes privacy matters very seriously, and, where appropriate, will address any concerns/complaints in a timely fashion.

The WSCC must report any serious privacy breaches to the applicable Territorial ATIPP Office, and the Information and Privacy Commissioner.

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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</i>	Section 1(1)
Information Act	

Northwest Territories, Access to	Sections 2; 40; 41; 42, 43
Information and Protection of Privacy	

Nunavut, Access to Information and	Sections 2; 40; 41; 42, 43
Protection of Privacy Act	

Northwest Territories, Workers'	Sections 25; 30; 1(1); 72(3)(d); 73(c); 81;
Compensation Act	142(2)(b); 161; 162; 164(2); 166; and 167

Nunavut, Workers' Compensation Act	Sections 25; 30; 1(1); 72(3)(d); 73(c); 81;
	142(2)(b); 161; 162; 164(2); 166; and 167

Northwest Territories	A 1 A 4	Sections 1	5 0
Northwest Territories	Archives Act	Sections I	7 9

Nunavut, Archives Act Sections 1, 5, 9

Northwest Territories, Safety Act Section 11

Nunavut, Safety Act Section 11

POLICY RELATED DOCUMENTS

Policy 07.01 Access to Workers' Safety and Compensation Commission Information

HISTORY

Act

New Policy

Chairperson

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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

Workers' Compensation Act(s)).

Claimant: "...means a person claiming compensation." (per ss.

1(1) of the *Workers' Compensation Acts*)

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 *Workers' Compensation Acts*)

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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;

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- 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

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compensation will be handled in accordance with the provisions of Policy 04.01, Payment of Compensation.

Review Requestors dissatisfied with the Review Committee's decision may appeal to the Appeals Tribunal. Decisions of the Review Committee are considered final, unless reversed or varied by the Appeals Tribunal. The Appeals Tribunal is governed by the Acts, and the *Appeals Tribunal Rules of Procedure* when the appeal is submitted to the Northwest Territories' Appeals Tribunal.

Workers' Advisor

The Workers' Advisor or Deputy Workers' Advisor, appointed under section 107(3) of the *Acts* operates independently of the WSCC. The Workers' Advisor may make representations on behalf of a claimant in support of their request for a review. The Workers Advisor is also able to provide advice or guidance to them on matters related to WSCC Policies, the review process, or the issues under review and make inquiry as to the status of any matter being reviewed, where the Workers' Advisor is acting as an authorized representative.

It is the Review Requestor's responsibility to contact the Office of the Workers' Advisor for assistance with their review and/or are requesting the Workers' Advisor to make a representation on their behalf.

Costs of a Review

Any legal and/or professional fees related to a review are the review participant's responsibility.

Upon approval by the WSCC, the WSCC provides document translation and pays for required language interpretation at oral hearings.

Review Committee

Requesting a Review

The Review Committee is an internal committee established by the WSCC to conduct an impartial review of decisions made by the WSCC. All requests for review must be received, in writing, within three years of the date of the WSCC's original decision. If there is a justifiable reason for the delay, the Review Committee may grant an extension for the review request. A request for a review of a decision after three years from the date of decision, must also include the reason(s) why the request for review has

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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

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 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

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medical examinations at the Review Committee's request for lost wages due to time missed from work. Compensation is at an amount equal to Total Disability benefits according to Policies 03.07, Calculation of Disability Compensation. This compensation is equal only to the time required in order to undergo the required medical examination.

The WSCC may also reimburse pre-approved costs for travel, meals and accommodation related to the required medical examination, as prescribed in the *General Regulations*, and Policy 04.02, Medical Aid and Associated Costs.

Decision

When rendering a decision, the Review Committee applies the *Acts*, associated *Regulations* and WSCC polices that relate to the issue(s) under review.

The Review Committee's decisions are made according to the justice and the merits of the case, without being bound by its previous decisions.

The Review Committee provides a written decision to the Review Requestor within 50 business days of receiving the original request for review.

After reviewing documentary and oral evidence related to the issue under review, and applying relevant legislation and/or policy, the Review Committee renders a decision on the issue.

The Review Committee may confirm, reverse or vary the WSCC's original decision. Written decisions will include the reasons for the decision. When the Review Committee confirms an original decision, it results in the original decision being upheld. A reversal, results in the original decision being overturned. The Review Committee's decision may also vary the original decision, resulting in an outcome that differs from the original decision being confirmed or reversed.

Once the Review Committee releases its written decision of a review, the decision will be implemented as soon as is reasonably possible by the operating until but not longer than 10 business days from the date of the decision.

Deferrals

A member of the Review Committee, or any other party to the review, may defer the review when reasonable, including but not limited to the following circumstances:

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- 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

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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*' Sections112; 113; 114; 115; 116; 128 *Compensation Act*: 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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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

Chairperson

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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 from the Review Committee. Appellants dissatisfied with the Review Committee's decision may appeal to the Appeals Tribunal,

DEFINITIONS

Appellant: The individual or organization requesting the appeal of

a decision.

Evidence: Testimony, writings, material objects or other things

accepted by the WSCC to prove or disprove a fact.

POLICY

General

The Northwest Territories and Nunavut *Workers' Compensation Acts* (*Acts*) establish the Appeals Tribunal independently from the WSCC. An appeal under the *Acts* is a process, external to the WSCC. The Appeals Tribunal possesses the exclusive jurisdiction to hear appeals concerning decisions made by the WSCC Review Committee, concerning claims or employer accounts. The Appeals Tribunal also has exclusive jurisdiction to determine whether a person is immune from suit under section 63 of the *Acts*.

The Appeals Tribunal

Claimants and employers or their representatives may request an appeal of a Review Committee decision to the Appeals Tribunal.

The Appeals Tribunal is governed by the *Acts* and applicable Regulations including the *Appeals Tribunal Rules of Procedure*.

All Review Committee decisions are in effect until the Appeals Tribunal renders a decision.

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Appeal Concerning Immunity from Suit

In addition to the Appeals Tribunal role as the final body for WSCC decisions, the Appeals Tribunal hears appeals related to rights of action. Any party to an action may apply to the Appeals Tribunal for a determination of whether a person is immune from action pursuant to the *Acts*.

Costs of an Appeal

Any legal and professional fees related to an appeal are the appellant's responsibility.

Rehearing an Appeal

An Appeal Tribunal decision can be reheard by the Appeals Tribunal on its own initiative, or on the direction of the Governance Council.

When Does the Governance Council Direct a Rehearing

Any person may apply to the Governance Council to direct the Appeals Tribunal to rehear an appeal. This includes the WSCC, the claimants, the employer or a person with a direct interest in the matter under appeal.

The Governance Council considers only the specific decision and issue raised by the applicant. The applicant must clearly identify specific instances in the Appeals Tribunal decision where there is an error in the application of *Acts*, applicable Regulations or WSCC policy.

If necessary, the Governance Council may seek legal advice to assist in making its decision to direct a rehearing.

The Governance Council's decision on whether or not to direct a rehearing, with rationale, is sent to the applicant. Governance Council decisions are final and cannot be appealed.

Directing a Rehearing

The Governance Council can only direct the Appeals Tribunal to rehear an appeal where it considers the Appeals Tribunal failed to:

- properly or reasonably apply Governance Council policy; or
- comply with the relevant provisions of the *Acts* or applicable Regulations.

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The Governance Council may not direct rehearings more than six months after the day of the Appeals Tribunal decision.

The Governance Council may only direct the Appeals Tribunal to rehear an appeal once in respect to a single appeal. This direction must be made in writing, and include:

- which WSCC policy or part of the *Acts* or Regulations is considered to have been improperly or unreasonably applied by the Appeals Tribunal; and
- how the relevant policy, Acts or Regulations was misapplied.

The Governance Council may stay an Appeals Tribunal decision until the matter is reheard, but it cannot reverse or vary the decision.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections 63; 114(2); 117; 119; 126; 128; 129;

Compensation Act: 130;131; 132; 133

Nunavut Workers' Compensation Act Sections 63; 114(2); 117; 119; 126; 128; 129;

130; 131; 132; 133

Northwest Territories *Public Inquires*

Act:

Nunavut *Public Inquires Act*:

Appeals Tribunal Rules of Procedure

POLICY RELATED DOCUMENTS

Policy 08.01 Reviewing Decisions

HISTORY

Policy 08.02 (Sep 14/11) Rehearing an Appeal Policy 08.02 (Sep 25/08) Rehearing an Appeal

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 Chairperson

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SAFETY EDUCATION AND TRAINING

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) is committed to eliminating work-related injuries and diseases by advancing the safety culture in the Northwest Territories and Nunavut. The WSCC works to achieve this objective by providing safety education to stakeholders and approving safety training courses and safety training providers under the *Occupational Health and Safety Regulations*.

DEFINITIONS

Approved Agency An agency, or safety training provider,

approved by the WSCC Chief Safety Officer to

deliver specific safety training courses regarding the Northwest Territories and Nunavut *Occupational Health and Safety*

Regulations.

Approved Course: A safety training course that is either:

provided by an Approved Agency; approved by a certificate of the WSCC Chief Safety Officer; or, approved in a code of practice by the WSCC Chief Safety Officer and issued under subsection 18(3) of the *Safety Acts*.

Partner: An individual or other entity who works with

the WSCC towards achieving a common goal.

POLICY

General

Under the authority of the *Safety Acts* of the Northwest Territories and Nunavut, the WSCC develops safety education programs and materials in order to promote the importance of safety in the workplace. In particular, WSCC promotes workplace accident prevention through educational engagement with stakeholders, as well as the understanding of, acceptance of, and compliance with the *Safety Acts* and *Occupational Health and Safety Regulations (Regulations)*. Additionally, the *Regulations* require the WSCC to approve specific training courses that stakeholders are required to complete in order to satisfy their regulated obligations.

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Motion: 17/03-007



SAFETY EDUCATION AND TRAINING

This policy describes the WSCC's philosophy towards safety education and outlines how the WSCC's meets its requirement to approve the safety training courses specified under the *Regulations*.

Safety Education Philosophy

WSCC safety education initiatives are intended to raise awareness about the importance of safety in the workplace and more generally advance the safety culture in the Northwest Territories and Nunavut. To this end, the WSCC utilizes educational resources as a means to promote systematic learning about safety in order to develop a sense of sound reasoning, understanding, and judgement regarding workplace safety issues and topics.

The WSCC will work to achieve this objective by developing safety education resources and providing safety education materials to employers, workers, and the public. This may include, but is not limited to, communicating stakeholder obligations under legislation and regulations, using nature of injury statistics to raise public awareness about injury prevention, or building safety culture through youth education, school-based curriculum development and social marketing.

Safety Education Provided by Partners

The WSCC may work with individuals, organizations or government departments to promote and facilitate safety education in the Northwest Territories and Nunavut. Policy 00.09, Partnerships, outlines how the WSCC develops and maintains partnerships.

Employer Responsibility

Safety education provided by the WSCC and its partners does not replace an employer's responsibility for safety training specific to an employer's workplace or their obligations as outlined in the *Safety Acts* and *Regulations*.

Safety Training

Training is an act of learning and method of skill development where a specific skill is taught to a person through the application of knowledge in practical settings. Safety training has a practical orientation and is focused on the worker obtaining specific occupational safety skills and/or knowledge which they may require. The completion of required safety training courses ensures that workers gain specific skills and/or knowledge and are able to perform certain tasks safely.

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Motion: 17/03-007



SAFETY EDUCATION AND TRAINING

Under the *Regulations*, the WSCC is responsible for designating specific safety training courses as Approved Courses. The WSCC Chief Safety Officer is required to approve training qualifications, training courses and agencies that provide the following training courses for satisfaction of employer obligation under the *Regulations*:

- First Aid Qualification
- Level 1 Qualification
- Level 2 Qualification
- Emergency Medical Technologist Training
- Supervisor Regulatory Familiarization

Approved Courses and Approved Agencies

In order to obtain status as an Approved Agency, or to have one of the safety training courses listed above designated as an Approved Course, a training service provider must submit an application to the WSCC Chief Safety Officer.

WSCC will develop and maintain all standards for the designation of Approved Courses and Approved Agencies with the advice of subject matter experts. The WSCC will monitor Approved Agencies, Approved Courses and training course providers to ensure they meet or exceed these standards.

WSCC Registry of Approved Safety Training Courses

Once approved by the WSCC, course information about a safety training provider's Approved Course, including dates and materials, if applicable, are posted on the WSCC website and are available for the public to view. The WSCC reserves the right to remove a training service provider from its website if the WSCC Chief Safety Officer has determined that the course is no longer an Approved Course.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' subsection 94(1)

Compensation Act:

Nunavut Workers' Compensation Act: subsection 94(1)

Northwest Territories *Safety Act*: Section 21

Nunavut Safety Act: Section 21

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SAFETY EDUCATION AND TRAINING

Northwest Territories *Occupational* Section 1; 16.1(c) *Health and Safety Regulations*

Nunavut Occupational Health and Safety Section 1; 16.1(c) Regulations

POLICY RELATED DOCUMENTS

Policy 00.09 Partnerships

HISTORY

Policy 09.01 (Mar 05/13)	Safety Education
Policy 09.01 (Jun 15/10)	Safety Education
Policy 09.01 (Sep 21/07)	Safety Education
Policy 09.01 (Aug 31/01)	Safety Education
Policy 09.01 (Apr 01/99)	Safety Education
Policy 09.01 (Nov 18/98)	Safety Education
Policy 09.01 (Jan 01/96)	Safety Education

Chairperson

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DOUBTFUL ACCOUNTS AND WRITE-OFFS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) estimates an allowance for doubtful accounts and may write-off an asset, debt or obligation owed to the WSCC if it considers the asset, debt or obligation unrealizable or uncollectible. This ensures the accounts receivable balance reflects its true value.

DEFINITIONS

Allowance for Doubtful The estimated amount of receivables the WSCC is

Accounts: unlikely to collect.

Compromise Agreement: An agreement between the WSCC and a person or

entity who owes a debt or obligation to the WSCC, to accept partial payment in satisfaction of the debt or

obligation.

Doubtful Account: An account with an overdue balance that the WSCC is

unlikely to collect.

Receivables: A record of assessments, penalties or other amounts

owed to the WSCC for goods or services.

Stakeholder: Workers, employers and others who have an interest in

the policies and programs of the WSCC.

Write Off: The removal of any obligation or debt from the

WSCC's accounts receivable, which may result in the suspension of all collection activity. The WSCC may reinstate a debt if circumstances change to allow

further collection.

POLICY

General

The WSCC maintains and annually updates a separate and permanent record of doubtful accounts and write-offs.

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DOUBTFUL ACCOUNTS AND WRITE-OFFS

Doubtful Accounts

Annually, the WSCC submits a report to the Governance Council on doubtful accounts. Subject to approval by the Governance Council, the WSCC adjusts the General Ledger to incorporate the Governance Council's approved annual allowance for doubtful accounts for the previous year.

Situations where the WSCC identifies accounts as doubtful include, but are not limited to:

- the stakeholder does not provide replacement payment of a returned cheque or returned electronic funds transfer within the timeline specified in the notification letter;
- the stakeholder's operations cease, accounts are closed or it is without assets;
- the stakeholder is bankrupt or in receivership;
- the stakeholder can no longer be located or contacted;
- the stakeholder defaults on a compromise agreement; or
- the WSCC determines that no legal mechanism exists for the account's recovery.

The WSCC continues collection activity on doubtful accounts, and may apply remedies as outlined in the *Default* section of Policy 02.01, Employer Assessments. Accounts identified as doubtful are not deemed satisfied or forgiven. Unpaid assessments may continue to be subject to penalties, as outlined in Policy 02.01, Employer Assessments.

Write Off

The WSCC determines when a stakeholder's outstanding balance should be written-off, and submits recommendations for write-offs in an annual report to the Governance Council for approval. Governance Council approval is required for any amount to be written off that is \$100 or more. For write-offs over \$5,000, an explanation is required in the report submitted to the Governance Council.

The President may delegate authority to write-off debts less than \$100. These amounts do not need to be included in the report submitted to the Governance Council.

Subject to Governance Council approval, the WSCC adjusts the General Ledger to incorporate the write-offs for the previous year.

If a stakeholder's circumstances change to allow further collection or if the stakeholder reactivates an account, the WSCC reinstates the previous balance. Debts written off are not deemed satisfied or forgiven, unless accepted as part of a compromise agreement.

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DOUBTFUL ACCOUNTS AND WRITE-OFFS

Compromise Agreements

Decisions to enter into compromise agreements require approval by the Governance Council.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Section 100

Compensation Act:

Nunavut Workers' Compensation Act: Section 100

Northwest Territories *Financial* Sections 59; 60; 61; 62

Administration Act:

Nunavut Financial Administration Act: Sections 82; 82(1); 83; 84

POLICY RELATED DOCUMENTS

Policy 02.01 Employer Assessments

HISTORY

Policy 10.01 (Mar 5/15) Doubtful Accounts and Write-offs Policy 10.01 (Sep 14/11) Doubtful Accounts and Write-offs

April 1, 2008 Non-substantive change (New WC Act(s))

Policy 10.01 (Jan 01/04) Doubtful Accounts and Write-offs January 1, 2004 Non-substantive change (Governance

Council)

Policy 10.01 (Apr 1/99)

Policy 10.01 (Nov 18/98)

Doubtful Accounts and Write-offs

Doubtful Accounts and Write Offs

Policy 10.01 (Jan 01/96)

Doubtful Accounts and Write Offs

Policy 10.01 (Mar 19/96)

Doubtful Accounts and Write Offs

Operational Procedure 30-05-05 (May Collections

01/89)

Operational Procedure 30-05-06 (May

10/89)

Finance Procedure 10-03-01 Allowance for Doubtful Assessment

Receivable

Doubtful Allowance and Write Offs

Finance Procedure 10-04-01 Allowance for Doubtful Assessment

Receivable

Chairperson

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POLICY STATEMENT

Under the authority of the *Workers' Compensation 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 financial stability of the Fund and the needs of both workers and employers, the Governance Council balances the need to achieve adequate returns on investment within parameters of acceptable risk. This policy details the Governance Council's investment objectives and responsibilities to ensure that management of the Fund meets these goals.

DEFINITIONS

Audit Committee: "The Governance Council shall establish an audit

committee to ensure the critical and objective

oversight of the Commissions

(a) standards of integrity and behavior;

(b) reporting of financial information; and

(c) practices of management and financial control." (per ss. 84(7) of the *Workers' Compensation*

Acts)

Custodian: A financial firm whose role is safekeeping investor

assets by holding securities in either electronic or

physical form.

Investment Guidelines: A document that provides detailed information on

WSCC investment objectives, guidelines and

procedures.

Investment Manager Persons managed by the Oversight Manager to execute

on investment management.

Investment Manager Mandate: An agreement between the Oversight Manager and

any Investment Managers that are hired, which sets out the rules for managing a specific portfolio.

An investment firm who is appointed by the asset

owner to manage a portfolio on a discretionary basis.

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Motion: 20/09-012

Oversight Manager



POLICY

General

The Governance Council has broad authority to protect the integrity and long-term stability of the Fund. The Governance Council reviews and establishes the workers protection fund strategic investment objectives and goals set out in the *Investment Guidelines*.

Roles and Responsibilities

The Governance Council has the authority to delegate some of its responsibilities with respect to the investment of the Fund to the Audit Committee, internal staff, and external entities. Any person to whom the Governance Council delegates responsibilities with respect to the investment of the Fund must adhere to the provisions of this policy and the *Investment Guidelines*. The *Investment Guidelines* are to be reviewed by Administration at least annually The Governance Council reviews and may approve any proposed revisions.

The Audit Committee is mandated to ensure all delegated parties meet the Governance Council's investment objectives and goals, as established in this Policy. The Audit Committee also ensures there is an effective reporting process, allowing them to be informed about the performance of the Investment Fund.

The WSCC delegates rebalancing activities to the Oversight Manager, who reports to the Audit Committee and Governance Council on investment issues.

The Oversight Manager, appointed by the Governance Council, can buy and sell securities on behalf of the WSCC according to approved Investment Manager Mandates.

The Oversight Manager will select, hire, and monitor multiple investment managers to execute on the investment management function. The Oversight manager will advise on a customized strategic asset allocation and will take responsibility for on-going portfolio management, including manager terminations, changes to strategic asset allocation, as well as portfolio re-balancing and cash flow activity.

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.

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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.

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LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Section 97; 98 *Compensation Act*: subsection 67(3)

Nunavut Workers' Compensation Act: Section 97; 98 subsection 67(3)

Northwest Territories Financial

Administration Act: Part IX

Nunavut Financial Administration Act: Part IX

POLICY RELATED DOCUMENTS

Investment Guidelines (Aug 18/15)

Policy 10.05 (Mar 04/14) Funding Strategy

Northwest Territories and Nunavut Financial Administration Manual(s)

HISTORY

Investment Policy
Investment Policy
Non-substantive change (New WC <i>Act</i> (<i>s</i>))
Investment Policy
Non-substantive change (Governance Council)
Investment Policy
Investment Policy

Chairperson

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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 Resolution of a dispute through negotiation, (ADR):

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.

"...a person who submits a bid." (per ss. 1(1) of the Bidder:

Government Contract Regulations)

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.

The payment that brings the balance owed by the Final Payment:

WSCC to zero.

Northern Content: The dollar value of the goods and services required by

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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.

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.

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.

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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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Opening of Bids

A Tender Bid Opening Committee is struck for the opening of all Bids received in response to a RFT. The Committee includes the Vice President, Finance, or delegate as Chairperson, the Senior Purchasing and Contracts Officer or their delegate and a third WSCC employee. The Spending Authority cannot participate as a member of the Committee.

Tender bid openings are open to the public and completed as soon as possible after the Tender's closing date. Bidders are notified of the opening date and time, which is included in the RFT. The WSCC does not reimburse any Bidders or members of the public for costs related to attending the opening.

During the Tender Bid opening, the Committee Chairperson announces publicly:

- The name of the bidder;
- If a required security is in the Bid; and
- The Bid dollar amount

The Committee records this information in a register and signs the register with a witness. The Spending Authority cannot sign as the Tender Bid opening witness.

A Bid received after the deadline provided in the RFT is rejected and returned to the Bidder unopened.

Review and Award of Bids

The Senior Purchasing and Contracts Officer and the Spending authority review opened Bids to confirm that the requirements of the RFT Tenders are met. The Committee deducts the appropriate Incentive at this time, if a Bid includes a *Business Incentive for Northern Contractors* form.

The Committee decides whether to request further information or disqualify a Bid if:

- It does not include all requested information or includes modifications to the requests made in the RFT; or
- The Committee determines that the integrity of the bidding process is jeopardized by accepting or requesting further information for a Bid that does not meet all tender requirements.

Any bid that does not include/meet the mandatory requirement(s) is automatically disqualified.

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The WSCC rejects all Bids received without Security when Security is a requirement of the RFT. The WSCC returns Bids, rejected for not having Security, to the Bidder.

The WSCC awards a Tender to the responsible Bidder with a responsive Bid and the lowest price, although the Spending Authority retains the right to refuse all Bids and not award the contract.

In determining whether a Bidder is responsible, the WSCC looks at whether or not the Bidder is able to perform as specified, not at whether or not the bid itself meets the criteria.

In determining whether a Bid is responsive, the WSCC looks at whether or not the Bid offered meets the prescribed criteria, not how well the Bidder may perform.

Request for Proposals

A Spending Authority issues a Request for Proposals (RFP) when:

- The WSCC cannot clearly define the requirements of a product or service;
- Negotiation is expected with Proponents to finalize goods or service requirements.

A RFP includes the following information:

- The address to which the proposal is submitted;
- The deadline, including the date and hour, to receive the proposal;
- The security, if any, required;
- The criteria used to evaluate submitted proposals; and
- Any mandatory requirements which must be present to qualify a proposal for consideration

Proponents propose solutions to meet the stated goals of the RFP.

Opening, Evaluating and Awarding Proposals

A Proposal Opening Committee is struck for the opening of all proposals received in response to a RFP. The Committee includes the Vice President, Finance, or delegate as Chairperson, the Senior Purchasing and Contracts Officer or their delegate and a third WSCC employee. The Spending Authority cannot participate as a member of the Committee.

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RFP openings are open to the public and completed as soon as possible after the deadline for submission. Proponents are notified of the opening date and time. The WSCC does not reimburse any proponents or members of the public for costs related to attending the opening.

During the proposal opening, the Committee Chairperson announces publicly:

- The name of the person who submitted the proposal; and
- If a required security is in the proposal.

A proposal received after the deadline provided in the RFP is rejected and returned to the proponent unopened.

A Proposal Evaluation Committee is struck for evaluating all proposals received in response to a RFP. The Committee includes, and is selected by the Spending Authority or designate, and any other members deemed necessary.

Each Committee member evaluates all proposals independently of one another. Proposals are evaluated for compliance with the mandatory criteria stated in the RFP. Proposals not meeting all mandatory criteria are rejected.

Proposals accepted by Committee members are evaluated by the whole Committee. Records of the Committee evaluation scores and comments are kept by the Senior Purchasing and Contracts Officer.

If additional information is required, interviews with the leading proponent or proponents may occur to clarify information in the proposals.

If the RFP requires a proponent to provide references as part of the evaluation, only the references provided by the proponent are checked. Questions posed to referees relate to evaluation criteria.

If a proponent has been awarded a contract for service with the WSCC in the past, the performance of the proponent in completing this contract may be taken into consideration as part of the evaluation process and may be used to determine if a bidder is responsible.

Once the Committee completes its evaluation, the Spending Authority awards the contract to the proponent who meets the mandatory requirement(s), if any, and whose proposal receives the highest score in relation to the prescribed criteria outlined in the RFP. Contractor selection is based on the proposed solution's effectiveness and the proponent's ability to perform as specified, rather than on price alone.

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Northern Incentive Adjustment

The WSCC supports northern business. A northern business is a business that supplies goods or services within the Northwest Territories or Nunavut and meets the following criteria:

- If a corporation, is registered under the *Business Corporation Act* of the Northwest Territories or Nunavut and 51 percent of voting shares are owned by residents of the territory in which the corporation is registered;
- If a co-operative, is registered under the *Co-operative Associations Act* of the Northwest Territories or Nunavut and 51 percent of voting shares are owned by residents of the territory in which the co-operative is registered;
- If a partnership, is owned by residents or eligible corporations of the Northwest Territories or Nunavut; and
- If a sole-proprietorship, the sole-proprietor has been a resident of the Northwest Territories or Nunavut for a year prior to submitting a bid or proposal on a tender or RFP.

In addition to the above criteria, a northern business also has:

- A commercial, industrial or residential space in the Northwest Territories or Nunavut used for the primary purpose of operating the business; and
- A current business license issued by a municipal corporation or government of the Northwest Territories or Nunavut;

When a northern business submits a Bid or Proposal including a completed *Business Incentive for Northern Contractors* form, the WSCC deducts a Northern Incentive Adjustment (Incentive) from their Bid or Proposal. A 15 percent Incentive is deducted from the portion of the bid or proposal that will be fulfilled using Northern Content. The maximum adjustment that can be applied is \$250,000, regardless of the Northern Content used.

The Incentive is deducted from all eligible contracts over \$25,000, excluding contracts for legal, medical, actuarial and human resource services.

Authorities

The WSCC Vice President, Finance, or delegate, reviews all Incentive deductions from eligible Bids and Proposals submitted to the WSCC.

Only the Governance Council, after consultation with the President, may approve an exception to the Incentive.

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Disqualification and Damages

The Spending Authority may, without Governance Council approval, disqualify an Bid or Proposal from receiving the Incentive, when a Bidder or Proponent falsely states:

- The amount of Northern Content;
- The use of Northern Content; or
- The use of the listed northern businesses or workers.

Upon the request of the WSCC Spending Authority, a Bidder or Proponent must provide supporting documents to demonstrate the use of Northern Content.

If a Spending Authority does not deduct the Incentive a letter is sent to the Bidder or Proponent informing them of this decision.

All WSCC contracts include a condition for the recovery of damages from the contractor equal to the value of the incentive adjustment applied to the Northern Content promised.

Notification

Request for Tenders

The WSCC will publish information about each Request for Tender that is awarded, including the name and dollar amounts of the successful bid and the names dollar amounts of unsuccessful bids. This information will normally be published on the WSCC corporate Website.

Request for Proposal

The WSCC notifies proponents, in writing, of the successful proponent. Additionally the name of the successful proponent is posted on the WSCC corporate Website. Unsuccessful proponents are invited to request feedback from the WSCC about their proposals and the overall scores of other proposals.

Bidder and Proponent Access to Information

In accordance with subsection 23(4)(i) and section 24 of the *Access to Information and Protection of Privacy Acts*, a bidder or proponent may, upon written request, review information including:

- The tender or RFP criteria and their own evaluation;
- The dollar amount of the successful proposal; and

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• 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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Contract Management

Once the WSCC has awarded a contract, the Spending Authority becomes the Contract Authority for that contract. The Senior Purchasing and Contracts Officer will provide the Contract Authority with guidance to ensure the terms of the contract are met. The Contract Authority will keep written records of all communication with a contractor concerning the administration of the contract, including monitoring the contractor's performance. The Contract Authority will provide the Senior Purchasing and Contracts Officer with a record of communication with the Contractor.

Final payment is made by the WSCC when the Contract Authority certifies:

- The goods are supplied or the services rendered according to the terms of the contract;
- The price charged is according to the contract or if not specified by the contract, is estimated as reasonable by the Spending Authority; and
- The contractor is not indebted to the WSCC.

Progress payments are made, prior to a final payment, according to the requirements of a contract.

The WSCC may terminate a contract as specified in the contract.

Dispute Resolution

If an unresolvable disagreement arises between the WSCC and a contractor, the WSCC may use an Alternative Dispute Resolution (ADR) process. ADR processes include, but are not limited to, mediation and arbitration.

The WSCC and the contractor must agree on the ADR process. If ADR is not appropriate, or the WSCC and contractor cannot agree on the ADR process, the WSCC may pursue litigation.

The WSCC obtains a legal opinion from General Counsel and considers the following when deciding whether to litigate:

- The probability of success;
- The cost;
- Possible delays in the fulfillment of the contract; and
- The potential of an inhospitable relationship between the WSCC and the contractor in the future.

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LEGISLATIVE AUTHORITIES

Government of Canada Agreement on Cha

Internal Trade

Chapter 5

Northwest Territories Access to subsection 23(4)(i)

Information and Protection of Privacy

Act

Nunavut Access to Information and subsection 23(4)(i)

Protection of Privacy Act:

Northwest Territories *Financial* Section 89

Administration Act:

Nunavut Financial Administration Act: Section 89

Northwest Territories *Government* Section 5; 6; 7, 8, 12, 13, 15, 16

Contract Regulations: Subsection 2(2); 10(3)(c)

Nunavut Government Contract Section 5; 6; 7, 8, 12, 13, 15, 16

Regulations: Subsection 10(3)(c)

Northwest Territories *Workers*' Section 67

Compensation Act:

Nunavut Workers' Compensation Act: Section 67

POLICY RELATED DOCUMENTS

Administrative Policy B.4 Governance Council Spending, Signing and Payment

Authorities

Administrative Policy B.5 Internal Spending, Signing and Payment Authority

HISTORY

Policy 10.03 (Sep 12/13) Procurement Policy 10.03 (Mar 29/12) Procurement Policy 10.03 (Nov 24/09) Purchasing

Policy 10.03 (Apr 01/08) Non-substantive change (New *Workers*'

Compensation Acts)

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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

Chairperson

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POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) ensures the integrity of the workers' compensation system. The WSCC actively guards against abuses and offences of the workers' compensation system through ensuring appropriate proactive measures are in place and that investigations occur when abuses and offences are suspected.

DEFINITIONS

Abuse: "A departure from legal or reasonable use." (Black's

Law Dictionary, 7th Edition)

Fraud "A knowing misrepresentation of the truth or

concealment of a material fact to induce another to act

to their detriment" (*Black's Law Dictionary*, 7th *Edition*). The Canadian Criminal Code states that fraud includes attempts to attain property, money, valuable security or services through fraudulent means

(per S. 380 of the Criminal Code).

Internal Stakeholder: WSCC employees, the President, and Governance

Council Directors.

Investigation A review by the WSCC Investigations Unit to

determine whether there is or has been an offence or

abuse.

Investigation File: The complete electronic and paper file of an

investigation, including all materials whether written

documents or, video, and audio files.

Offence: The breach of a section of the *Workers' Compensation*

Act or Canadian Criminal Code.

Stakeholder: Workers, employers, and others who have an interest

in the WSCC.

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*).

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WSCC Leadership Team 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.

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Identifying External Abuses and Offences

The WSCC may become aware of abuses and offences against the workers' compensation system through different processes.

Examples of abuses or offences against the workers' compensation system include but are not limited to:

- Attempts by a worker to obtain or increase the amount of compensation beyond what the facts of their case permit through legislation and policy;
- Attempts by employers to avoid payment to the WSCC or prevent or discourage workers from making a claim for compensation; or
- Attempts made by an external service provider to invoice the WSCC for services that were not utilized by a claimant

Random File Review

As part of its prevention strategy, the WSCC reviews randomly selected files and may initiate investigations as a result of these reviews. File reviews may detect suspected abuses or offences by both external and internal stakeholders. Random file reviews are conducted by the Investigations Unit.

Internal Stakeholders Suspect Abuses and Offences by External Stakeholders

Internal stakeholders who suspect abuses or offences by external stakeholders must immediately notify their Manager. After a review of facts, if the Manager reasonably suspects that abuses or offences are occurring, occurred, or may occur, they refer the information to the Investigations Unit.

External Stakeholders Suspect Abuses and Offences

External stakeholders, including but not limited to workers, employers, health care providers and the general public, who suspect abuses or offences against the workers' compensation system are encouraged to report their concerns and any available information to the WSCC.

All information about suspected abuses or offences, received by the WSCC, is maintained by the Investigations Unit. Information is accepted in any format provided by the stakeholder, including phone, email or in person. The Investigations Unit accepts anonymous information about suspected abuses and offences.

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All suspected abuse and offence reports are investigated by the WSCC Investigations Unit to determine the credibility of the information.

Conducting Investigations into Suspected Abuses and Offences by External Stakeholders

The Investigations Unit coordinates and conducts investigations, gathering information about alleged abuses or offences.

The Investigations Unit may use investigation techniques including but not limited to, file and documentation review, interviews and surveillance. The Investigations Unit may, when required, retain external investigators to assist with investigations.

Acting on Results from Investigations into External Stakeholders

Administrative Process

Once investigations are complete, the Investigations Unit notifies the responsible WSCC Division of any findings. The responsible Division decides whether or not to pursue administrative remedies, including but not limited to the recovery of monies through financial remedies listed in the *Acts*, or through the application of administrative penalties, if appropriate.

Criminal Process

If the Investigations Unit suspects an offense under the *Workers' Compensation Acts*, or fraud under the Criminal Code, based on information learned during the investigation, they will refer the investigation file to the WSCC General Counsel, to determine if there is a reasonable basis for prosecution, or if further action is required. If fraud is suspected, the General Counsel may send the investigation file to the Royal Canadian Mounted Police.

Maintaining External Stakeholder Files

The Investigations Unit maintains investigation files. The complete investigation file is retained by the Investigations Unit and remains under their custody and control. The original copies of all materials resulting from an Investigation File must be returned to the Investigations Unit.

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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

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offences are confirmed, the President or Chairperson must decide whether to pursue administrative remedies including but not limited to dismissal or prosecution.

Confidentiality

All WSCC employees maintain confidentiality about investigations into suspected abuses or offences.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections 91; 93; 141; 142; 148; 149; 150;

Compensation Act: 151; 152; 153; 154; 155; 156; 157; 158; 159;

161

subsection 164(2)

Nunavut Workers' Compensation Act: Sections 91; 93; 141; 142; 148; 149; 150;

151; 152; 153; 154; 155; 156; 157; 158; 159;

161

subsection 164(2)

Northwest Territories *Access to* All

Information and Protection of Privacy

Act:

Nunavut Access to Information and All

Protection of Privacy Act:

Northwest Territories *Financial* Sections 103; 104; 105; 106

Administration Act:

Nunavut Financial Administration Act: Sections 103; 104; 105; 106

Code of Conduct: All

Criminal Code of Canada: All

POLICY RELATED DOCUMENTS

Policy 01.01 Industry Classification
Policy01.02 Industry Re-Classification
Policy02.08 Safe Advantage Program

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Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.01	Payment of Compensation
Policy07.01	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

Chairperson

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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 *Workers' Compensation Act(s)*).

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.

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Setting the Provisional Assessment Rate

The WSCC, in collaboration with an external actuary, examines the sub-components of the required level of revenue in order to set the target Provisional Assessment Rate. The sub-components are:

- 1. Cost of Future Injuries: the lifetime claims payments for injuries anticipated to occur during the year. This estimate is based on the actuarial analysis of past experiences and may include a range of expected costs within which actual costs normally fall.
- 2. Non-claims Operating Costs: the WSCC's anticipated operating expenses not associated with claims management.
- 3. Required Reserve Contribution(s): the contribution to WSCC reserves that change according to current reserve levels.

Each year the WSCC in collaboration with the external actuary determines the expected costs of new claims and non-claims operating expenses on a best estimate basis to establish the Provisional Assessment Rate to sufficiently cover these costs. The Governance Council approves and sets the Provisional Assessment Rate, which guides the external actuary in the annual calculation of actual assessment rates for each employer rate group or subclass.

If the costs associated with new claims and/or non-claims operating expenses are expected to be higher or lower than previously anticipated, the WSCC has the discretion to make adjustments to the Provisional Assessment Rate in order to preserve existing funding levels prior to the WSCC's funding level falling outside of the range of 105%-135%.

Reserves

Reserves protect the WSCC from uncertainties and ensure the WSCC's funded position is effectively maintained. Each reserve serves a specific purpose and comprises the portion of the WSCC's assets that are in excess of the amount required to totally fund the WSCC's liabilities. The WSCC reserves include:

- Catastrophe Reserve: mitigates the potential impact to the WSCC's funding ratio in the event of a catastrophic event;
- Operating Reserve: mitigates the impact of adverse changes in claim costs and investments; and,
- Capital Replacement Reserve: provides the WSCC with long-term capital funding for emergent needs.

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Reserve funds are an important segment of the WSCC's funding strategy. Some factors that impact the WSCC's funding strategy and make necessary the funding reserves include but are not limited to:

- the absence of external catastrophe insurance;
- potential year to year volatility in the number and severity of workplace injuries, diseases, and deaths;
- potential year to year volatility in investment earnings;
- the high proportion of employers whose operations in the Northwest Territories and Nunavut are temporary in nature; and,
- the importance of natural resources to the northern economy, which may affect WSCC assets through global economic demand.

The Catastrophe Reserve target is established at 5% of the total liabilities. Funds can be transferred from the Operating Reserve to address shortfalls in the Catastrophe Reserve. Such transfers cannot leave the Operating Reserve in a shortfall position, which is defined as below 5% of total liabilities. Should the Catastrophe Reserve decline below 4% of total liabilities, a flat rate increase over 15 years will be applied to employer assessment rates to return the Catastrophe Reserve to the target rate of 5% of total liabilities.

The Operating Reserve target is set at 20% of the total liabilities. The WSCC takes the following action when the funded ratio (excluding the Catastrophe Reserve capped at 5%) declines to the following levels:

- Below 105%: a flat rate increase over 15 years is put into place to return the Operating Reserve to the target rate of 20% of total liabilities.
- Below 95%: a flat rate increase over 10 years is put into place to return the Operating Reserve to the target rate of 20% of total liabilities.

The lone exception to the above flat rate recoveries is if the WSCC funded ratio deteriorates to below 95% during the 15 year recovery period originally triggered at the 105% level. In these circumstances, a 10 year flat rate recovery is initiated.

Should the WSCC funded ratio (excluding the Catastrophe Reserve capped at 5%) exceed 135% for two successive years, a one-time adjustment may be actioned by the Governance Council to return the funded ratio back to 135%. The one-time adjustment is limited to a maximum of 100% of the annual assessment revenue for the second successive year.

The Capital Replacement Reserve is funded annually through a Governance Council approved lump sum budgetary allocation.

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Investments

The WSCC's investment strategy is set out in Policy 10.02, Investment Policy.

LEGISLATIVE AUTHORITIES

Northwest Territories Workers' Sections 67(2); 67(3); 67(4); 83(2)

Compensation Act:

Nunavut Workers' Compensation Act: Sections 67(2); 67(3); 67(4); 83(2)

POLICY RELATED DOCUMENTS

Policy 00.04 Year's Maximum Insurable Remuneration

Policy 02.01 Employer Assessments Policy 10.02 Investment Policy

HISTORY

Policy 10.05 (Mar 04/14) Funding Strategy Policy 10.05 (Sept 14/11) Funding Strategy

Chairperson

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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 Workers' Compensation Acts).
Disease:	"means an unhealthy condition of the body or mind" (per 1(1) of the Workers' Compensation Acts).
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).
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

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persons whose qualifications to practice any of the healing professions are accepted by the Commission" (per ss. 1(1) of the Workers' Compensation Acts).

contagious substance that may result in an

Physical or psychological harm or damage. An Injury: injury includes exposure to a foreign or

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
 - undergoing training or probationary i. work as a preliminary to employment with an employer,
 - engaged in, or training for, rescue or ii. recovery services, ambulance services

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- or firefighting services, or
- temporarily engaged in carrying out iii. measures relating to emergencies or disasters under the Civil Emergency Measures Act (In Nunavut, the 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
- (f) A person designated as a worker under section 6; and,
- (g) A person deemed to be a worker under the regulations" (as per ss. 4(1) and 4(1.1) of the Workers' Compensation Acts).

POLICY

General

The WSCC may require a claimant, employer, health care provider or dependant to, at any time, provide information needed for the entitlement or on-going adjudication of a claim.

Three reports are necessary to effectively adjudicate a claim for compensation:

- Worker's Report of Injury;
- Employer's Report of Incident; and
- First Medical Report.

Reports are used when determining if a claim is compensable, and if compensable, to verify the worker's income for calculating compensation payments and the duration of compensation.

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In the event of a fatality, a Worker's Report of Injury is not required.

Workers

A worker, who suffers a personal injury or disease arising out of, and during the course of employment, is advised to immediately seek medical aid, if required. The worker must inform the health care provider that they were injured at work.

A worker who experiences any of the following events arising out of and during the course of the worker's employment must report the event to the worker's employer and to the WSCC as soon as is practicable:

- a personal injury or disease;
- exposure to toxic, noxious or other hazardous substances that could possibly cause personal injury, disease or death in the future.

A worker must submit a Worker's Report of Injury to the WSCC for all injuries and exposures meeting any of the following criteria:

- The worker received, or should have received, medical aid for a work-related injury;
- As a result of a work-related injury or disease, the worker cannot return to their work on the day following the day that the injury or disease occurred;
- The worker is unable or claims to be unable by reason of the injury to return to their usual job function on any portion of any working day subsequent to the day of the injury;
- A worker lost consciousness during the course of employment; or
- A worker was exposed to toxic, noxious or other hazardous substances that could possibly cause personal injury, disease or death in the future...

Workers are not required to submit a Worker's Report of Injury if the worker only requires first aid but not medical aid. In cases where a worker begins receiving medical aid for an injury or disease which did not originally require a Worker's Report of Injury, the worker must then submit a Worker's Report of Injury to the WSCC in accordance with the guidelines established by this policy.

The WSCC may withhold compensation payments from workers who do not submit a Worker's Report of Injury or comply with other WSCC reporting requirements. Workers who subsequently comply with WSCC requirements may receive compensation at that time.

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A worker must submit their claim within one-year after the day of the injury or diagnosis of the work-related disease. The WSCC may accept claims submitted after this time if there is a justifiable reason for the delay. If a claim is submitted later than one-year after the day of the worker's injury, disease or death, the claimant must submit a detailed letter explaining why the claim for compensation is delayed. The WSCC shall grant an exception to the one year limitation if it considers that there is a justifiable reason for the delay. If the WSCC determines that the worker had a justifiable reason to delay their report of a workplace injury, their claim will then be considered for entitlement.

Employers

Employers must submit an *Employer's Report of Incident* to the WSCC within three working days of first knowing or having reason to believe that any of the following have occurred:

- A worker received, or should have received, medical aid for a work-related injury;
- As a result of a work-related injury, disease or death, a worker cannot return to their work following the day that the injury, disease or death occurred;
- The worker is unable, or claims to be unable by reason of the injury, to return to their usual job function on any portion of any working day subsequent to the day of the injury;
- A worker lost consciousness during the course of employment;
- A worker was exposed to toxic, noxious or other hazardous substances that could possibly cause personal injury, disease or death in the future; or
- The WSCC requests that the employer submit an *Employer's Report of Incident*.

Employers are not required to submit an *Employer's Report of Incident* if a worker only requires first aid but not medical aid. In these instances, an employer may still have to submit an Employer's Report of Incident under the reporting requirements outlined in the Northwest Territories and Nunavut Safety Acts, Occupational Health and Safety *Regulations*, Part 2 – Reporting.

In the event that a worker's injury is fatal, employers are required to submit an Employer's Report of Fatal Injury, in addition to submitting an Employer's Report of Incident.

Employers must maintain documentation of all injuries and exposures for a period of three years, whether or not medical aid is received. Employers must provide these records

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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.

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Dependants of Deceased Workers

In the case of a worker's fatality, the WSCC does not require a Worker's Report of Injury to be submitted by a worker's next of kin. The WSCC will notify known persons that may have entitlement to compensation under Policy 06.01, Pension Entitlement.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers*' Sections: 17; 18; 19; 20; 25; 30

Compensation Act: subsections: 141(1); 141(2); 141(5); 141(6);

141(7)

Nunavut Workers' Compensation Act: Sections: 17; 18; 19; 20; 25; 30

subsections: 141(1); 141(2); 141(5); 141(6);

141(7)

Northwest Territories *Workers*'

Compensation General Regulations:

Sections 17; 19; 21

Nunavut Workers' Compensation

General Regulations:

Sections 17; 19; 21

Northwest Territories General Safety

Regulations:

Section 3

Nunavut General Safety Regulations: Section 3

POLICY RELATED DOCUMENTS

Policy 03.02 Entitlement

Policy 03.03 Arising Out of and During the Course of

Employment

Policy 06.01 Pension Entitlement

Policy 10.04 Preventing and Investigating Abuses and

Offences

HISTORY

Policy 11.02 (Sep 14/17) Reporting an Injury, Disease or Death Policy 11.02 (Jun 12/14) Reporting an Injury, Disease or Death

Policy 11.02 (Mar 05/13) Reporting an Injury

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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 01/990	Reporting An Accident
Policy 11.02 (Jan 01/01)	Reporting An Accident
Policy 20-01-22 (Jan 22/94)	Employer's Report of Accident

Chairperson

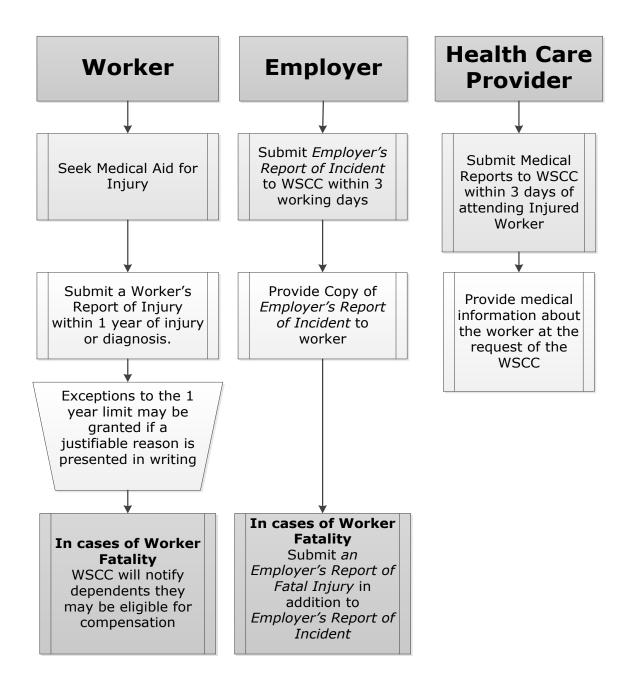
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Reporting Requirements



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