NORTHWEST TERRITORIES & NUNAVUT

Policy Manual

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑏᑦ

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

This document was updated on April 8, 2024

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POLICY DEVELOPMENT

POLICY STATEMENT

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

DEFINITIONS

Administrative Policy:	An internal document that directs employees on the appropriate conduct of business, financial processes and control and protection of WSCC assets.
Governance Council Directive:	An internal governing instrument that provides direction to the members of the Governance Council on the appropriate conduct of its business, financial processes and control and protection of assets.
Governing Instruments:	Includes legislation, 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.
Stakeholder:	Workers, employers and others who have an interest in the policies and programs of the WSCC.

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POLICY DEVELOPMENT

POLICY

General

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 Use Acts*;
- Explain the Governance Council's position where legislation or regulations allow discretion or require direction from the Governance Council;
- Are expected to adaptable and transparent; and
- Are expected to be accessible to staff, stakeholders and the general public.

Comprehensive Policy Review Plan (CPRP)

The Comprehensive Policy Review Plan (CPRP) includes Policies and Governance Council Directives that support the administration of WSCC's governing legislation, as well as Administrative Policies that are directly related to governance.

The CPRP sets out the WSCC's policy priorities. Policy priorities are identified and presented to the Governance Council on an annual basis and are developed with input from program area staff and WSCC stakeholders. Policy prioritization includes consideration of identified policy issues and when a policy was last reviewed.
Any revisions to the annual CPRP will be presented to the Governance Council at their next quarterly meeting.

The Policy & Legislative Review Unit manages the priorities of the CPRP as presented to the Governance Council.

The CPRP's objectives are to:

- Ensure that emerging policy issues are prioritized;
- Ensure that WSCC policies are compliant with other governing instruments; and
- Ensure that WSCC policies remain current and effective.

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POLICY DEVELOPMENT

Administrative Policy Review Plan (APRP)

The APRP includes Administrative Policies that are not directly related to WSCC governance. The Governance Council delegates responsibilities for the creation and revision of administrative policies to the President.

The APRP sets out the WSCC's administrative policy priorities and is approved by WSCC Senior Management.

Policy Process

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

Issue Identification

Policy issues 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 and Nunavut
- The general public
- Other workers' compensation boards (WCBs)

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

Issue Focus

With consideration of the issues identified the Policy & Legislative Review Unit examines trends and emerging concerns in workers' compensation and identifies the issues relevant to the Northwest Territories and Nunavut. Senior Management, with support from the Policy and Legislative Review Unit, considers whether existing policies meet the needs of the WSCC and its stakeholders, require revision or whether a new policy is required.

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.

Issues that require stakeholder engagement are managed in accordance with Policy 00.07, Stakeholder Engagement for Policy Development.

Consideration

The Policy & Legislative Review 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 internal stakeholders for consideration prior to being submitted for approval to the respective decision makers:

- 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

Policies are submitted to the Governance Council for review and approval. They are approved through a Governance Council resolution and approved policies are signed by the Governance Council Chairperson.

Administrative Policies that have been delegated to the President by the Governance Council Chairperson are reviewed and approved by Senior Management. These Administrative Policies are signed by the President.

To ensure that the Governance Council or Senior Management makes informed decisions, decision papers detailing a new policy, or revisions to existing Policies are submitted for consideration.

Internal Communication

The Policy & Legislative Review 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 staff questions or concerns.

Managers are responsible for communicating and implementing each new or revised policy within their respective units. Policy implementation includes developing or updating relevant divisional work procedures and processes, as required to ensure compliance with an approved policy.

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 and external WSCC audits.

Policy Evaluation

New or revised policy that undergo significant revisions are reviewed in collaboration with the impacted program area(s) after implementation to evaluate the effectiveness of the policy and to determine if the policy's intent and objective have been met.

When submitting a policy for approval, the Policy & Legislative Review Unit will identify policy decisions that require future evaluation, and identify evaluation metrics and a timeframe that will allow time to gather sufficient data for an effective evaluation.

Policy Evergreening

When developing policy priorities, the last approved date of the policy is considered. Policies are reviewed and approved, at minimum, once ever ten years.

Non-Substantive Policy Revision

Non-substantive policy revisions are not required to undergo the Policy Process. The Governance Council authorizes the Chairperson – or the President, where relevant – to approve non-substantive changes to Policies. Non-substantive changes include:

Change	**Examples**
Non-policy parts of policy documents	• 'Policy Related Documents' section of individual policies • 'History' section of individual policies
Grammatical or style changes that do not affect meaning**,** content or interpretation	• Adding a comma • Format of document
Administrative operations that do not impact worker or employer rights or responsibilities	• Titles of staff, sections or divisions
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.

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POLICY DEVELOPMENT

LEGISLATIVE AUTHORITIES

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

POLICY RELATED DOCUMENTS

Policy 00.07	Stakeholder Engagement for Policy Development

HISTORY

Policy 00.01 (Dec 01/16)	Policy Creation and Revision
Policy 00.01 (Mar 04/14)	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 01/04)	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 01/99)	Guidelines on Policy and Operational Procedure Development
Policy 00.01 (Oct 15/97)	Guidelines on Policy and Operational Procedure Development

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Chairperson

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RECONSIDERING A DECISION

POLICY STATEMENT

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

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

DEFINITIONS

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).
Reconsideration:	The review of a matter previously decided which may result in a decision that confirms, amends, varies, or rescinds the previous decision.

POLICY

General

Claimants, employers or any other person with a direct interest may initiate a 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 may take into account, but is not limited to:

- 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.

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 and Omissions

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, and/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 administering an applicable policy incorrectly, or not applying a relevant 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 reconsideration 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, except for employer industry reclassifications. Industry reclassification decisions are subject to Policy 01.02, Industry Reclassification

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.

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RECONSIDERING A DECISION

LEGISLATIVE AUTHORITIES

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

POLICY RELATED DOCUMENTS

Policy 01.02	Industry Reclassification
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions
Policy 03.02	Entitlement
Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.04	Decision Making

HISTORY

Policy 00.02 (June 10/16)	Reconsidering a Decision
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

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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.

DEFINITIONS

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*)

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; 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*)

POLICY
General

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 (see Policy 02.04, Coverage Outside the Northwest Territories and Nunavut);
- 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.

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*.

Participation in the Interjurisdictional Agreement

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 4; 8; 22; 23; 67(4); 83(2); 95; 101
Northwest Territories *Workers' Compensation Act*:	Sections 4; 8; 22; 23; 67(4); 83(2);95; 101

POLICY RELATED DOCUMENTS

Policy 02.04	Coverage Outside the Northwest Territories and Nunavut
Policy 03.02	Entitlement
Association of Workers' Compensation Boards of Canada (AWCBC)	*Interjurisdictional Agreement on Workers' Compensation, Consolidation*

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INTERJURISDICTIONAL AGREEMENT

HISTORY

Policy 00.003 (Dec 01/16)	Interjurisdictional Agreement
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

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Chairperson

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YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

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

Baseline Year's Maximum Insurable Remuneration	The Baseline Year's Maximum Insurable Remuneration is the amount where at least 75 percent of claimants from the past five complete calendar years, who received disability or impairment compensation, have their total gross annual remuneration fully covered. Disability and impairment compensation is determined according to Policy 03.07, Calculation of Compensation and Policy 06.03, Calculation of Permanent Compensation.
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*)
Harvester:	"…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 or Nunavut; (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*)

Workers' Safety & Compensation Commission

YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

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.
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 Northwest Territories *Civil Emergency Measures Act* or Nunavut *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*)

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YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

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

General

The Governance Council establishes this policy to determine the YMIR for the Northwest Territories and Nunavut, which is annually recommended to the Ministers responsible for the WSCC as per subsection 83(2)(f) of the *Workers' Compensation Acts*. The current year's YMIR for the Northwest Territories is established in the Northwest Territories *Workers' Compensation General Regulations* and for Nunavut in the Nunavut *Workers' Compensation General Regulations*.

YMIR in the Northwest Territories and Nunavut is an amount calculated by applying the following formula and criteria to the previous years' YMIR.

Calculation of Provisional Year's Maximum Insurable Remuneration

For years where YMIR is not recalibrated, changes 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 = ((P x C) + P)

Where:

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.

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YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

Criteria for Changes to YMIR

The following process is applied to the Provisional Year's Maximum Insurable Remuneration to determine the final YMIR for the Northwest Territories and Nunavut 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.
- The final YMIR is rounded to the nearest $100.
- If the Provisional YMIR calculated is less than the previous year's YMIR, the YMIR remains the same as the previous year.
    - 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.

YMIR Review

Commencing in 2022, and every five years thereafter, the WSCC will conduct a YMIR review by recalibrating YMIR to establish a Baseline Year's Maximum Insurable Remuneration.

Criteria for Changes to YMIR in a Review Year

The following process is applied to the Baseline Provisional Year's Maximum Insurable Remuneration to determine the final YMIR for the Northwest Territories and Nunavut that is recommended to the Ministers responsible for the WSCC:

- Increases to YMIR are capped at 5 percent per year until the Baseline YMIR is achieved. In other words, should the 5 percent cap limit the final YMIR from reaching the Baseline YMIR, reviews will continue to be conducted annually until the Baseline YMIR is achieved. Once the Baseline YMIR is achieved, YMIR reviews will resume their regular schedule of once every five years.
- The final YMIR is rounded to the nearest $100.
- If the Baseline YMIR in a review year is less than the previous year's YMIR, the YMIR remains the same as the previous year.

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YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

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 applicable YMIR that applies all other workers in the Northwest Territories or Nunavut.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Section 83(2)(f)
Nunavut *Workers' Compensation Act:*	Section 83(2)(f)
Northwest Territories *Workers' Compensation General Regulations:*	Section 1
Nunavut *Workers' Compensation General Regulations:*	Section 1

POLICY RELATED DOCUMENTS

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

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YEAR'S MAXIMUM INSURABLE REMUNERATION (YMIR)

HISTORY

Policy 00.04 (Jul 1/21)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Jun 5/15)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Jun 3/13)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Dec 1/10)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Mar 31/08)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Feb 19/04)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Apr 1/99)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Sep 20/96)	Year's Maximum Insurable Remuneration (YMIR)
Policy 00.04 (Mar 19/96)	Year's Maximum Insurable Remuneration (YMIR)

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Chairperson

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

POLICY STATEMENT

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

DEFINITIONS

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

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

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

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

Learner: "… a person who, although not under a contract of service is…

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

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

Worker:

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

(a) a person who enters into or works under a contract of service;

(b) a person who, although not under a contract of service, is

(i) undergoing training or probationary work as a preliminary to employment with an employer,

(ii) engaged in, or training for, rescue or recovery services, ambulance services or firefighting services, or

(iii) temporarily engaged in carrying out measures relating to emergencies or disasters under the *Civil Emergency Measures Act* Northwest Territories or *Emergency Measures Act* Nunavut;

(c) a student who is participating in a work training or similar program provided by a school

(d) a patient who is participating in a work training or similar program provided by a health care facility;

(e) a person who is committed to a correctional centre under the *Corrections Act* and working in a work release program outside the centre…" (per ss. 4(1) and 4(1.1) of the *Workers' Compensation Acts*)

Volunteer Firefighter:

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

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

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.

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

LEGISLATIVE AUTHORITIES

Northwest Territories *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)
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' Compensation *General Regulations*:	Section 1
Nunavut Workers' Compensation *General Regulations*:	Section 1

POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 00.03	Interjurisdictional Agreement
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

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

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

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

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Chairperson

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

POLICY STATEMENT

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

DEFINITIONS

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

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

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

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

Learner: "… a person who, although not under a contract of service is…

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

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

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

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

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

POLICY RELATED DOCUMENTS

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

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

HISTORY

Policy 00.05 (Feb 10/20)	Determining Status of Persons under the Workers' Compensation Acts: Employers (Non-Substantive Change)
Policy 00.05 (Mar 12/19)	Determining Status of Persons under the Workers' Compensation Acts: Employers (Non-Substantive Change)
Policy 00.05 (Jun 05/15)	Determining Status of Persons under the Workers' Compensation Acts: Employers
Policy 00.05 (Mar 5/13)	Determining Employer and Worker Status
Policy 00.05 (Mar 15/11)	Determining Employer/Worker Status
Policy 00.05 (Mar 31/08)	Determining Employer/Worker Status
Policy 00.05 (Apr 22/04)	Determination of Employer/Worker Status
Policy 00.05 (Oct 18/01)	Determination of Employer/Worker Status
Policy 00.05 (Dec 07/00)	Determination of Employer/Worker Status
Policy 00.05 (Sep 10/99)	Determination of Employer/Worker Status
Policy 00.05 (Apr 01/99)	Determination of Employer/Worker Status
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

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

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Chairperson

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

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*)

Learner: "… a person who, although not under a contract of service is…

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

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

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

POLICY

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

Workers

General

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

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

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

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

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.

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

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

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

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

POLICY RELATED DOCUMENTS

Policy 00.03	Interjurisdictional Agreement
Policy 00.05	Determining Status of Persons Under the Workers' Compensation Acts: General
Policy 02.01	Employer Assessments
Policy 02.03	Personal Optional Coverage
Policy 02.04	Coverage Outside the Northwest Territories and Nunavut
Policy 02.06	Account Registration

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

HISTORY

Policy 00.05 (Feb 10/20)	Determining Status of Persons under the Workers' Compensation Acts: Workers (Non-Substantive Change)
Policy 00.05 (Mar 12/19)	Determining Status of Persons under the Workers' Compensation Acts: Workers (Non-Substantive Change)
Policy 00.05 (Jun 5/15)	Determining Status of Persons under the Workers' Compensation Acts: Workers
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Procedure 30-03-21 (May 01/89)	Government Funded Projects

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

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Chairperson

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THIRD PARTY ACTIONS

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

(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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THIRD PARTY ACTIONS

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.

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' Compensation Act:*	Sections 4; 5; 6; 62; 64; 65; 66
Northwest Territories *Workers' Compensation Act:*	Sections 4; 5; 6; 62; 64; 65; 66
Northwest Territories *Limitation of Actions Act*	Section 2(b)
Nunavut *Limitation of Actions Act*	Section 2(b)

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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THIRD PARTY ACTIONS

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Chairperson

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STAKEHOLDER ENGAGEMENT FOR POLICY DEVELOPMENT

POLICY STATEMENT

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

Stakeholder engagement for policy development provides the WSCC an opportunity to exchange information and ideas on specific policy issues with internal and external stakeholders. The exchange of information and ideas ensures that WSCC policies meet the needs of stakeholders, ensures consistency with the legislative and regulatory framework of the governments of the Northwest Territories, and Nunavut, and are consistent with the authority and accountability of the WSCC.

DEFINITIONS

Engagement:	An active process where stakeholders are able to contribute to development of WSCC policies and the decision making process.
Governing Instruments:	Includes legislation, 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.

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STAKEHOLDER ENGAGEMENT FOR POLICY DEVELOPMENT

Program:	A WSCC activity that provides services to stakeholders, is directed towards achieving identified outcomes and consists of the means to achieve them.
Stakeholder:	Workers, employers and others who have an interest in the policies and programs of the WSCC.
Stakeholder Engagement Committee (SEC)	A committee that is made up of individuals external to the WSCC who are committed to providing feedback on policy and program 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 decision-making process where stakeholders understand how decisions are made, minimizing the potential for future conflict; and
- An efficient and adaptive organization whose governing instruments are responsive to stakeholders' priorities, needs and concerns.

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 appropriate stakeholder engagement tools for the issues under consideration;

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

When to Conduct Stakeholder Engagement

The WSCC engages stakeholders in the policy development process when it identifies issues that will directly affect workers and/or employers. The WSCC also engages stakeholders when an issue is identified that will affect stakeholder interaction with the WSCC.

To ensure that stakeholders do not become disengaged or fatigued with the work of the WSCC over time, the WSCC will not engage stakeholders when considering only non-substantive changes to policy, changes to policy that only affect the internal operations of the WSCC, or changes which are required as a result of a court decision or legislative requirement.

How to Conduct Stakeholder Engagement

Stage 1

All WSCC policies in development undergo Stage 1 stakeholder engagement. Stage 1 stakeholder engagement includes making policies available to the public through the WSCC's website for review and comment. Sharing policies through the WSCC's website allows stakeholders the chance to participate in the policy development process if they are interested in the issues under review.

Stakeholder engagement beyond Stage 1 engagement will be undertaken if the policy under review may result in:

- Financial impacts to the WSCC as a whole;
- Impacts on the roles and responsibilities of Workers;
- Impacts on the roles and responsibilities of Employers;
- Changes to the intent and direction of the policy under review or other Governance Council policies; or
- Conflict between stakeholders or between stakeholders and the WSCC.

Stage 2

Administration identifies if Stage 2 stakeholder engagement for policy development is required based on identified policy issues. The level of engagement and the type of engagement tools used are determined based on the policy issue.

Stage 2 Levels of Stakeholder Engagement

Broad engagement: This includes Stage 1 engagement plus the distribution of policy specific engagement materials to the Stakeholder Engagement Committee (SEC), and a broad base of key WSCC stakeholders. A list of key WSCC stakeholders who have shown an interest in the work of the WSCC over time is maintained by Administration.

Targeted engagement: This includes Stage 1 engagement plus the distribution of policy specific materials to a targeted group of stakeholders who are directly impacted by the policy under development. The SEC may or may not be included in the list of stakeholders targeted for engagement depending on the issue under consideration and the expertise that the SEC may or may not be able to provide about the issue.

Tools for Stage 2 Stakeholder Engagement

Tools that may be used by the WSCC for Stage 2 stakeholder engagement may include but are not limited to the following:

- Development of a discussion paper for review and feedback;
- Request for written submissions about stakeholder ideas;
- Focus groups;
- Surveys;
- One-to-one meetings;
- Public meetings.

Timeline for Stakeholder Engagement

All categories of stakeholder engagement require a minimum timeline of 30 calendar days for stakeholders to review and respond to the request for engagement. A response time over 30 calendar days may be used for particularly complex policy issues where more in-depth levels of engagement are required.

Feedback

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

LEGISLATIVE AUTHORITIES

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

POLICY RELATED DOCUMENTS

Policy 00.01	Policy Development

HISTORY

Policy 00.07 (Dec 01/16)	Stakeholder Engagement
Policy 00.07 (Mar 04/14)	Stakeholder Engagement
Policy 00.07 (Dec 04/12)	Consultation
Policy 00.07 (Mar 05/09)	Consultation
Policy 00.07 (Nov 29/05)	Consultation

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Chairperson

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DECISION MAKING

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 *Acts* which requires the WSCC to assume certain facts, unless the contrary is proven on the balance of probabilities.

POLICY

General

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

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DECISION MAKING

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 the application of such evidence to relevant legal or policy tests, 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.

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 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 any other things that may be relevant.

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.

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,

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.

Under the *Acts*, and in accordance with Policy 11.02, Reporting an Injury, Disease or Death, a worker must submit their claim within one-year after the day of the injury or diagnosis of the work-related disease.

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:
    - 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;
    - The consistency of the health care provider's opinion compared with other medical reports and findings;
    - 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;

- 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.

The WSCC may provide a written notice of decision by email when:

- The claimant, their authorized representative, or the employer, indicate email as their notice of decision communication preference; and
- The email address used is verified.

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.

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DECISION MAKING

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
Northwest Territories *Workers' Compensation Act:*	Sections 10; 14; 14.1; 17; 18; 24; 25; 27; 30; 31; 37; 91; 92
Nunavut *Firefighters' Presumption Regulations:*	Sections 1; 2
Northwest Territories *Firefighters' Presumption Regulations:*	Sections 1; 2

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

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DECISION MAKING

HISTORY

Policy 00.08 (Feb 10/20)	Decision Making (Non-Substantive Changes)
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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Chairperson

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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PARTNERSHIPS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) recognizes that workplace health and safety benefits from collaboration. For this reason, the WSCC may enter into partnerships with stakeholders to promote the WSCC's Vision, Mission, and Values and the organization's strategic objectives in the Northwest Territories and Nunavut.

This policy sets out parameters for 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 a shared goal related to the WSCC's Vision and Mission, or strategic objectives and any relevant conditions or procedures regarding the funding. It also defines the partners' obligations towards one another.
Partner:	A person, other level of government, Public Agency, non-government organization, or other third party who works with the WSCC towards achieving a shared goal.
Promotional Items:	Products branded with the WSCC logo, used to promote the WSCC.
Sponsorship:	Financial support of events, association membership fees and/or the placement of the WSCC's logo.
Stakeholder:	Workers, employers and others who have an interest in the policies and programs of the WSCC.
Support In-Kind:	A donation of a product or service from the WSCC. This may come in the form of promotional items, advertising, promotional support or attendance at events or conferences.

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PARTNERSHIPS

POLICY

General

The policy provides guidance for WSCC partnerships. The WSCC may enter into two types of partnerships:

- Funded Partnership; and
- Sponsorship, Promotions, and Support In-Kind Partnership.

All partnerships must align with the WSCC's Vision, Mission, and Values and the organization's strategic objectives.

Although a partnership request may meet all the criteria of this policy, it does not guarantee the WSCC will enter into a partnership.

Partner Criteria

All prospective partners must be in good standing with the Northwest Territories or Nunavut *Societies Act*, *Business Corporations Act*, or *Co-operative Associations Act*, whichever is applicable and be in good standing under the *Workers Compensation Act* and have no outstanding orders under the *Safety Act* in the Northwest Territories or Nunavut. Additionally, prospective partners must have values that are in alignment with the WSCC's Values.

Funded Partnerships

In a Funded Partnership, the WSCC provides a financial contribution to an organization that promotes a shared goal related to the WSCC's Vision, Mission and Values or strategic objectives. This may include, but is not limited to, education and training programs, public safety programs, or return to work programs for injured workers. There are three levels of Funded Partnerships:

- Under $5,000;
- Between $5,000 to $50,000;
- Over $50,000.

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PARTNERSHIPS

Funded Partnerships under $5,000

Funded Partnership requests under $5,000 are submitted to the President's Office in writing for consideration and approval.

Each request for a Funded Partnership under $5,000 is submitted with a proposal that must identify:

- how the partnership aligns with the WSCC's Vision, Mission, and Values and/or strategic objectives; and;
- how the WSCC can help achieve the partner's goals.

A minimum of one month is required to review this type of funding request.

Funded Partnerships under $5,000 require a results report, within six months following project completion, which outlines how the funds were spent, what outcome was achieved, and how shared goals were advanced.

Funded Partnerships Between $5,000 to $50,000

Funded Partnership requests between $5,000 and $50,000 are submitted in writing to the President's Office. All requests are reviewed and considered for approval by the President's Office. Up to two months is required to review a funded partnership request between $5,000 and $50,000.

Funded Partnerships Over $50,000

Funded Partnership requests of $50,000 and over are submitted in writing to the President's Office. All funding requests will be reviewed by the President's Office and forwarded to the Governance Council for consideration and approval.

Requests for Funded Partnerships over $50,000 will be reviewed at the next scheduled Governance Council meeting. A minimum of two months is required to review a funded partnership request for over $50,000.

Funded Partnership Business Case

All funding requests of $5,000 and over require the submission of a business case to the WSCC.

The business case must include:

- The proposed recipient's legal name and legal address;
- The proposed recipient's legal status, i.e. individual, business, non-profit society, board, Public Agency or other government;
- If the proposed recipient is an organization, the purpose and structure of the organization and the names of all officers, board members and executive directors;
- Reasons(s) why the WSCC should pay for or offset any of the proposed recipient's costs;
- How the request relates to the WSCC's Vision, Mission, and Values or strategic objectives;
- Which WSCC stakeholders will benefit from the funding, and how they will benefit;
- Objectives of the program or project for which the request is being submitted;
- Anticipated results of the program or project to be supported;
- 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 for the proposed program or project;
- The proposed financial reporting procedure; and
- A minimum of two references.

Contribution Agreement

All Funded Partnerships $5,000 and over require a signed Contribution Agreement with the WSCC.

Upon approval, a Contribution Agreement is signed by the WSCC and the partner. The Contribution Agreement will outline the partnership maintenance requirements and the partner's responsibilities. Partnership maintenance requirements may include mutually agreed upon performance targets, requirement for quarterly status reports with detailed financial statements, and other reporting requirements.

Payment to partners is administered in accordance with the Contribution Agreement between the WSCC and the partner. Failure to meet the requirements listed in the Contribution Agreement may result in the termination of the partnership.

The WSCC meets with all partners in this funding category quarterly to monitor and ensure the success of each partnership and progress towards agreed upon goals.

PARTNERSHIPS

Funded Partnership Reporting

An annual report for Funded Partnerships is provided to the Governance and Leadership Committee to summarize all active and approved funding requests for the previous calendar year.

Sponsorship, Promotions, and Support In-Kind

Sponsorship, Promotions, and Support In-Kind is intended to provide event sponsorship, in-kind support, and campaign support via in-house communications channels, joint advertising, association memberships, or supply of promotional items to organizations or events for the purposes of:

- Increasing awareness of the WSCC and its activities;
- Building relationships with stakeholders and the wider community; and
- Promotion of WSCC's mission, vision, values and the WSCC's strategic objectives.

Sponsorship, Promotions, and Support In-Kind Requests

Requests must be submitted in writing to the Manager, Communications for consideration and approval.

Each request should outline how the intended use of sponsorship, promotions, and/or support in-kind aligns with the purpose listed above.

Requests will be considered on a case-by-case basis. Although a requestor may meet all the above criteria, it does not guarantee the request will be approved.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Section 94
Nunavut *Workers' Compensation Act:*	Section 94
Northwest Territories *Safety Act*:	Section 22
Nunavut *Safety Act*:	Section 22
Northwest Territories *Societies Act*	

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PARTNERSHIPS

Nunavut *Societies Act*

Northwest Territories *Business Corporation Act*

Nunavut *Business Corporation Act*

Northwest Territories *Co-operative Associations Act*

Nunavut *Co-operative Associations Act*

Northwest Territories Financial Administration Manual:	Directives No. 805, 810
Nunavut Financial Administration Manual:	Directive No. 801

HISTORY

00.09 (Jul 2/21)	Partnerships
00.09 (Jun 10/16)	Partnerships
00.09 (Mar 16/11)	Partnerships

Chairperson

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Determining Annual Remuneration

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. In the case where the worker suffers a permanent impairment as a result of a work related injury or disease, permanent impairment compensation is provided to workers. The WSCC must first determine a worker's annual remuneration to calculate a worker's disability compensation and permanent impairment compensation.

This policy explains how the WSCC determines or estimates a worker's annual remuneration.

DEFINITIONS

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not occur to a maximum of the Year's Maximum Insurable Remuneration (YMIR).
Calendar Year:	A year starting January 1st and ending December 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.
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)

Workers' Safety & Compensation Commission

Determining Annual Remuneration

Learner:	"…a person who, although not under a contract of service is… (i) undergoing training or probationary work as a preliminary to employment with an employer," (per ss. 4(1)(b) of the *Workers' Compensation Acts*).
Net Annual Remuneration:	"…the amount of the workers' annual remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations." (per s. 59 of the *Worker's Compensation Acts*).
Net Monthly Remuneration:	"… an amount equal to 1/12 of the net annual remuneration of the worker determined under section 59, for the year in which the personal injury, disease or death occurred;" (per s.1(1) of the *Workers' Compensation Acts*).
Partial Employment:	Partial employment is non-seasonal employment that is meant to last less than twelve consecutive months
Partial 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.
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*.

Representative Annual Period	12-month period of time that best represents a worker's typical annual earnings. Generally no more than three years preceding the work-related injury.
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.
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

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. The worker's annual remuneration is used to calculate the worker's disability compensation, in accordance with Policy 03.07, Calculation of Disability Compensation and a worker's pension benefit, if eligible, in accordance with Policy 06.03, Calculation of Permanent Impairment Compensation. If a worker's annual remuneration exceeds the Year's Maximum Insurable Remuneration (YMIR) for the calendar year in which the work-related injury or disease occurred, it will be limited to YMIR.

Determining or Estimating Annual Remuneration

The WSCC includes all the worker's income earned through the performance of their work. Generally, this includes the worker's regular salary or wages including, but not limited to:

- salaries, or basic hourly, weekly, bi-weekly, or monthly wages

- regular overtime
- cost of living allowance, such as northern living allowance
- payment for shift differentials, commissions, bonuses, and tips
- the dollar value of board and lodging, store certificates, or credits
- any other taxable remuneration in kind or substitute for money provided to the worker which, the claim owner determines should be included in the worker's annual remuneration.

In general, taxable benefits are considered income for the purpose of determining or estimating annual remuneration; whereas non-monetary taxable benefits and non-taxable benefits, allowances, or reimbursements are not. A worker's annual remuneration does not include the value of the reimbursement for clothing, materials, transportation, board or lodging provided to the worker, either in-kind or monetary, due to the remote nature or location of their employment.

To determine a worker's annual remuneration, the WSCC requires the worker and/or the employer to supply relevant earnings information such as, but not limited to, T4 statements issued by the employer and/or pay cheque stubs.

Representative Annual Period

The WSCC may choose a representative annual period 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 representative annual period is chosen by examining the worker's employment history and using the most recent 12-month period that best represents the annual remuneration typically earned by the worker. The representative annual period may include benefits received under the *Employment Insurance Act (Canada).* Weeks with zero or reduced earnings are included when they are part of the worker's regular earning pattern. As best practice, the WSCC requires a worker's pay cheque stubs, and/or T4s and T4Es, generally no more than three years preceding the year of the injury to determine the worker's representative annual period. If pay stubs, T4s or T4Es are not available, other supporting evidence for historical earnings is required.

Long-Term Employment (Twelve Consecutive Months or More)

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 of employment in that calendar year if not for their work-related injury disease or death.

Seasonal Employment and Partial Employment

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 annual remuneration 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 when the disability continues beyond the period of employment determined in Stage One. Stage Two determination of annual remuneration is also used to calculate a workers permanent impairment compensation, in accordance with Policy 06.03, Calculation of Permanent Impairment Compensation. Stage Two may include benefits received by the worker under the *Employment Insurance Act (Canada)*.

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 12-month period of employment that is most favourable for the worker.

If the period of employment can not be determined after all efforts have been exhausted, and where a representative annual period cannot be determined, Stage One may be applied for a maximum period of 26-weeks.

Stage Two

A Stage Two calculation is required when a worker's disability lasts beyond the period of employment determined in Stage One, or when a worker is entitled to permanent impairment compensation, in accordance with Policy 06.01, Pension Entitlement.

To determine the disability compensation paid beyond the period that the worker's seasonal employment or partial employment would have continued, or permanent impairment compensation, determination of the worker's annual remuneration is required. This is 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. This may include benefits received under the *Employment Insurance Act (Canada)*, if the representative annual period shows a pattern of receipt of these benefits.

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.

Other Considerations

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.

Renewable Resource Harvesters

The WSCC determines annual remuneration for 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.

Where a worker is also in receipt of income as a Harvester, the worker's annual remuneration is the total annual remuneration from the worker's employer and the harvesting income reported by the Government of Northwest Territories or the Government of Nunavut.

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

Multiple Employers

A worker may be employed with more than one employer when they suffer a work-related injury or disease. Where a worker has multiple employers, the worker's annual remuneration is the total annual remuneration from all the worker's employers.

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Determining Annual Remuneration

For individuals with Personal Optional Coverage (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.

Self-employment income, where the worker did not purchase POC is not included in the worker's total annual remuneration.

Applying the Year's Maximum Insurable Remuneration (YMIR)

A worker's annual remuneration cannot exceed the Year's Maximum Insurable Remuneration (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).

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*::	Sections 38; 39; 40; 44; 45; 57; 58; 59
Nunavut *Workers' Compensation Act*	Sections 38; 39; 40; 44; 45; 57; 58; 59
Northwest Territories Workers' Compensation *General Regulations*:	Sections 1; 10
Nunavut Workers' Compensation *General Regulations*:	Sections 1; 10

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Determining Annual Remuneration

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 03.07	Calculation of Disability Compensation
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

New

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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 operation activities and similar levels of risk into subclasses is to ensure the compensation costs 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.
Capital Construction:	Any new construction or major renovation. Replacement of components (flooring, roofing, etc.) or maintenance of an existing building is not considered capital construction.
Class:	The major industrial sector to which an employer's operations belong (e.g., Mining, Oil & Gas, Construction, etc.).
Incidental:	An employer's activity that is non-essential and exists to support the employer's primary operations. The activity is not significant enough to warrant a separate classification.
Integral:	An activity that is essential to the employer's primary operations.

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.
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 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.

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INDUSTRY CLASSIFICATION

This policy deals with the assignment of an industry classification(s)to employers. For industry re-classifications, please see Policy 01.02, Industry Reclassification.

Assigning Industry Classification

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.

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;
- 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 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. For example, this may occur for new employers that are undergoing capital construction prior to commencing their fully functional operations. The WSCC may review the employer's operations and payroll allocations throughout the year, at year-end and/or subsequent years and make any necessary classification adjustments in accordance with Policy 01.02, Industry Reclassifications.

Operations in More than One Industry

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.

In order to qualify for MIC, an employer's 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 operational 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.

If an employer wishes to be assigned to MIC, they must make a request in writing at the time of registration and provide the WSCC evidence outlining how they meet the criteria for MIC.

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.

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.

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.

Reconsideration, Review and Appeal

Employers in disagreement with the WSCC's decisions on classification matters can request a reconsideration on the decision, in accordance with *Policy 00.02, Reconsidering a Decision*. Formal avenues of appeal are also available through a review with the Review Committee and an appeal with the Appeals Tribunal. Relevant policies are *Policy 08.01, Reviewing Decisions* and *Policy 08.02, Appeal Decisions*, respectively.

LEGISLATIVE AUTHORITIES

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

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INDUSTRY CLASSIFICATION

HISTORY

Policy 01.01 (Jun 14/18)	Industry Classification
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
Policy 30-02-01a (Dec 13/94)	Industrial Classification – Multiple Industry
Policy 30-02-01 (May 01/89)	Classification of Employer Accounts

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Chairperson

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INDUSTRY RECLASSIFICATION

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

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.
Assessment Year:	The calendar year during which an assessment provides coverage.
Capital Construction:	Any new construction or major renovation. Replacement of components (flooring, roofing, etc.) or maintenance of an existing building is not considered capital construction.
Class:	An employer's class is the major industrial sector to which its 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 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 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

A review of an employer's account may be initiated by the WSCC or the employer to ensure employers' classification accurately reflects the industries in which they operate. A review of an employer's account may result in an industry reclassification because of:

- a change in an employer's operation(s);
- a change in an employer's multiple industry classification status (MIC);
- a classification error;
- a misrepresentation by an employer; or
- a change in the WSCC's industry classification system.

Reclassifications are subject to conditions and limitations and the classification criteria in Policy 01.01, Industry Classification.

The WSCC informs employers of any changes to their classification in writing and their right to appeal.

Employer Operation Changes

Employers with operational changes must notify the WSCC in writing within the calendar year of the change.

Single Classification

A reclassification may occur when registered employers change, add, or discontinue any operations. The WSCC reviews the employer's operational changes and determines

whether a reclassification is required. A reclassification may affect the employer's assessment rate.

A reclassification due to an operational change that results in an assessment rate change is effective January 1st of the year in which the WSCC receives written notification.

Multiple Industry Classification (MIC)

MIC reclassifications on an employer's account may be triggered by a written request from an employer or by a WSCC review of the employer's account. A reclassification occurs if an employer is granted, or renounces MIC designation, or is removed from MIC due to no longer meeting the eligibility criteria in Policy 01.01, Industry Classification.

MIC reclassifications are effective January 1st of the year in which the WSCC receives the written request from the employer or the year in which the WSCC review was initiated.

Capital Cost Construction
Employers may be temporarily granted MIC if they are undergoing capital cost construction while simultaneously maintaining their primary operations. A MIC designation due to capital cost construction is effective January 1st of the year in which capital cost construction commences.

Classification Errors

WSCC Error

A WSCC error occurs when the WSCC incorrectly classifies an employer as a result of errors and/or omissions when making their classification decision. This could include either not reasonably considering or not considering relevant information provided by the employer.

A reclassification due to a WSCC error is retroactive:

- Up to three years prior to January 1st of the assessment year in which the error was first identified if there is a rate decreases.
- Up to one year prior to January 1st of the assessment year in which the error was first identified if there is a rate increase.

Employer Error

An employer error occurs when the employer inadvertently provides false or incomplete information to the WSCC.

A reclassification due to an employer error is retroactive:

- Up to one year prior to January 1st of the assessment year in which the error was first identified if there is a rate decreases.
- Up to three years prior to January 1st of the assessment year in which the error was first identified if there is a rate increase.

Misrepresentation

A misrepresentation is when an employer intentionally provides false, misleading or inaccurate statements or omits relevant facts on its operations.

A reclassification due to a misrepresentation is retroactive:

- Up to one year prior to January 1st of the assessment year in which the misrepresentation was first identified if there is a rate decreases.
- Up to five years prior to January 1st of the assessment year in which the error was first identified if there is a rate increase.

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.

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 reclassification of employer accounts. If changes to the WSCC Industry Classification System results in reclassification of employers, the effective date of rate changes. takes effect January 1st of the year the rate changes.

Conditions and Limitations

The effective date for a reclassification rate change is subject to the employer providing the WSCC with sufficient information of that change to make its decision and/or providing the WSCC with requested information in the timeframe specified.

The number of years for retroactive rate changes is equal to the number of years in which error occurred but cannot exceed the limitation periods.

Reclassifications and Changes to Assessments

When reclassification results in an outstanding balance owed to the WSCC the appropriate charge will be applied to the employer's current year assessments in accordance with Policy 02.01, Employer Assessments. A credit that is due to the employer will be applied to the current year's assessment. 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.

Reconsideration, Review and Appeal

Employers in disagreement with the WSCC's decisions on reclassification matters can request a reconsideration on the decision, in accordance with *Policy 00.02, Reconsidering a Decision*. Formal avenues of appeal are also available through a review with the Review Committee and an appeal with the Appeals Tribunal. Relevant policies are *Policy 08.01, Reviewing Decisions* and *Policy 08.02, Appeal Decisions*, respectively.

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INDUSTRY RECLASSIFICATION

Summary of Effective Dates for Reclassifications

Reason for Reclassification	Reclassification to a Higher Rate Group	Reclassification to a Lower Rate Group
Change to Employer's Operations in the current year	January 1st of the current assessment year.	January 1st of the current assessment year.
Change in MIC designation	January 1st of the current assessment year.	January 1st of the current assessment year.
WSCC Error	Up to one year prior to January 1st of the assessment year in which the error was identified.	Up to three years prior to January 1st of the assessment year in which the error was first identified.
Employer Error	Up to three years prior to January 1st of the assessment year in which the error was first identified.	Up to one year prior to January 1st of the assessment year in which the error was identified.
Misrepresentation by Employer	Up to five years prior to January 1st of the assessment year in which the misrepresentation/non-compliance was first identified.	Up to one year prior to January 1st of the assessment year in which the misrepresentation/non-compliance was identified.
Change to WSCC's Industry Classification System	January 1st of the assessment year the change takes effect.	January 1st of the assessment year the change takes effect.

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INDUSTRY RECLASSIFICATION

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Subsections 70(2); 71(1); 71(2); 71(3); 76(1); 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
Policy 10.04	Preventing and Investigating Abuses and Offences

HISTORY

Policy 01.02 (Jun 14/18)	Industry Re-Classification
Policy 01.02 (Mar 04/14)	Industry Re-Classification
Policy 01.02 (Mar 16/11)	Industry Re-Classification
Policy 01.02 (Apr 01/08)	Industrial Re-classification of Existing Accounts
Policy 01.02 (Nov 30/99)	Industrial Re-classification of Existing Accounts
Policy 01.02 (Apr 01/99)	Industrial Re-classification of Existing Accounts
Policy 01.02 (Jan 01/99)	Industrial Re-classification of Existing Accounts
Policy 01.02 (Jan 01/96)	Re-Classification of Existing Accounts
Policy 30-02-02 (May 01/89)	Re-Classification of Existing Accounts

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Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

EMPLOYER ASSESSMENTS

POLICY STATEMENT

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

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, in satisfaction of the requirements outlined in s. 72 of the *Workers' Compensation Acts.*
Arrears:	An overdue debt, liability or financial obligation.
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…" (per ss. 1(1) of the *Workers' Compensation Acts*)
Assessment Rate:	The rate established for each employer group (subclass) to ensure that the WSCC generates enough revenue to cover all current and future costs, which include the administrative costs of the WSCC, the cost of wage-loss compensation to injured workers or their dependants, as well as payment of pensions, medical aid, and rehabilitation. Employer assessments are also impacted by other factors as outlined in Policy 10.05, Funding Strategy.

Assessment Audit:	An audit undertaken by the WSCC to determine whether an employer has provided the WSCC with accurate payroll information for the purposes of determining the employer's assessment.
Class:	The major industrial sector to which an employer's operations belong (e.g., Mining, Oil & Gas, Construction, etc.).
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 a worker. In a contract of service or apprenticeship, the worker is 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*)
Deeming:	The process whereby the WSCC's estimates an employer's payroll and determines that employer's assessment for the current year in the absence of payroll information from the employer.
Default:	When an employer's account has an amount owing to the WSCC beyond the date on which it is due.
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*)
Industry Classification Review:	A review undertaken by the WSCC to determine whether an employer has been classified in the correct industrial classification.
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.
Irrevocable Letter of Credit:	A guarantee of funds issued by a financial institution, guaranteeing payment to the WSCC.
Related Employer:	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, determined as per Policy 02.11, Successor and Related Employers.
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 specified in s. 57 of the *Workers' Compensation Acts*.
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).
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, as per Policy 02.11, Successor and Related Employers.
Workers' Protection Fund:	"…one indivisible fund for the purposes of paying compensation and determining assets and liabilities." (per s. 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 legally responsible for the payment of assessments, which are established annually based on the employer's assessable payroll and subclass assessment rate. The Governance Council establishes assessment rates annually, which reflect the claims experience of industry subclasses.

Calculating an Employer's Assessment

Formula for Calculating an Employer's Assessment

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

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

Minimum Assessment

The WSCC charges an employer a minimum assessment of $200 if the employer's calculated assessment is less than $200.

Existing Employers (Annual Payroll Reporting)

Employers must submit an Annual Payroll Report for their previous year's actual payroll and their current year's estimated payroll by February 28th of each calendar year. See Policy 02.05, Reporting Payroll, for further details on reporting payroll.

Unless approved to pay by instalments, employers must pay their total assessment by **March 31st** of the year in which the assessment was levied.

Instalment Plan Eligibility

Existing employers are eligible to pay by instalments if they meet all of the following conditions:

- they were not deemed for failing to submit an Annual Payroll Report on or before February 28th for the current year;
- there was no balance owing on the employer's account as of December 31st in the previous year; and,
- the employer is required to pay an assessment of $1000 or more.

Instalment Plan Due Dates for Assessments Over $1000

Instalments are due on the following dates:

- the previous year's adjustment resulting from the Annual Payroll Report and 25% of the current year's assessment is due by March 31;
- 25% of the current year's assessment is due by May 31;
- 25% of the current year's assessment is due by July 31; and
- the balance is due by September 30.

Due Dates for Assessments Under $1000

All existing accounts with assessments of less than $1000 are due by March 31.

Employers reporting zero payroll for the current year who have chosen to pay the $200 administration fee will have their payment due immediately.

New and Reactivating Employers

New employers or those reactivating an account must submit their estimated payroll for the current year within 10 business days of starting or re-starting operations, and must pay their total assessment immediately upon registration unless approved for an instalment plan. See Policies 02.05, Reporting Payroll, and 02.06, Account Registration, for further details on reporting payroll and account registration.

Instalment Plan Eligibility

New and reactivating employers are eligible to pay by instalments if they:

- submit their estimated payroll for the current year within 10 business days of starting/re-starting operations;
- have no outstanding debt with the WSCC, which may include outstanding debt held by a successor or related employer, as per Policy 02.11, Successor and Related Employers;
- are required to pay an assessment of $1000 or more; and
- commence operations prior to September 1st of the current year.

Instalment Plan Due Dates for Assessments Over $1000

All new and reactivating employers who qualify for an instalment plan must pay 25% of their current year's assessment upon registration. The remainder of their assessment is prorated over the current year, in up to a maximum of three instalments.

Instalment plan due dates: March 31, May 31, July 31, and September 30.

Due Dates for Assessments Under $1000

All new and reactivating employer accounts with assessments of less than $1000 are due immediately upon registration.

Employers reporting zero payroll for the current year who have chosen to pay the $200 administration fee will have their payment due immediately.

Registration After September 1st

If an employer registers on or after September 1st the employer must pay 25% of their current year's assessment upon registration. The remainder of their assessment is due by the last day of the following month.

Deemed Employers

If an employer's assessable payroll is *deemed* due to failing to submit an annual payroll report or failing to register, the deemed assessment and applicable penalties are due immediately.

Ceasing Operations

Employers that cease operations will have their outstanding balance due on the earliest of the following two dates:

- the last instalment date that falls within their contract or operational period in the current year (if the employer is on an instalment plan), or
- at the time operations are ceased.

Revoking Instalment Plan

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.

Payroll Revision, Industry Classification Reviews, Assessment Audits

Payroll revisions classification reviews and assessment audits may result in changes to an employer's assessment. If either of these results in an amount owing to the WSCC, the employer must pay the balance, as follows:

- If the adjustment is made for any years prior to the current year, the balance will be due by the last day of the following month.

- If the adjustment is made for the current year:
  - Employers on an instalment plan will have their balance prorated across the remaining instalment due dates left in the current year.
  - Employers not on an instalment plan will pay their balance by the last day of the following month in which the adjustment was applied.

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Security

Employers with a history of late payments, defaults, write-offs or bankruptcy may be required to provide security in the form of an irrevocable letter of credit before returning or registering as a new employer.

A successor employer may be required to provide security in the form of an irrevocable letter of credit if the former employer has a debt with the WSCC. Likewise, an employer may be required to provide security if they are related to an employer (e.g. same corporate ownership) that has a debt with the WSCC.

The amount of security required is determined on a case by case basis after a thorough review of the employer's information. The security is required within 15 days of receipt of the WSCC's registered letter.

The WSCC may require increased security if the security initially provided no longer appears sufficient. Defaults on payments or breaches of the security are punishable according to the *Workers' Compensation Acts*.

Assessments in Default

An employer is in default when the employer fails to pay all or part of an assessment or other amount owing (e.g. penalties) to the WSCC by the due date. Accounts that are in default (e.g. collections) and under an alternate payment arrangement is charged a legislative penalty on any amount owing until all default payments are cleared.

Any delay resulting from banking issues or mail service are not considered reasons for waiving penalties.

An employer in default is levied a penalty beginning on the first day the payment is overdue, which is 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 that the default continues, 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. Employers may mitigate their liability for defaults by their contractor or subcontractor by obtaining a Clearance Letter. See Policy 02.12, Employer Clearances, for more information.

No Clearance Letter, Proof of Registration, or Bidding Clearance will be issued if the employer's account has any arrears.

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

- collect outstanding assessments from the liable employer;
- convert securities deposited with the WSCC into money to pay on the account of the employer in default;
- 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).

Alternate Payment Arrangements

The Manager of Employer Services may accept alternate payment due dates or payment arrangements if there is a satisfactory reason to justify the alternate arrangement. The WSCC may require evidence from the employer to determine if their request for an alternate arrangement is warranted.

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.

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EMPLOYER ASSESSMENTS

Assessments for Peacetime Disaster Workers

Employers do not pay assessments for workers temporarily responding to emergencies or disasters covered under the *Emergency Management Act* of the Northwest Territories or the *Emergency Measures Act* of Nunavut 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.

Assessments for Volunteers

If an employer wishes to provide coverage to volunteers, the employer must contact the WSCC and apply for coverage. The process for reporting payroll for volunteers is outlined in Policy 02.05, Reporting Payroll. Once an application for coverage of volunteers has been made by an employer, the assessment owing on that payroll is calculated in accordance with the formula outlined in this policy.

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 their subclass.

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

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EMPLOYER ASSESSMENTS

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Sections 4; 6(2)(c); 76(1-2); 79; 80; 140; 141(1)(e); 142(1); 143; 144; 145; 146; 147
Nunavut *Workers' Compensation Act:*	Sections 4; 6(2)(c); 76(1-2); 79; 80; 140; 141(1)(e); 142(1); 143; 144; 145; 146; 147
Northwest Territories *Workers' Compensation General Regulations:*	17; 18; 19; 20; 21
Nunavut *Workers' Compensation General Regulations:*	17; 18; 19; 20; 21

POLICY RELATED DOCUMENTS

Policy 00.05	Determining Employer and Worker Status
Policy 01.01	Industry Classification
Policy 02.05	Reporting Payroll
Policy 02.06	Account Registration
Policy 02.07	Mega Project Assessments
Policy 02.12	Employer Clearances

HISTORY

Policy 02.01 (Jan 01/22)	Employer Assessments
Policy 02.01 (Feb 10/20)	Employer Assessments, Non-Substantive Change
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
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

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EMPLOYER ASSESSMENTS

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

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Chairperson

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PERSONAL OPTIONAL COVERAGE

POLICY STATEMENT

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

DEFINITIONS

Contract for Service:	An agreement in which an employment relationship does not exist, i.e., between two businesses, independent operations, individuals or other entities. A contract for service is not covered under the *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*.
Year's Maximum Insurable	"…a prescribed maximum remuneration for any year

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

PERSONAL OPTIONAL COVERAGE

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:

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

Revocation of Coverage

The WSCC revokes coverage due to the following circumstances:
- Correspondence with the POC holder is no longer possible; or
- The account is not in good standing.

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

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

LEGISLATIVE AUTHORITIES

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

POLICY RELATED DOCUMENTS

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

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PERSONAL OPTIONAL COVERAGE

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

HISTORY

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

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Chairperson

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COVERAGE OUTSIDE THE NORTHWEST TERRITORIES AND NUNAVUT

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.

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COVERAGE OUTSIDE THE NORTHWEST TERRITORIES AND NUNAVUT

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.
Payroll:	"…in respect of an employer, the total of the remuneration paid by an employer in any year to all its workers." (per ss. 1(1) of the *Workers' Compensation Acts*)
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; 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*)

COVERAGE OUTSIDE THE NORTHWEST TERRITORIES AND NUNAVUT

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.

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.

Assessment Options for Interjurisdictional Trucking

Trucking and transport employers with workers operating in the Northwest Territories, Nunavut and other Canadian jurisdictions have the following options for reporting payroll:

1. Prorate payroll for their workers who work in multiple Canadian jurisdictions. This option may require the employer to pay assessments to each province and/or territory they work in.
2. Report payroll to the WSCC using the Alternative Assessment Procedure (AAP) available under the *Interjurisdictional Agreement on Workers' Compensation (see Policy 00.03 Interjurisdictional Agreement)*.

Alternative Assessment Procedure

Interjurisdictional trucking and transport employers who choose to register and pay assessments to the WSCC using the AAP will continue their coverage with the WSCC while operating outside of the Northwest Territories or Nunavut.

To be covered by the WSCC using AAP, employers must:

- Complete and submit the AAP form to the WSCC to indicate their choice to pay assessments to the WSCC; and
- Follow all requirements in the AAP for the Interjurisdictional Trucking Industry to ensure coverage in all jurisdictions.

The WSCC informs the other jurisdictions of an employer's application to participate in the AAP and their choice to pay assessments to the WSCC. 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.

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑎᑦ

COVERAGE OUTSIDE THE NORTHWEST TERRITORIES AND NUNAVUT

Employers that wish to end coverage permitted under the AAP in the coming year must provide written notice to the WSCC before the end of the current calendar year.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 4; 8; 22; 23; 95
Nunavut *Workers' Compensation Act:*	Sections 4; 8; 22; 23; 95

POLICY RELATED DOCUMENTS

Policy 00.03	Interjurisdictional Agreements
Policy 02.03	Personal Optional Coverage
Policy 02.05	Reporting Payroll
Association of Workers' Compensation Boards of Canada (AWCBC)	*Interjurisdictional Agreement on Workers' Compensation, Consolidation*

HISTORY

Policy 02.04 (Feb 10/20)	Coverage Outside the Northwest Territories and Nunavut (Non-Substantive Change)
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 01/89)	Extension of Coverage Outside the NWT
Procedure 30-01-09 (May 01/89)	Extension of Coverage Outside the NWT

Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑎᑦ

COVERAGE OUTSIDE THE NORTHWEST TERRITORIES AND NUNAVUT

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Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑏᑦ

REPORTING PAYROLL

POLICY STATEMENT

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

DEFINITIONS

Annual Payroll Report	A report submitted by an employer to the WSCC, which contains the employer's actual assessable payroll for the previous calendar year and an estimate of assessable payroll for the current calendar year.
Assessable Payroll:	The total remuneration paid by an employer to their workers in a year. If a worker's annual remuneration is less than YMIR, all remuneration is considered when calculating assessable payroll. If a worker's remuneration is more than YMIR, the worker's remuneration is considered equal to YMIR for the purpose of calculating the assessable payroll.
Assessment:	"… a charge calculated by the Commission and levied on an employer…" (as per ss. 1(1) of the *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*

	applicable penalties.
Contractor and Subcontractor:	The person or business providing contractual services to a principal. Contractors may themselves retain subcontractors, in which case the contractor becomes the principal in relation to the subcontractors.
Payroll:	"…in respect of an employer, the total of the remuneration paid by an employer in any year to all its workers." (per ss. 1(1) of the *Workers' Compensation Acts*)
Remote Camp:	A combined work and residential site isolated to the extent that once there, a worker is completely reliant on the camp for daily needs.
Remote Location:	Remote camps or settings of a similar nature where the employer provides temporary accommodations to workers in the absence of a reasonable, or any, alternative.
Remuneration:	A worker's remuneration includes all income earned through the performance of their work, including all salaries, wages, fees, commissions, bonuses, tips and other benefits defined under the *Workers' Compensation Acts*.
Workers' Protection Fund:	"…one indivisible fund for the purposes of paying compensation and determining assets and liabilities." (per ss. 67(2) of the *Workers' Compensation Acts*)
Year's Maximum Insurable Remuneration (YMIR):	"…a prescribed maximum remuneration for any year for the purposes of determining: (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1); and (b) the assessable payroll of employers for the year." (per ss. 1(1) of the *Workers' Compensation Acts*)

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REPORTING PAYROLL

POLICY

New or Reactivating Employers

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

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

Unregistered Employers

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

Ceasing Operations

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

Annual Payroll Reporting

The WSCC requires employers to submit an *Annual Payroll Report* to the WSCC on or before February 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).

REPORTING PAYROLL

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

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

Recording Payroll

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

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

Excluded Groups

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

Interjurisdictional Trucking

NT interjurisdictional trucking operations have two options for reporting payroll:

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

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

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

Airline Exceptions

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

Step 1

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

Step 2

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

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

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.

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 x 125%)) x (AR x 10%)
*Where:

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

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

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

REPORTING PAYROLL

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

Reduce or Eliminate a Penalty

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

LEGISLATIVE AUTHORITIES

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

Interjurisdictional Agreement on Workers' Compensation

POLICY RELATED DOCUMENTS

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

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

SCHEDULE A

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

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

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ACCOUNT REGISTRATION

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.

ACCOUNT REGISTRATION

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*)
Independent Operator:	An entity that carries on a business and does not employ any workers.
Principal:	The person awarding or letting a contract to a contractor or subcontractor.
Unregistered Employer:	Any employer who conducts business in the Northwest Territories or Nunavut for 10 or more days in a calendar year and has not registered with the WSCC.

POLICY

Employer Registration

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

Temporary Employers

Temporary employers cannot register with the WSCC. An employer is defined as temporary if <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.

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.

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

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' Compensation Act:*	Sections 73; 74; 75; 80 Subsections 141(1)(5)(6)
Nunavut *Workers' Compensation Act:*	Sections 73; 74; 75; 80 Subsections 141(1) (5)(6)
Northwest Territories *Workers' Compensation General Regulations:*	Sections 18 Subsections 17(2)(3); 21(1)(2)
Nunavut *Workers' Compensation General Regulations:*	Sections 18 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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ACCOUNT REGISTRATION

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Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑎᑦ

MEGA PROJECT ASSESSMENTS

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.

DEFINITIONS

Assessment:	"… a charge calculated by the Commission and levied on an employer…" (per ss. 1(1) of the *Workers' Compensation Acts*)
Class:	The major industrial sector to which an employer's operations belong (e.g., Mining, Oil & Gas, Construction, etc.).
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*.
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.
Mega Project:	An individual or collaborative large-scale undertaking that involves large capital input, time and resources.

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." (as per ss. 67(2) of the *Workers' Compensation Acts*)

POLICY

General

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

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.

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 and recover any financial losses before the project is complete.
- 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 the successor to a former employer 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 aware of any arrangements the primary project developer may develop with subcontractors.

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MEGA PROJECT ASSESSMENTS

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.

Reconsideration, Review and Appeal

Employers in disagreement with the WSCC's decisions on Mega Project matters can request a reconsideration on the decision, in accordance to *Policy 00.02, Reconsidering a Decision*. Formal avenues of appeal are also available through a review with the Review Committee and an appeal with the Appeals Tribunal. Relevant policies are *Policy 08.01, Reviewing Decisions* and *Policy 08.02, Appeal Decisions*, respectively.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Subsection 1(1), 8(1), 8(1.1), 67(2) and Section 9 and 70
Nunavut *Workers' Compensation Act:*	Subsection 1(1), 8(1), 8(1.1), 67(2) and Section 9 and 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 (Feb 10/20)	Mega Project Assessments
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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SUCCESSOR AND RELATED EMPLOYERS

POLICY STATEMENT

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

DEFINITIONS

Arm's Length:	Degree of separation between operations, i.e., operations without common ownership, directors or management, and where the owners of each operation act in their own best interest.
Assessment:	"… a charge calculated by the Commission and levied on an employer…;" (per ss. 1(1) of the *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 AND RELATED EMPLOYERS

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

POLICY

General

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

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

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

Determining Successor and Related Employers

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

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

Nature of Work or Business Activity

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

- 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.

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

Clients and Customers

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

Clearance Certificates for Sale of Business

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

Security

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

Reconsideration, Review and Appeal

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

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

LEGISLATIVE AUTHORITIES

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

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SUCCESSOR AND RELATED EMPLOYERS

POLICY RELATED DOCUMENTS

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

HISTORY

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

Chairperson

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EMPLOYER CLEARANCES

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

	"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.

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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EMPLOYER CLEARANCES

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

Northwest Territories *Workers' Compensation Act:*	Sections 80; 144
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

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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ENTITLEMENT

POLICY STATEMENT

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

DEFINITIONS

Balance of Probabilities:	A degree of proof which is more likely than not.
Claimant:	"…a person claiming compensation: (per ss. 1(1) of the *Workers' Compensation Acts*)
Compensation:	"…any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this *Act* as a result of a worker's personal injury, disease or death." (per ss. 1(1) of the *Workers' Compensation Acts*)
Contract of Service:	"…a contract of service or apprenticeship, written or oral, expressed or implied." (per ss. 1(1) of the *Workers' Compensation Acts*)
Disease:	"…an unhealthy condition of the body or mind." (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*)

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*)
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.
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 *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*)

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.

Requirements for Specific Injury or Disease

In the case of a psychiatric or psychological disorder, workers must have a DSM-5 diagnosis for their claim to be entitled. Policy 03.09, Psychiatric and Psychological Disorders outlines how to apply the factors for entitlement for these claims.

In the case of occupational diseases, Policy 03.06, Entitlement of Occupational Disease Claims provides guidance for how to apply factors for entitlement for these claims.

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 Status of Persons under the Workers' Compensation Acts: General, and Policy 00.05.02, Determining Status of Persons under the Workers' Compensation Acts: Workers.

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

Status of Persons under the Workers' Compensation Acts: General and Policy 00.05.01, Determining Status of Persons under the Workers' Compensation Acts: Employers.

Incident or Exposure

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

- The details of the incident or exposure;
- The circumstances contributing to the incident or exposure;
- Witness statements;
- The date of the incident or exposure and the date the claimant stopped working or sought treatment;
- The time frame between the incident or exposure and the onset of symptoms;
- The time frame between the incident or exposure and the date medical attention was sought; and,
- Whether the worker reported the incident or exposure to their employer, and the time frame in which the reporting occurred.

Arising Out of and During the Course of Employment

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

Compatibility of Diagnosis to Circumstances of Incident/Exposure

WSCC Claims 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 to ensure that it is compatible with the circumstances of the reported incident or exposure.

Entitlement Limitation Period

In accordance with Policy 11.02, Reporting an Injury, Disease or Death, a worker, or their designate must submit their claim for compensation within one-year after the date of the injury, disease or death. The WSCC may consider, on a case-by-case basis, a claim for compensation outside of the limitation period if there is justifiable reason for the delay.

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.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 10; 12; 20; 31; 37 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 Status of Persons under the Workers' Compensation Acts: General
Policy 00.05.01	Determining Status of Persons under the Workers' Compensation Acts: Employers
Policy 00.05.02	Determining Status of Persons under the Workers' Compensation Acts: Workers
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	Entitlement of Occupational Disease Claims
Policy 03.09	Psychiatric and Psychological Disability
Policy 03.12	Pre-Existing Conditions
Policy 04.08	Medical Devices
Policy 06.01	Pension Entitlement

Policy 11.02	Reporting an Injury, Disease or Death

HISTORY

Policy 03.02 (NSC Feb 10/20)	Entitlement
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
Policy 20-01-04 (Sep 10/93)	Adjudication Process
Policy 20-02-12 (Dec/81)	Five Point Check System – Opening New Claims
Policy 20-02-22 (Sep 10/93)	Secondary Conditions – From Compensable Disability

Chairperson

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ARISING OUT OF AND DURING THE COURSE OF EMPLOYMENT

POLICY STATEMENT

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

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

DEFINITIONS

Balance of Probabilities:	A degree of proof which is more likely than not.
Causative Significance:	When the worker's employment was more than a trivial or insignificant aspect of the injury, disease or death.
Employer's Premises:	Any location where a worker works, or is likely to work, or any other proximate location.
Injury	Physical or psychological harm or damage. An injury includes exposure to a foreign or contagious substance that may result in an immediate or delayed reaction.
Presumption:	A rule in the *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.

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

General

Policy 03.02, Entitlement outlines the four factors that are required to be met in order for a worker to be entitled for compensation. This policy deals specifically with the factor that determines if the worker's injury, disease or death arose out of and during the course of employment.

To determine if a worker's injury, disease or death has arisen out of and during the course of employment two factors must be met:

- There is a causal relationship between the employment and the injury, disease, or death; and
- The injury, disease or death occurred within the time of employment.

Arising Out of Employment

"Arising out of the employment" generally refers to when the cause of the injury, disease or death is connected to the employment. In considering causation, the focus is on whether the worker's employment was of causative significance, which means that the employment was more than a trivial or insignificant aspect of the injury, disease or death.

Both employment and non-employment factors may contribute to the injury, disease or death, and employment factors need not be the sole cause. The WSCC will determine, based on a balance of probabilities, whether the worker's employment was of causative significance, and therefore a contributing factor in the injury, disease or death. The connection between the worker's job duties and employment expectations and the injury, disease or death should be direct and verifiable.

When a worker's injury, disease or death arises out of a worker's employment, it 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. Policy 00.08, Decision Making outlines the evidence the WSCC may use to make a decision, and how it is weighed.

During the Course of Employment

"During the course of employment" means the injury, disease or death 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, 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 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, if a worker suffers a medical condition, such as a brain aneurysm at work, but the cause of that medical condition is not related in anyway to the employment, it is not considered "during the course of employment". 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 to be "during the course of employment" when there is a direct link between the injury, disease or death and the employment.

When a worker's injury, disease or death occurs during the course of a worker's employment, it 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.

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*.

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
- 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 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 Compensation Act*:	Sections 10; 13; 14; 92
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 Claims
Policy 03.09	Psychiatric and Psychological Disorders

HISTORY

Policy 03.03 (NSC Feb 10/20)	Arising Out of and During the Course of Employment
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
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

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RENEWABLE RESOURCE HARVESTERS

POLICY STATEMENT

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

DEFINITIONS

Arising Out of and During the Course of Employment:	In the context of the Renewable Resource Harvesters' Program, "…for the purposes of harvesting, includes the act of hunting, fishing, trapping or gathering and travel by the most reasonable and direct route to and from the place or area where the hunting, fishing, trapping or gathering is done." (per MOU(s) on Renewable Resource Harvesters, 2009)
Deemed Annual Remuneration:	In the context of the Renewable Resource Harvesters' Program …the amount prescribed in subsection 1.1(b) of the Workers' Compensation *General Regulations.*
Disease Arising Out of and During the Course of Employment:	In the context of the Renewable Resource Harvesters' Program, **"…** harvesters who contract certain diseases in their handling of renewable resource species shall be eligible for compensation.**"** (per MOU(s) on Renewable Resource Harvesters, 2009) Eligible diseases include, but are not restricted to, those set out in Schedule "A" of this policy**.**
Gross Income:	For the purposes of the Harvesters' Program, "…includes the current value of country food and income from all sources except Employment Insurance or Social Assistance." (per MOU(s) on Renewable Resource Harvesters, 2009)

RENEWABLE RESOURCE HARVESTERS

Harvester:	"… a person who is deemed a worker pursuant to section 5(1) of the *Workers' Compensation Act(s).*" (per MOU(s) on Renewable Resource Harvesters, 2009)
Harvesting Wildlife:	"…to hunt, capture, harvest or gather flora or fauna, including fish" (per ss 1.1 of the *Workers' Compensation Act(s)*)
Primarily from Harvesting Wildlife:	In the context of the Renewable Resource Harvesters' Program, "…regularly and actively engaged in hunting, fishing, trapping or gathering for a livelihood and at least 25% of the Harvester's gross income, including an amount to be determined by the GN or GNWT as the current value of country food, is derived from hunting, fishing, trapping or gathering." (per MOU(s) on Renewable Resource Harvesters, 2009)

POLICY

General

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

Eligibility

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

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

- 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).*

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
Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.07	Calculation of Temporary Compensation
Policy 06.03	Calculation of Permanent Compensation
Policy 08.01	Decision Review

HISTORY

Policy 03.05 (May 28/09)	Renewable Resource Harvesters

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑎᑦ

RENEWABLE RESOURCE HARVESTERS

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

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Chairperson

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

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ENTITLEMENT OF OCCUPATIONAL DISEASE CLAIMS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) entitles compensation for occupational diseases according to evidence provided by the worker, employer, health care providers, and WSCC Medical Advisors. 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*)
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 ss. 1(1) of the *Workers' Compensation Acts*)
Firefighter	"means a worker who (a) is engaged in fighting fires as a full-time, part-time or volunteer member of a fire department, and (b) does not exclusively fight forest fires" (per ss14.1(1) of the *Workers' Compensation Acts*)
Infectious Disease	Illnesses caused by bacteria, viruses, parasites, and fungi that can cause an infection. Some infectious diseases are contagious and may be spread from person-to-person.

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ENTITLEMENT OF OCCUPATIONAL DISEASE CLAIMS

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

General

Claims for compensation are evaluated on a case-by-case basis. For the entitlement of occupational diseases the WSCC evaluates the causal relationship between the work-related exposures and the disease. A casual relationship between the work-related exposures and the disease must be met based on a balance of probabilities for entitlement. Specific occupational diseases may have additional requirements for entitlement.

Criteria

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 work-related factors?
- **Consistency**: Does reputable research/sources show that the disease is consistently linked to, or caused by, work-related factors?
- **Specificity**: Is the disease particular to the industry that the worker is or was employed in, or particular 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, then 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.

Entitlement Limitation Period

A worker must submit their claim for compensation to the WSCC within one year after the day the disease occurred. The WSCC considers the day the disease occurred as whichever of the following is most beneficial to the worker:

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

The WSCC may consider, on a case-by-case basis, a claim for compensation outside of the limitation period if there is justifiable reason for the delay.

Jurisdiction of Exposure

To be entitled under the *Workers' Compensation Acts (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.

Requirements for Specific Occupational Disease

Noise-Induced Hearing Loss

Noise-induced hearing loss is an occupational disease when it is caused by prolonged exposure to high noise levels in the workplace. A worker may be entitled to compensation for noise-induced hearing loss if:

- the worker's audiogram is consistent with the principal characteristics of noise-induced hearing loss;
- the worker has a clear history of prolonged exposure to high work-related noise for a minimum of two years, or a non-continuous equivalent duration, in the Northwest Territories and Nunavut, where the exposure is equal to or above the minimum threshold time periods as per the following table; and
- noise-induced hearing loss is determined to be the dominant cause of hearing loss.

Minimum Exposure Threshold Per Day for Entitlement

Noise Level (dBA)	Minimum Threshold Time-Period Per Day (hours)
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 uses the audiogram results closest in time to the last occupational noise exposure to verify that a worker has noise induced hearing loss.

The WSCC may also consider other relevant information to determine if noise-induced hearing loss is the dominant cause of hearing loss, such as:

- the duration of time from the last exposure to occupational noise and when the nearest audiogram was completed.
- The worker's age (age-related hearing loss is not a compensable disease)
- The worker's medical history
- Other relevant factors that may have contributed to the worker's hearing loss.

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, in accordance with Policy 03.02, Entitlement.

Infectious Diseases

In limited circumstances, a worker may be entitled to compensation when a worker contracts an infectious disease as a result of their employment. To be entitled to compensation, the following criteria must all be met:

- confirmation the worker contracted an infectious disease;
- confirmation of sufficient exposure to the source of infection at the workplace; and
- the nature of employment has a significant increased exposure risk for contracting the infectious disease as compared to the general population.

To confirm the worker contracted the infectious disease, the WSCC requires a laboratory confirmation of the infection, or a diagnosis by a treating health professional based on a clinical assessment of the worker during the period of illness. Other means of confirmation to establish the worker contracted the infectious disease may be accepted if they are consistent with testing for that disease.

To determine if the nature of employment placed the worker at a significantly higher risk of exposure to the infectious disease, the WSCC considers the following factors:

- Is the rate of the infectious disease significantly higher in the worker's place of work than in the general population? i.e., is there community transmission?
- Does the worker's employment activities create opportunities for exposure to and the transmission of the infectious disease? Such as activities that require a worker to have direct and prolonged close contact with one or more person(s) known to have the infectious disease or close contact with infectious substances such as body fluids of persons with the infectious disease.

All criteria must be met to be eligible for compensation. For greater clarity, a worker is not entitled to compensation simply because they contract the infectious disease while in the course of employment. The nature of the employment must pose a significant increased risk in contracting the infectious disease as opposed to the risk to the general community.

Presumptions for Firefighter Occupational Diseases

S.14.1(1) of the *Acts* lists diseases that are presumed to arise out of and during the course of a firefighters' employment if:

- 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*.

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ENTITLEMENT OF OCCUPATIONAL DISEASE CLAIMS

LEGISLATIVE AUTHORITIES

Northwest Territories *Worker's Compensation Act*:	Sections 10; 20; 37 subsections 1(1); 13(2); 14(2); 14(4); 14(5); 14.1(1); 14.1(2); 14.1(3); 40(1)
Nunavut *Worker's Compensation Act*:	Sections 10; 20; 37 subsections 1(1); 13(2); 14(2); 14(4); 14(5); 14.1(1); 14.1(2); 14.1(3); 40(1)
Northwest Territories *Firefighters Presumption Regulations*:	All
Nunavut *Firefighters Presumption Regulations*:	All

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

Policy 03.06 (Feb 10/20)	Entitlement of Occupational Disease Claims, Non Substantive Changes
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

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ENTITLEMENT OF OCCUPATIONAL DISEASE CLAIMS

Policy 20-03-07 (Sep 10/93)	Pneumoconiosis
Policy 20-03-08 (Sep 10/93)	Lung Cancer-Radon & Radon Progeny Exposure
Policy 20-13-02 (Dec/81)	Arsenic
Policy 20-13-04 (Dec/81)	Dermatitis
Policy 20-13-05 (Dec/81)	Fumes
Policy 20-13-06 (Dec/81)	Must be Referred to the Medical Advisor
Policy 20-13-06 (Dec/81)	File Referral
Policy 20-13-07 (Dec/81)	Infected Blisters
Policy 20-13-10 (Dec/81)	Vibration Induced White Finger Disease (White Hands Syndrome)
Policy 20-13-11 (Dec/81)	Other Industrial Diseases (Lead, Ultraviolet Light, Radioactive Isotopes, etc.)
Policy 20-13-12 (Dec/81)	Immunization
Policy 20-13-15 (Dec/81)	Noise Induced Progressive Hearing Loss and Tinnitus

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Chairperson

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CALCULATION OF DISABILITY COMPENSATION

POLICY STATEMENT

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

This policy explains how the WSCC calculates disability compensation.

DEFINITIONS

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not occur to a maximum of the Year's Maximum Insurable Remuneration (YMIR).
Calendar Year:	A year starting January 1st and ending December 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.
Net Annual Remuneration:	"…the amount of the workers' annual remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations." (per s. 59 of the *Worker's Compensation Acts*).
Net Monthly Remuneration:	"… an amount equal to 1/12 of the net annual remuneration of the worker determined under section 59, for the year in which the personal

	injury, disease or death occurred;" (per s.1(1) of the *Workers' Compensation Acts*).
Partial 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.
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*.
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.
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*).

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CALCULATION OF DISABILITY COMPENSATION

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 in accordance with Policy 00.10, Determining 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 in accordance with Policy 00.10, Determining Annual Remuneration; and,
- 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 the WSCC suspends or terminates their disability compensation according to Policy 04.01, Payment of Compensation.

Calculating Disability Compensation Payable

Total Disability (TD) Compensation

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

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

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

CALCULATION OF DISABILITY COMPENSATION

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

Partial Disability (PD) Compensation

To calculate PD compensation, the WSCC must first calculate the worker's loss of earnings percentage. To calculate the loss of earnings, 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.

$$\text{Loss of Earnings Percentage} = \frac{\text{Pre Injury Earnings} - \text{Current Earnings}}{\text{Pre Injury Earnings}} \text{ x } 100$$

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

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

Seasonal or Partially Employed Workers

There are two determinations of annual remuneration that may need to be considered by the WSCC when calculating disability compensation for workers in seasonal employment or partial employment.

The annual remuneration determined in Stage One, in accordance with Policy 00.10, Determining Annual Remuneration, 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, in accordance with Policy 00.10. Determining Annual Remuneration, is used to calculate the disability compensation paid to a worker who continues to suffer from a disability beyond the period determined in Stage One.

Disability Compensation for Deteriorating Injury or Disease

A worker that suffers a work related injury or disease that does not initially result in a disability, but experiences a delayed disability after the original injury or disease, is entitled to disability compensation.

The WSCC determines disability compensation for the original injury or disease using the Net Monthly Remuneration, in either the year the original injury or disease occurred, or the year the injury experienced time loss, whichever is of most benefit to the worker.

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 of most benefit to the worker.

Multiple Injuries or Diseases

If a worker who already receives a pension for a PI suffers another injury or disease that is unrelated to the injury or disease they receive a pension for, 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' Compensation Act*::	Sections 38; 39; 40; 44; 45; 57; 58; 59
Nunavut *Workers' Compensation Act*	Sections 38; 39; 40; 44; 45; 57; 58; 59
Northwest Territories Workers' Compensation *General Regulations*:	Sections 1; 10

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CALCULATION OF DISABILITY COMPENSATION

Nunavut Workers' Compensation *General Regulations*:	Sections 1; 10

POLICY RELATED DOCUMENTS

Policy 00.10	Determining Annual Remuneration
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 (Oct 01/21)	Calculation of Disability Compensation
Policy 03.07 (Feb 20/20)	Calculation of Disability Compensation (Non-Substantive Change)
Policy 03.07 (Jun 13/19)	Calculation of Temporary Compensation 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
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

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CALCULATION OF DISABILITY COMPENSATION

Policy 20-07-02 (Jan/87)	Compensation Calculation (Y.M.I.R.)
Policy 20-07-03 (Feb 21/90)	Minimum Compensation
Policy 20-07-04 (Dec/81)	Temporary Rates
Policy 20-07-05 (Dec/81)	Casual Worker
Policy 20-07-06 (Dec/81)	Concurrent Employment
Policy 20-07-07 (Dec/81)	Calculations for Two or More Jobs
Policy 20-07-10 (Dec/81)	Deductions from TTD Re: Maximum Compensation
Policy 20-07-11 (Dec/81)	Temporary Partial Disability
Policy 30-03-13a (Aug 03/93)	Acceptance of Personal Optional Coverage
Policy 5.001 (Jan 20/93)	Board and Lodging
Regulation C-16 (Nov 05/79)	Calculation – Temporary Total Disability Benefits
Directive D-5 (Mar 28/77)	Workers Injured While Employed on Tour of Duty

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Chairperson

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PSYCHIATRIC AND PSYCHOLOGICAL DISORDERS

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.
Claim Owner	WSCC employee responsible for adjudicating or managing the worker's claim.
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.
Maximum Medical Recovery	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.*
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 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 work-related injury);
2. An emotional reaction to a work-related physical disability or impairment;
3. An emotional reaction to a WSCC sponsored treatment of a compensable injury;
4. An emotional reaction in response to a sudden, single, traumatic, work-related incident that is frightening or shocking to the worker, and has a specific time and place; or,
5. An emotional reaction to an accumulation of a number of work-related traumatic events over time.

Workplace Harassment

Workplace harassment is a course of vexatious comment or conduct at a work site that is known or ought reasonably to be known to be unwelcome; and constitutes a threat at the work site to the health or safety of a worker. Workplace harassment may be constituted by repeated or a single serious occurrence of conduct, comments, displays, actions, or gestures resulting in psychological disability.

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 conducting this investigation.

The WSCC will review all information submitted by the worker and/or employer and consider all evidence identified during the decision-making process, as outlined in Policy 00.08, Decision Making. It is the responsibility of the worker and/or employer to submit information regarding a claim for compensation.

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 may be entitled.

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, or between co-workers, unless the labour relations were intended to harm the worker, or otherwise considered to be a work-related traumatic event.

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. The following are examples of what are considered usual pressures and tensions of employment: 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.

The submission of information supporting that labour relations conduct was done with the intent to harm the worker is required. Supporting information may be in any the form, including but not limited to emails and witness statements.

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 be:

- 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 results in 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;
- 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 worker's 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.

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 Claim Owner 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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PSYCHIATRIC AND PSYCHOLOGICAL DISORDERS

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 (Feb 10/20) (Non-substantive Changes)	Psychiatric and Psychological Disorders
Policy 03.09 (Nov 30/17)	Psychiatric and Psychological Disorders
Policy 03.09 (Jun 13/14) (Non-substantive Changes)	Psychiatric and Psychological Disorders
Policy 03.09 (April 1/08) (Non-substantive Changes)	Psychiatric and Psychological Disability
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 work-related 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:

- 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 (Sep 11/18)	Chronic Pain
Policy 03.10 (Jun 13/14)	Chronic Pain (Non-Substantive Change)
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 16/04)	Pain Disorders

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Chairperson

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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 case-by-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*).
Primary Residence:	The dwelling where a person lives most of the time. A 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.

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.

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.

ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

In addition to the general eligibility factors considered above, the following specific conditions apply for minor 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 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 door/window), not merely for aesthetic purposes; or other instrumental activities of daily living deemed necessary.

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ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

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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ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

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.

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' Compensation Act*:	Sections 36; 46; 47 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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ALLOWANCES AND SERVICES FOR SEVERELY INJURED WORKERS

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

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Chairperson

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PRE-EXISTING CONDITIONS

POLICY STATEMENT

A pre-existing condition is any condition that existed prior to the work-related injury or disease. 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 impact 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.
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 Act(s)*.
Degenerative Condition:	A condition in which the function or structures of the affected tissues and/or organs change for the worse, or deteriorate over time.
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*).
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.
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 Act(s)*.
Maximum Medical Recovery:	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*.

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PRE-EXISTING CONDITIONS

Pre-existing Condition:	Any pathological condition or impairment that existed prior to a work-related injury or disease and may include injuries, diseases, degenerative conditions, and psychological conditions, based on a confirmed diagnosis, medical evidence and/or medical judgement.

POLICY

General

The WSCC compensates a worker for injuries and diseases arising out of and during the course of employment. All decisions regarding the entitlement of a claim for compensation are made in accordance with Policies 03.02, Entitlement and 03.03, Arising out of and During the Course of Employment.

When there is a confirmed presence of a pre-existing condition that is exacerbated and/or aggravated by a work-related injury or disease, the worker may be compensated for the incremental disability or impairment of the pre-existing condition that is attributed to the compensable injury or disease. In addition, the WSCC may provide compensation to an injured worker if the pre-existing condition becomes an impediment to the treatment of a compensable injury or disease.

Pre-existing conditions may include, but are not limited to:

- Conditions that have produced periods of disability requiring treatment;
- Underlying or asymptomatic conditions which only become apparent after a workplace injury occurs.

This policy provides guidance on entitling and managing claims with pre-existing conditions.

Entitlement to Compensation

The WSCC may provide compensation benefits to an injured worker with a pre-existing 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 worker's pre-existing condition; or
- The current work-related injury or disease aggravates the worker's pre-existing condition.

Compensation for a pre-existing condition is not provided where:

- A work-related injury does not impact the worker's pre-existing condition; and
- The pre-existing condition is the sole cause of the worker's inability to return to work.

The fact that a worker has a pre-existing condition does not necessarily mean it was exacerbated or aggravated by the compensable injury or disease. The Claim Owner needs to determine how and if the worker's compensable injury or disease impacted the pre-existing condition. A worker does not receive compensation for the portion of the disability from a pre-existing condition that existed before the work-related injury or disease, but only for the portion of the disability that can be attributed to the work-related injury or disease.

Management of Claims with Pre-Existing Conditions

Gathering Medical Evidence

The presence of a pre-existing condition must be based on a confirmed diagnosis and medical evidence.

In order to confirm the presence of a pre-existing condition, the Claim Owner must request, where available, the previous five or more years of medical documentation related to the pre-existing condition. Upon receipt of the appropriate medical evidence, the Claim Owner consults with the WSCC Medical Advisor to provide opinions related to, but not limited to, a worker's compensable diagnosis and impact on their pre-existing condition.

To confirm the presence of a pre-existing condition the Claim Owner should work with the worker to obtain medical evidence related to the following:

- The worker's condition and medical history, including any previous diagnoses;
- Prior treatment in which the worker participated; and
- Current and prior medications and treatment to date.

If five years of medical evidence is not available, the Claim Owner works with the worker to collect as much evidence as possible to prove the presence of a pre-existing condition.

A thorough history based on collected medical evidence is needed to:

- Establish a baseline for the worker's pre-existing condition at the time the work-related injury or disease occurred;
- Determine whether the workplace duties or work-related injury or disease contributed in a material way to the exacerbation or aggravation of a pre-existing condition; and
- Determine when the worker's pre-existing condition has returned to the pre-injury state.

The impact of the work-related injury or disease on the pre-existing condition may change as the claim progresses, new evidence related to the pre-existing condition is obtained by the WSCC, and/or the impact of the work-related injury or disease on the pre-existing condition becomes more apparent. The Claim Owner must continually monitor the worker's recovery, promote recovery, facilitate a return to work, and continue to entitle the injured worker to compensation, as appropriate.

Pre-Existing Condition Prevents Treatment

A worker may have a pre-existing condition that is not exacerbated and/or aggravated by the injury or disease, but prevents them from participating in treatment for the work-related injury or disease. When a pre-existing condition prevents the worker from undergoing treatment, the WSCC may consider ways to accommodate the worker so that they may continue with their required treatment of the compensable injury or disease.

The Claim Owner may consult with the WSCC Medical Advisor to determine whether treating this pre-existing condition will assist in the worker's recovery from the work-related injury or disease. The WSCC may pay for a one-time course of treatment, related to this pre-existing condition if treatment will assist in the worker's recovery of a compensable injury or disease.

If treatment of this 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 this pre-existing condition is the sole cause of their inability to return to work.

Pre-Existing Condition Prolongs Treatment

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PRE-EXISTING CONDITIONS

A worker may suffer from a pre-existing condition that prolongs the recovery time of a compensable injury or disease. A work-related injury or disease may not worsen the pre-existing condition, but the nature of the pre-existing condition may cause the worker's treatment and recovery to take longer than expected. The WSCC manages these claims until the worker has reached maximum medical recovery for the work-related injury.

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 may suffer a work-related injury which temporarily worsens their pre-existing condition. The Claim Owner must weigh the evidence on the claim to determine whether:

- The pre-existing condition requires treatment;
- There is an impact on the worker's symptoms or their functional abilities;
- The worker requires workplace accommodations; or
- The pre-existing condition caused any measurable disability.

Aggravation of a Pre-Existing Condition Resulting in Impairment

A worker may suffer a work-related injury which permanently worsens, or aggravates, a pre-existing condition. When medical evidence confirms that a pre-existing condition becomes aggravated, the worker may never return to their pre-injury functional level. When a work-related injury or disease aggravates a pre-existing condition and the worker reaches maximum medical recovery for their work-related injury, they may be entitled to a permanent medical impairment. The Claim Owner consults with the WSCC Medical Advisor to determine whether the work-related injury or disease has aggravated the pre-existing condition.

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

Measurable

The WSCC considers a worker's pre-existing condition to be measurable when:

- The extent of a worker's pre-existing condition prior to the work-related injury or disease can be determined; or
- Following the work-related injury or disease, the extent of the pre-existing condition prior to the work-related injury or disease can still be accurately determined.

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PRE-EXISTING CONDITIONS

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

The WSCC considers a worker's pre-existing condition to be immeasurable when:

- The extent of a worker's pre-existing condition cannot be measured according to the medical evidence that existed before the work-related injury or disease; or
- The extent of the pre-existing condition cannot be accurately determined by a Health Care Provider after the work-related injury or disease.

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 injury or disease when medical evidence confirms a worker's pre-existing condition has become aggravated:

Permanent Medical Impairment	=	The total impairment after the work-related injury Less The total impairment prior to the work-related injury.

The WSCC does not use this formula to determine the impairment that results from a work-related injury or disease 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

In cases where a pre-existing condition and a work-related injury or disease 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.*

Degenerative Conditions

A worker may have a pre-existing condition that is degenerative in nature, and is expected to deteriorate over time. A worker's pre-existing condition may have been stable and asymptomatic prior to the work-related injury or disease, or it may have already been causing the worker some impairment or disability. The Claim Owner will gather medical evidence showing how the worker's condition would have likely progressed had the work-related injury or disease not occurred. The WSCC will manage the claim until the worker returns to their pre-injury status or has reached maximum medical recovery for their work-related injury.

Ceasing Compensation

Compensation for a pre-existing condition impacted by a work-related injury or disease ceases when evidence supports that:

- The exacerbation of the worker's pre-existing condition has returned to the pre-injury state;
- The exacerbation has ended and ongoing symptoms or effects are more likely due to the natural progression of the pre-existing condition over time; or,
- The worker has reached maximum medical recovery and is able to return to work or is entitled to an impairment rating.

LEGISLATIVE AUTHORITIES

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

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PRE-EXISTING CONDITIONS

POLICY RELATED DOCUMENTS

Policy 00.08	Decision Making
Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.01	Payment of Compensation
Policy 04.10	Employer Cost Transfer and Relief
Policy 06.01	Pension Entitlement
Policy 06.03	Calculation of Permanent Compensation

HISTORY

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

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Chairperson

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PAYMENT OF COMPENSATION

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides compensation to workers with injuries or disease that arise out of, and during the course of employment. In limited circumstances, the WSCC may assign, or divert a worker's compensation. Additionally, a worker may have their compensation reduced, suspended, or terminated for failure to mitigate their injury or disease or due to deliberate misrepresentation, fraudulent activity, or malingering. This policy outlines these circumstances.

DEFINITIONS

Assignment of Compensation:	The act of transferring to another person or entity all or part of one's property, interests or rights.
Claim Owner	WSCC employee responsible for adjudicating or managing the worker's claim.
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.
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
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.

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PAYMENT OF COMPENSATION

POLICY

General

The WSCC provides wage-loss and other compensation to entitled workers, including medical aid, vocational rehabilitation allowances, and pensions. In limited circumstances a worker's compensation may be assigned or diverted. This policy outlines the circumstances in which the WSCC may assign or divert a worker's compensation.

The WSCC may terminate, suspend, or reduce some or all of the compensation a worker is entitled to if it is determined the worker failed to mitigate their disability, or the WSCC determines the worker deliberately misrepresented their employment situation, and/or the existence or degree of their injury or illness. This policy outlines the circumstances when the WSCC may terminate, reduce, or suspend compensation.

This policy also outlines the circumstances of when and how the WSCC pursues recovery of overpayment of compensation or compensation that a worker is not entitled to.

Calculation of Wage-loss Compensation and Disability 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 Permanent Impairment Compensation.

Assigning Wage-loss Compensation

Assignment to a Government Social Assistance Program

The WSCC may assign a worker's wage-loss compensation to a provincial or territorial social assistance program or Employment and Social Development Canada (ESDC) if the worker received financial assistance while they waited for their claim to be approved. The worker makes this request in writing to the WSCC for approval.

Assignment to an Employer

The WSCC may assign a worker's wage-loss compensation to their employer if the employer continues to remunerate a worker while they experience time-loss for a partial or total disability. This may include the employer's temporary usage of employee sick

leave benefits while the worker waited for their claim to be approved. Or, if the employer chooses to keep the worker on their payroll after a worker's claim has been approved, the WSCC may assign a worker's wage-loss compensation to their employer on an ongoing basis.

The total wage-loss compensation that is assigned to an employer or received by the worker directly from the WSCC cannot exceed the amount that the worker has been entitled. In circumstances where a claimant has utilized sick leave benefits, reconciliation of sick leave benefits is between the worker and the employer.

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 managing their affairs and are not able to receive their compensation directly, their Authorized Representatives (Power of Attorney or Trustee) guide the WSCC in the management of the worker's compensation. In the absence of this guidance, the WSCC may divert all entitled compensation of the worker or dependant to persons able to assume management of the worker or dependants' 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.

Court Orders

The WSCC recognizes court orders which specifically attaches workers' compensation. When such court orders are identified, the Claim Owner 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.

Wage-loss 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, the Claim Owner refers it to WSCC General Counsel for review.

In both cases, the garnishment 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, upon consent of the worker:

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

When an incarcerated claimant is disabled, the WSCC confirms their ongoing entitlement to wage-loss compensation by regularly reviewing clinical reports from their health care provider. For an incarcerated claimant with a permanent impairment, the WSCC will determine the percentage of impairment when they achieve maximum medical recovery in accordance with Policy 06.03, Calculation of Permanent Impairment Compensation.

Payments to a worker whose claim is 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 WSCC may, upon consent of the worker:

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

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 on-going compensation to which the worker is entitled to receive will cease to be diverted when a notice of discharge has been issued for the worker and received by the worker's Public Trustee.

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 05.05, Vocational Rehabilitation Allowances and Grants.

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 Permanent 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

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.

The WSCC may require an injured worker to:

- Provide information necessary for claim adjudication and management;
- Undergo and attend medical examinations;
- Follow prescribed treatments;
- Use the nearest appropriate health care provider; and/or
- Use a different health care provider, in accordance with Policy 04.03, Choice and Change of Healthcare Provider.

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 medical aid and wage-loss compensation to which the worker is entitled, 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 may leave Canada with the WSCC's prior approval and continue to receive wage-loss compensation to which they are entitled.

Terminating or Reducing Compensation due to Deliberate Misrepresentation, Fraudulent Activity, or Malingering

A claimant may have their compensation reduced or terminated if the WSCC discovers evidence of deliberate misrepresentation (e.g. employment situation), fraudulent activity or 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. 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, will 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.

Recovering Compensation

When a worker or dependant receives compensation they are not entitled, 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

- Decide not to recover the overpayment upon the recommendation of the Vice President of Northwest Territories or Nunavut and approval of the Governance Council.

If the WSCC determines a worker or dependant received compensation they are not entitled as a result of deliberate misrepresentation, fraudulent activity, or malingering, the WSCC will pursue full recovery of the overpayment.

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.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections: 1(1); 10; 12; 15; 35; 54; 142
Nunavut *Workers' Compensation Act*:	Sections: 1(1); 10; 12; 15; 35; 54; 142
Northwest Territories and Nunavut *Corrections Acts*:	All
Northwest Territories and Nunavut *Exemptions Acts*:	All
Northwest Territories and Nunavut *Maintenance Orders Enforcement Acts*:	All
Northwest Territories and Nunavut *Mental Health Acts*	All
Government of Canada *Income Tax Act*:	All
Government of Canada *Excise Tax Act*:	All

Government of Canada *Canada Pension Plan*:	All
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	Pension Conversions and Advances
Policy 06.03	Calculation of Permanent 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
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

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PAYMENT OF COMPENSATION

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

Workers' Safety & Compensation Commission

MEDICAL AID AND ASSOCIATED COSTS

POLICY STATEMENT

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

DEFINITIONS

Claim Owner:	The WSCC employee responsible for adjudicating or managing the worker's claim.
Disability:	"means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity" (per 1(1) of the Workers' Compensation Acts)
Health Care Facility:	"… a "health facility" as defined in the *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,

(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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MEDICAL AID AND ASSOCIATED COSTS

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.

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.

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,

- 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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MEDICAL AID AND ASSOCIATED COSTS

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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MEDICAL AID AND ASSOCIATED COSTS

Injuries Resulting from Treatment/Medical Aid

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

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

Worker Fails to Attend Appointment

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

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

LEGISLATIVE AUTHORITIES

Northwest Territories *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)
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' Compensation General Regulations:*	Sections 3;4; 7 Subsections 4(2)(3); 5(1)(2); 6(1)(2)(3)
Nunavut *Workers' Compensation General Regulations:*	Sections 3;4; 7 Subsections 4(2)(3); 5(1)(2); 6(1)(2)(3)

POLICY RELATED DOCUMENTS

Policy 04.04	Complementary and Alternative Treatments
Policy 04.05	Dental Treatment

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 81)	Travel and Related Expenses

Chairperson

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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CHOICE AND CHANGE OF HEALTH CARE PROVIDER

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 worker's recovery from a work-related injury or disease, and their safe and successful return to work. In most cases, the WSCC supports a worker's choice in health care provider. However, in limited circumstances the WSCC may require a worker to change health care providers.

DEFINITIONS

Claim Owner	WSCC employee responsible for adjudicating or managing the worker's claim.
Compensation	"…any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this *Act* as a result of a worker's personal injury, disease or death." (per ss. 1(1) of the *Workers' Compensation Acts*)
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

General

Health care providers play a critical role in a worker's recovery, and their safe and successful return to work. Health care providers assess and diagnose workers, 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 support a worker's recovery and their safe return to work.

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CHOICE AND CHANGE OF HEALTH CARE PROVIDER

The WSCC generally supports a worker's initial choice in health care provider. However, there are limited circumstances when a worker may request, or the WSCC may require the worker to change health care providers. This policy outlines those circumstances.

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 worker's health care provider 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 initial health care providers chosen by a worker. However, the WSCC may not approve a worker's initial choice of health care provider if the chosen health care provider previously 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.

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 limited circumstances the worker is able to visit an appropriate health care provider to which they have access.

Immediate or Emergency Medical Attention

In some cases, a worker is required to seek emergency medical attention following a work-related injury or illness. Typically, workers will 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.

Change of Health Care Provider

Change Required by the WSCC

The WSCC may require an injured worker to change health care providers if the Claim Owner considers the health care provider does not assist in or impedes the process of the

worker's recovery. In order to determine this, the Claim Owner may consult with the WSCC Medical Advisor.

The decision to require a worker to change health care providers is done in accordance with Policy 00.08, Decision Making. In accordance with Policy 00.08, Decision Making, if the WSCC determines that further medical evidence is necessary to make a decision, the WSCC may require an injured worker to attend one or more medical examinations.

Circumstances where the WSCC consider a health care provider to not assist in the process of a worker's recovery may include scenarios where the health care provider:

- does not fulfil their reporting requirements in accordance with Policy 11.02, Reporting an Injury, Disease or Death;
- does not fulfil the specific obligations and expectations to assist a workers' timely, safe and successful return to work in accordance with Policy 04.14, Return to Work;
- is not specialized in treating the worker's injury or disease;
- fails to schedule additional specialist/speciality services in a timely manner when required and other barriers to timely recover are presented such as long wait times for appointments; or
- does not work with the Claim Owner in a manner that allows the claim to progress.

The WSCC may consider a health care provider to impede the process of a worker's recovery when the Claim Owner, in consultation with the WSCC Medical Advisor, considers the action or inaction of the health care provider to wilfully or unintentionally delay or prevent the worker's recovery. The WSCC is obligated to report a health care provider to the appropriate professional body if the Claim Owner, in consultation with the WSCC Medical Advisor, considers the health care provider is not upholding their professional obligations, or duty of care.

If the WSCC determines that a worker is required to change health care providers, the WSCC notifies both the worker and health care provider, in writing, of its decision and outlines the reasons for requiring a change.

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CHOICE AND CHANGE OF HEALTH CARE PROVIDER

In accordance with Policy 04.01, Payment of Compensation, the WSCC may suspend some or all compensation, including medical aid, for a worker that does not comply with a WSCC required change in health care provider.

Change at the Worker's Request

A worker may request a change of health care provider for various reasons, including the following:

- the worker is concerned the health care provider is not assisting in, or is impeding, their recovery;
- where a worker moves residence, and is requesting a change in health care provider that is located closer to or in their new community; or
- where there is a loss of rapport between the worker and their health care provider.

The WSCC will decide on a case-by-case basis 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.

The WSCC 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 health care providers in the following circumstances:

- where, in the WSCC's opinion, the change is unnecessary, or inappropriate; or
- the interruption in continuity of health care provision may delay or impede the workers recovery.

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 and other information from that health care provider, or requests for payment.

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CHOICE AND CHANGE OF HEALTH CARE PROVIDER

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Section 33; 35 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 00.08	Decision Making
Policy 04.01	Payment of Compensation
Policy 04.02	Medical Aid and Associated Costs
Policy 04.05	Dental Treatment
Policy 04.04	Complementary and Alternative Treatments
Policy 04.11	Claims Management
Policy 04.14	Return to Work
Policy 11.02	Reporting an Injury, Disease or Death

HISTORY

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

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Chairperson

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COMPLEMENTARY AND ALTERNATIVE TREATMENTS

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

	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 health care provider selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury, disease or death.
Medical Aid:	"…includes (a) drugs, medical devices, medical care, dental care, surgery, psychiatric or psychological care, physical rehabilitation and any other health service provided by a health care provider or health care facility, (b) the transportation of an injured or diseased worker for the purpose of receiving medical aid, and (c) any other treatment to facilitate the recovery of an injured or diseased worker or to mitigate the workers' disability or impairment;" (per ss. 1(1) of the *Workers' Compensation Acts*)
Occupational Therapy:	The art and science of enabling engagement in everyday living through daily occupations of life. Occupational therapists use a systematic approach based on evidence and professional reasoning to enable people to develop the means and opportunities to identify and engage in the occupations of life.
Physician:	"…a person who is authorized by law to practice medicine in the place where the person is so practising;" (per ss. 1(1) of the *Workers' Compensation Acts*)
Physiotherapy:	The practice of restoring, maintaining and maximizing strength, function, movement and overall well-being. Physiotherapists combine knowledge of how the body works with specialized hands-on clinical skills to

assess, diagnose and treat symptoms of injury and disability.

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

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.

COMPLEMENTARY AND ALTERNATIVE TREATMENTS

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

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,

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' Compensation Act:*	Section 36 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 81)	Acupuncture
Policy 20-31-04 [20-04-23] (Dec 81)	Drugless Practitioners

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Chairperson

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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' Compensation Act:*	Section 36 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

Chairperson

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MEDICATIONS

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 health care provider 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.

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,

- 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.

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

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.

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 in-person medical exam. Requests that will extend beyond 12 weeks must be sent to the Medical Advisor by the **10th 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

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

Cessation Plan

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

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

Pain Management & Addiction Services

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

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

LEGISLATIVE AUTHORITIES

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

POLICY RELATED DOCUMENTS

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

Policy 04.07	Medical Examinations
Policy 04.15	Support Services for Injured Workers

Canadian Guideline for Opioids for Chronic Non-Cancer Pain

HISTORY

Policy 04.06 (Dec 3/14)	Prescription Drug Use
Policy 04.06 (Mar 16/11)	Prescription Drug Use
Policy 04.06 (Sep 25/08)	Prescription Drug Use
Policy 04.06 (Aug 31/01)	Prescription Drug Use
Policy 04.06 (Apr 1/99)	Prescription Drug Use
Policy 04.06 (Dec 10/97)	Prescription Drug Use
Policy 04.06 (Jan 1/96)	Prescription Drug Use
Policy 20-04-04 (Sep 10/93)	Excessive Prescription Drug Use
Operational Procedure 20-04-04 (Sep 10/93)	Excessive Prescription Drug Use

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MEDICAL EXAMINATIONS

POLICY STATEMENT

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

DEFINITIONS

Claim Owner:	The WSCC employee responsible for adjudicating or managing a worker's claim.
Family Member:	"…in respect of a person 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*)
Health Care Provider:	"…a chiropractor, dentist, nurse, occupational therapist, optometrist, physical therapist, physician, psychologist, or other class of persons whose qualifications to practice any of the healing professions are accepted by the WSCC." (per ss. 1(1) of the *Workers' Compensation Acts*)
Medical Advisor:	A health care provider 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.

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
- 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.

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 post-mortem 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.

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:

- 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.

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 *treatment* is provided (e.g. physiotherapy sessions) results in time missed from work, it is regarded as a time-loss claim, 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' Compensation Act*:	Sections 24; 25(1)(5); 26; 27; 29; 30; 142; 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
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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MEDICAL DEVICES

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.
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 Act(s)*.

Medical Advisor:	A health care provider selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury, disease or death.
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 devices, orthosis, prosthesis, hearing aids and batteries, prescription eyeglasses, wheelchairs, elevators, hospital beds, oxygen and oxygen tanks, masks and tubing, and assistive devices to support activities of daily living.
Orthosis:	An artificial or mechanical aid, such as a brace, to support or assist movement of a weak or injured part of the body.
Prosthesis:	An artificial device to replace or augment a missing or impaired part of the body.
Severe Injury:	A work related injury that affects a worker's mobility or function in such a way that the worker's ability to perform activities of daily living, or to adequately perform home maintenance or upkeep, is impacted.

POLICY

General

The WSCC may provide medical devices:
- on a temporary basis to aid in an injured worker's recovery; or
- on a permanent basis when a worker sustains an impairment.

The WSCC covers the costs for a worker's new, repaired or replaced medical device when it has been prescribed or recommended by a 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.

Coverage and Upgrades

Payment for a medical device is only guaranteed if the worker obtains approval from the Claim Owner before making the purchase. With the exception of hearing aids, approval from the Manager of Claims is also required for medical devices over $2000.

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.

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.

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 work-related 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 provides an annual maximum allowance for damage to a worker's clothing as a result of wearing a prosthesis, orthosis or other appliance covered by the WSCC. The annual maximum allowance is adjusted annually from a base allowance of $500 established in 2024.

The WSCC also provides an annual maximum allowance for damage to a worker's clothing from the use of a wheelchair covered by the WSCC. The annual maximum allowance is adjusted annually from a base allowance of $1000 established in 2024.

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.

The WSCC may also replace clothing in other circumstances, as detailed in Policy 04.02, Medical Aid and Associated Costs.

Annual Adjustment

The annual maximum clothing allowance is adjusted annually from the base allowance established in 2024.

The annual adjustment is rounded to the nearest dollar and in calculated in accordance with the supplementary pension increase in *Policy 06.03, Calculation of Permanent Impairment Compensation.* Adjustments to the annual maximum clothing allowance are effective on January 1.

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.

The replacement of hearing aids is limited to once every five years.

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.

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

Eyeglasses

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

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

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MEDICAL DEVICES

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.

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' Compensation Act*:	Sections: 34(1-3); 36; 41(3); 47(1-2)
Nunavut *Workers' Compensation Act*:	Sections: 34(1-3); 36; 41(3); 47(1-2)

POLICY RELATED DOCUMENTS

Policy 06.03	Calculation of Permanent Impairment Compensation
Policy 04.02	Medical Aid and Associated Costs
Policy 04.07	Medical Examinations

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MEDICAL DEVICES

HISTORY

Policy 04.08 (Apr 8/24)	Medical Devices
Policy 04.08 (Oct 1/19)	Medical Devices
Policy 04.08 (Dec 3/14)	Medical Devices
Policy 04.08 (Mar 16/11)	Medical Devices
Policy 04.08 (Mar 31/08)	Medical Devices
Policy 04.08 (Sep 16/04)	Medical Appliances
Policy 04.08 (Aug 31/01)	Medical Aids
Policy 04.08 (Apr 01/99)	Medical Apparatus
Policy 04.08 (Jan 01/96)	Medical Apparatus
Policy 20-04-03 (Sep 10/93)	Significant Medical Information
Policy 20-04-16 (Sep 10/93)	Prosthetics & Assistive Devices - Hearing
Policy 20-04-17 (Sep 10/93)	Orthopaedic Devices
Policy 20-04-18 (Sep 10/93)	Eye Glasses
Policy 20-04-19 (Sep 10/93)	Special Medical Needs - Apparel

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Chairperson

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EMPLOYER COST TRANSFER AND RELIEF

POLICY STATEMENT

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

DEFINITIONS

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

Injury:	Physical or psychological damage or harm resulting from natural, physical, or human causes during one or over a series of cumulative events.
Negligence:	"The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly or wilfully 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,

- 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.

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

Cost Relief

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

Cost Relief may be provided in the following circumstances:

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

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

Pre-existing Conditions

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

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

- 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 Pre-Existing Condition	**Severity of Incident**	**Percent of Cost Relief**
Minor	Minor Moderate Major	50 25 0
Moderate	Minor Moderate Major	75 50 25
	Minor	90 – 100

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

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EMPLOYER COST TRANSFER AND RELIEF

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

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

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Chairperson

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CLAIMS MANAGEMENT

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

Claim Owner	The WSCC employee responsible for adjudicating or managing the worker's claim.
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 (MMR)	The point at which further medical or surgical interventions will have a negligible impact on restoration of function.
Medical Advisor:	A health care provider selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury, disease or death.
Medical Evidence:	Medical information related to the medical condition and treatment of the worker.
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*)

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.
Workers' Advisor	A position appointed under s. 107(3) of the *Acts* and operates independently of the WSCC. The Workers' Advisor may provide guidance to workers for navigating the worker's compensation system, WSCC policies and review process and may act as a workers' authorized representative for obtaining information from the WSCC.

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 identified 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.

Team Member Responsibilities and Obligations

Workers

Workers must commit themselves to achieving maximum medical recovery. A worker is obligated to cooperate fully in their recovery and must take reasonable measures to mitigate their disability, which may include, but is not limited to the following:

- participation in their medical treatment (e.g. attending appointments; following medical instructions)
- participation in their return to work or vocational rehabilitation plans.
- 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.

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.

A worker's wilful failure to cooperate in their recovery and mitigate their disability may result in a reduction, suspension, or termination of compensation in accordance with Policy 04.01, Payment of Compensation.

Employers

Employers have a duty to accommodate disabled and impaired workers, in accordance with 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 their workers successful return to work. Further details on return to work programs/accommodations are provided in Policy 04.14, Return to Work.

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 requested by the WSCC in timely manner may result in a penalty in accordance with Policy 11.02, Reporting an Injury, Disease or Death. 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.

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 at regular intervals, as determined by the WSCC Claim Owner, 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.

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, the responsibility remains with the Claim Owner to make decisions on a workers claim.

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 are required to follow the reporting requirements outlined in Policy 11.02, Reporting an Injury, Disease or Death. Failure to adhere to the reporting requirements may result in a penalty, as outlined in the policy.

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 of the worker.

Workers must authorize, in writing, the participation of these parties prior to their involvement in the recovery process in accordance with Policy 07.01, Access to Workers' Safety and Compensation Commission Information. The WSCC only communicates with parties authorized by the worker in accordance with Policy 07.01.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 30; 34; 35; 36; 46; 141(1)(2);142; 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 Act*	Sections 5; 7(1)(4)
Nunavut *Human Rights Act*	Sections 7(1); 9(1)(5)
Northwest Territories *Access to Information and Protection of Privacy*	Sections 6; 24; 40; 41; 42; 48; 49; 52

Act	Sections 6; 24; 40; 41; 42; 48; 49; 52
Nunavut *Access to Information and Protection of Privacy Act*	

POLICY RELATED DOCUMENTS

Policy 03.12	Pre-Existing Conditions
Policy 04.01	Payment of Compensation
Policy 04.02	Medical Aid and Associated Costs
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 Eligibility
Policy 07.01	Access to Workers' Safety and Compensation Commission Information
Policy 10.04	Preventing and Investigating Abuses and Offences
Policy 11.02	Reporting an Injury, Disease or Death

HISTORY

Policy 04.11 (Apr 08/24)	Claims Management
Policy 04.11 (Oct 03/22)	Claims Management, Non-Substantive Changes
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

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Chairperson

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CONFLICTING MEDICAL OPINIONS

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

Claim Owner:	The WSCC employee responsible for adjudicating or managing the worker's claim.
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)*.
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).
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*).

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CONFLICTING MEDICAL OPINIONS

Independent Medical Professional:	A medical practitioner who does not have a prior treating relationship, or otherwise been involved in an injured worker's claim.
Medical Advisor:	A health care provider selected by the WSCC who provides medical opinion and advice to WSCC employees regarding a worker's personal injury, disease or death.
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*)

POLICY

General

Medical evidence may be received from different health care providers. A conflicting medical opinion occurs when a Medical Advisor and a worker's health care provider disagree on substantive matters, which may include diagnosis, treatment plans, or the worker's functional abilities. When the medical opinions provided by the Medical Advisor conflict with the opinion of the health care provider, and the evidence cannot be weighed in accordance to Policy 00.08, Decision Making, the processes outlined in this policy apply.

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 claim file to a WSCC Medical Advisor for review if there are questions regarding the medical opinions of health care providers or other medical evidence. This could include, but is not limited to:

- Causation;
- Mechanism of injury; or
- Pathology.

CONFLICTING MEDICAL OPINIONS

Claims Services may also ask a WSCC Medical Advisor to contact a worker's health care provider(s) if there is a conflict between the health care provider's opinion and the WSCC Medical Advisor's opinion and a reasonable outcome cannot be determined by weighing the evidence on the worker's claim.

The Medical Advisor provides advice to Claims Services regarding the medical opinions or appropriateness of medical treatments prescribed by a worker's 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 evidence 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

When the review of a WSCC decision has been requested by a claimant or an employer, the WSCC Review Committee reviews the medical evidence 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 evidence on file. The Review Committee may also ask a Medical Advisor to contact a worker's health care provider in order to seek clarification regarding the medical evidence on file. The Medical Advisor provides written documentation for any opinions provided to the Review Committee.

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 medical expectations, and promote workers' recoveries and return to work.

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 gather further evidence in an to attempt to resolve the conflict. If the health care provider does not respond within 7 business days, 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 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, Choice and Change of Health Care Providers*.

Step Two

If the Medical Advisor and health care provider are unable to resolve the conflict, or the health care provider does not respond within 15 business 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 worker's Claim Owner selects the independent medical professional, and identifies the issues to be considered within 15 business days of when the conflicting medical opinion is confirmed or within 15 days from when the worker's health care provider has

been sent a copy of the notification of non-response. The selection of an independent medical professional and issues to be considered 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.

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 evidence in their submissions to the independent medical professional and provide a copy of their submissions to each other as well as to the WSCC and the worker. The injured worker may also provide the independent medical professional with relevant evidence. The independent medical professional reviews the submissions and the relevant evidence.

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 outlined in *Policy 00.02, Reconsidering a Decision*.

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CONFLICTING MEDICAL OPINIONS

Review and Appeal

Although an independent medical professional's medical opinion is the final medical opinion on the issue(s) 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 based on the justice and merits of the case and adheres to all requirements of the *Acts*, *Workers' Compensation General Regulations* and WSCC 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' Compensation Act*:	Sections 27; 30; 112; 117 subsection 141(2)
Nunavut *Workers' Compensation Act*:	Sections 27; 30; 112; 117 subsection 141(2)

POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 04.07	Medical Examinations
Policy 04.03	Choice and Change of Health Care Provider
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions

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CONFLICTING MEDICAL OPINIONS

HISTORY

Policy 04.13 (Jun 14/17)	Conflicting Medical Opinions (Non-substantive Change February 10, 2020)
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

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Chairperson

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RETURN TO WORK

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) supports an injured worker's safe and timely return to work. This policy sets out the WSCC's return to work process and strategies used to support workers' recoveries, and their timely, safe and successful return to work, as well as the roles and responsibilities of employers, workers and the WSCC in this process.

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.
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 appropriate.

Suitable Work:	Includes work: • within a 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; • where possible, restores pre-injury earnings, 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

The WSCC makes every effort to work collaboratively with the employer, worker and treating health care provider to enable a worker's return to work with their pre-injury employer. To increase the likelihood of a worker's timely and safe return to work, with the pre-injury employer, the WSCC:

- Manages workers' claims in order to promote an injured worker's recovery;
- Develops strategies, at the earliest opportunity, that are in keeping with a worker's functional abilities, to provide creative return to work solutions 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, assisting in the identification of complimentary return to work strategies); 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 the development of a return to work plan when medical evidence confirms that they are able to safely return to work.

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RETURN TO WORK

Returning to work, as soon as it is safe for an injured worker to do so, is an important part of an injured worker's rehabilitation process and promotes recovery. 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 timely and safe return to work, ideally with their pre-injury employer. 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. The WSCC works with employers in identifying suitable work options. Suitable Work can be created through:

- modified duties;
- alternate duties;
- a graduated return to work;
- worksite/workplace modifications;
- short-term training; or
- other options as appropriate.

Hours of work for suitable 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 provide partial disability compensation on a case-by-case basis in these situations.

Valid reasons for workers being unable to co-operate are generally limited to compelling circumstances beyond the worker's control.

Hierarchy of Return to Work Outcomes

In developing an injured worker's return to work plan, the WSCC applies the following Return to Work hierarchy outcomes:

Outcome	Description
1) Same work with the same employer	The worker returns to their pre-injury employment.
2) Modified work with the same employer	The worker returns to suitable, similar or comparable work with the pre-injury employer. Some work restrictions or modifications are required.
3) Different work with the same employer	The worker returns to the pre-injury employer with alternate suitable work.

If none of the above Return to Work outcomes can be achieved, then 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 Services and Programs, and 05.05, Vocational Rehabilitation Program Allowances and Grants.

Team Member Return to Work Roles and Responsibilities

The worker, the employer, the WSCC, health care providers and other parties, where applicable collaborate to aid in the timely and safe return to work of a worker.

Worker

Workers play an active role in their recovery and must take reasonable measures required under the *Workers' Compensation Acts (Acts)* and WSCC policies to mitigate their disability for the timely, safe and successful return to work. The WSCC requires workers to:

- 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

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

In addition, Employers are expected to:

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

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, employers are expected to exhaust all reasonable efforts for accommodation before they can claim undue hardship. 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 or are determined to be eligible for vocational rehabilitation services

WSCC

The WSCC facilitates a collaborative approach to aid workers' timely, 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 an important 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;
- Provide 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.

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 Strategies

By working collaboratively with the employer, worker, and treating health care provider, the WSCC promotes timely and safe return to work, and provides support and resources to help achieve return to work outcomes through one or more of the following return to work strategies: Modified Duties, Alternate Duties, Graduated Return to Work, Workplace/Worksite Modifications, and/or short-term training. Probability of a worker's successful return to work is a key factor when making decisions regarding which return to work strategies are appropriate. Return to work options must align with the worker's functional abilities and be suitable.

Modified Duties

Modified duties pertain to the regular pre-injury 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. Modification of work can include, but is not limited to, changes to the work environment, work hours, tools and equipment used, and job design and work organization.

Modified work may also include a suitable short-term training opportunity, work which is normally performed by others, or work which has been specifically designed or designated as a modified work strategy. Revisions to the modified work may be made as the worker's medical condition changes, until the worker is determined to be medically fit to return to their full duties from their pre-injury employment or permanent work restrictions are identified.

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 pre-injury duties. Alternate duties may require additional short-term training. A Workplace Assessment may also be considered, in accordance to Policy 05.05, Vocational Rehabilitation Program Allowances and Grants. The following criteria may be used to determine the suitability of alternate duties:

- Worker's functional abilities and/or cognitive abilities;

- Duties to be performed;
- Geographic location of the work;
- Claimant's area of residency;
- Level of responsibility and supervision of other employees; and
- Skills, qualifications, and experience required.

Graduated Return to Work

The employer reduces or modifies the worker's work hours or schedule to match the worker's tolerance levels, as reported by their Health Care Provider. The objective is to allow a steady progression of hours to increase the worker's tolerances until the worker completes a full return to work. During graduated return to work, the WSCC tops up compensation benefit to ensure the worker is receiving the equivalent of total disability benefit.

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; or
- 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.

Short-Term Training for Different Job with Same Employer

A pre-injury employer may have alternate suitable work available to an injured worker that is different than the worker's pre-injury employment but that requires specific skills and knowledge that the injured worker does not currently have. In order to facilitate a safe and timely return to work, and maintain the injured worker's employment with their pre-injury employer, the WSCC may sponsor the costs associated with completion of any short-term training required for the worker's return to work with the same employer but in a different job.

To be eligible, short-term training must be 16 weeks or less in duration. Examples may include, but are not limited to:

- Technical skills workshops;
- Seminars;
- Distance education courses;
- Apprenticeships;
- On-the-job training; or
- Certifications/re-certification.

If the worker's pre-injury employer identifies a different job for an injured worker to return to which requires short-term training, the employer will identify the skills and knowledge that the worker is required to develop. Any job identified for an injured worker's return to work must be suitable work. The employer, worker and WSCC will develop a short-term training plan for the worker. The short-term training plan must be cost-effective, and be within the worker's ability to achieve. The WSCC will compensate the injured worker for any costs associated with travel, if it is required.

During short term training, the WSCC tops up compensation benefit to ensure the worker is receiving the equivalent of total disability benefit.

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 *Human Rights Act*	Sections5; 7(1)(4)
Nunavut *Human Rights Act*	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 Services and Programs

Policy 05.05	Vocational Rehabilitation Program Allowances and Grants
Policy 09.02	Safe Advantage
Policy 11.02	Reporting an Injury, Disease or Death

HISTORY

Policy 04.14 (Sep 11/18)	Return to Work (Non-Substantive Change February 10, 2020)
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

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SUPPORT SERVICES FOR INJURED WORKERS AND DEPENDANTS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide support services to eligible workers recovering from a work-related injury or disease to facilitate the worker's recovery or assist the worker to complete their vocational rehabilitation plan. This policy explains the types of support services available to injured workers. All support services for injured workers are considered on a case-by-case basis.

DEFINITIONS

Child:	"…in respect of a worker, a natural or adopted child of the worker or a person for whom the worker stands or stood in the place of a parent;" (per ss.1(1) of the *Workers' Compensation Acts)*
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).
Claim Owner:	WSCC employee responsible for adjudicating or managing the worker's claim.
Dependant:	A worker's spouse, or child of the worker less than 19 years of age, or a dependent child of the worker 19 years of age or over and attending school, or a dependent child of the worker who is of any age and who is physically, functionally, mentally or psychologically incapable of earning their living.
Pain:	Long-term or persistent, lingering pain that results from an identifiable physical condition.

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

POLICY

General

The WSCC recognizes that not all injured workers require the same level of support, and at times, the provision of additional supports may assist in the worker's recovery and/or completion of their Vocational Rehabilitation Plan (VR Plan). The additional supports available to workers includes pain management services, child care, counselling services, house sitting services, substance use treatment, and special financial assistance.

General Eligibility

In assessing a worker's eligibility for support services, the WSCC Claim Owner considers whether the support service will assist the injured worker with their recovery or completion of their VR Plan. Medical evidence may be required to support determining the need for support services; however, the injured worker does not require a diagnosis to be eligible for support services.

Eligibility for support services will terminate when the supports are determined no longer necessary because the worker has either reached the maximum medical recovery, completed their VR Plan, or the services are no longer required to reach maximum medical recovery or complete their VR Plan.

Where possible, the WSCC directly pays service providers of an approved support service.

Support Services

Pain Management

At times workers may experience pain that interferes with their recovery or their participation in their VR Plan. To support injured workers who are experiencing pain that is long-term or persistent, resulting from an identifiable physical condition, the WSCC may sponsor the worker to participate in pain management services that may include

medical management, physical conditioning, work conditioning, and/or pain and stress management. Medical evidence is required to demonstrate the need for pain management services. Pain management services educate workers about, and support them with, pain management strategies and may assist in preventing the onset of chronic pain.
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 VR Plan; and/or
- surgical procedures or prescribed medication are not effective in controlling the worker's pain.

If the worker has chronic pain as a pre-existing condition prior to the work-related incident, any treatment provided by the WSCC is provided in accordance with 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.

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 Claim Owner.

The WSCC provides a maximum allowance of $60/day per child for child care expenses. Exceptions to exceed this limit may be considered on a case-by-case basis by the Claim Owner for extenuating needs. For example, such as a child with a disability or a child that requires a unique level of care. The claimant, or the supplier, is reimbursed up to the daily maximum allowable per child with proof of payment (e.g. receipts, invoices, or reports confirming the provision of services).

House sitting

The WSCC may provide reimbursement for house sitting to enable a worker residing in the Northwest Territories or Nunavut to travel away from their home community for a medical or vocational rehabilitation appointment. An honorarium of $25 per day may be provided. Documented proof for house sitting needs is required for payment of this honorarium. Examples of acceptable documentation are copies of the owner / tenant

insurance policy and confirmation that no one other than the claimant resides in the home.

Counselling Services

The WSCC may provide coverage to the worker for 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. A diagnosis is not required to be eligible for counselling services. Counselling services may be offered online or in person and may include:

- Personal and Family Counselling: for issues of anger, grief, family conflict, substance use, or non-work related post-traumatic stress;
- Financial Counselling: to address financial situations caused by earning disruption or financial hardship caused by the work-related injury or disease;
- Mental Health Counselling: to reduce the emotional and physical impacts associated with a worker's mental health following the work-related injury; and/or,
- Indigenous Counselling: to provide counselling services that are culturally sensitive and specific in approach.

Each request for counselling services will be considered on a case-by-case basis by the Claim Owner. Counselling will be provided online or in person depending on what option will best aid in the worker's recovery based on the opinion of the worker, Claim Owner, and the counsellor.

The WSCC may also provide counselling services to the dependants of a deceased worker to assist in the transition to a life without the deceased worker.

Substance Use Treatment

The WSCC may provide coverage for substance use treatment to an injured worker when substance use results from the work-related injury or disease or its treatment. Substance use treatment may include but is not limited to behavioral counselling, medication, and/or medical devices used to treat withdrawal symptoms. To be compensable, medical evidence must support that the worker's substance use is affecting 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 use treatment.

Special Financial Assistance

Special Financial Assistance may be provided to an injured worker who is, or is likely to be, unable to work for six 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 hardship 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, cell 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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SUPPORT SERVICES FOR INJURED WORKERS AND DEPENDANTS

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Section 36; 46; 47 subsections 34(1); 34(2); 34(3); 41(3)
Nunavut *Workers' Compensation Act*:	Section 36; 46; 47 subsections 34(1); 34(2); 34(3); 41(3);

POLICY RELATED DOCUMENTS

Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.11	Support 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 Services and Programs
Policy 05.05	Vocational Rehabilitation Program Allowances and Grants
Policy 08.01	Reviewing Decisions
Policy 08.02	Appealing Decisions

HISTORY

Policy 04.15 (Apr 08/24)	Support Services for Injured Workers and Dependants
Policy 04.15 (Jun 14/18)	Non-substantive change (Special Financial Assistance)
Policy 04.15 (Sep 15/17)	Support Services for Injured Workers
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

Workers' Safety & Compensation Commission

SUPPORT SERVICES FOR INJURED WORKERS AND DEPENDANTS

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
Policy 25-05-04 (Apr 12/90)	Child Care Expenses

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VOCATIONAL REHABILITATION ELIGIBILITY

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to their pre-injury employer. Every effort is made to return the worker to their pre-injury job or with their employer in an accommodated or different position before a referral to vocational rehabilitation is considered. The goal of vocational rehabilitation is to assist workers to regain employability and/or become employed. Vocational rehabilitation does not guarantee employment.

This policy explains how the WSCC determines if a worker is eligible for vocational rehabilitation services and programs.

DEFINITIONS

Disability:	"means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity" (per 1(1) of the Workers' Compensation Acts)
Employability	Being in possession of the skills and abilities that allow a worker to be employed in suitable work.
Return to Work:	A process to help injured workers return to safe, productive employment doing suitable work, as soon as medically appropriate.
Suitable Work:	Includes 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; • where possible, restores pre-injury earnings or provides reasonable earnings for an appropriate occupation based on

	existing regional socio-economic conditions; and, • that adds value to the employer's business/organization and promotes the worker's healthy recovery and return to work.
Vocational Rehabilitation Plan (VR Plan):	A written document that outlines the worker's re-employment goal and the steps the worker 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

General

Vocational rehabilitation services and programs are offered to workers unable to return to work with their pre-injury employer, but indication of regaining employability with vocational rehabilitation is strong. Vocational rehabilitation is also offered where the employer has not developed a return to work plan. Vocational rehabilitation services and programs are outlined in Policy 05.02, Vocational Rehabilitation Services and Programs.

The WSCC provides vocational rehabilitation to eligible workers as soon as possible, given the nature and impact of their work-related disability.

Compensation

Workers participating in vocational rehabilitation services and programs continue to receive any compensation they are entitled to under the *Workers' Compensation Acts*. The WSCC compensates workers participating in approved vocational rehabilitation services and programs in accordance with Policies 03.07, Calculation of Disability Compensation or 06.03, Calculation of Permanent Impairment Compensation. Workers may also be entitled to allowances and grants as described in Policy 05.05, Vocational Rehabilitation Program Allowances and Grants.

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VOCATIONAL REHABILITATION ELIGIBILITY

Eligibility

The worker's Case Manager may refer the worker for vocational rehabilitation when:

- A work-related disability or permanent impairment prevents the worker from returning to their pre-injury work or to employment comparable to their pre-injury work;
- 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 pre-injury work; or,
- The worker's pre-injury employer prevents the worker from returning to their previous work, or other suitable work with their employer;
- A worker who is left with an impairment after reaching maximum medical recovery but who's employer has not provided a return to work plan may be entered into vocational rehabilitation; 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.

Immediate Referrals

The WSCC may sponsor vocational rehabilitation even if it has not yet been confirmed whether a worker's restrictions will become permanent. Immediate referrals are completed when medically appropriate, for workers who have suffered a serious traumatic injury and whose functional abilities are reasonably expected to be impacted by their injury.

Hierarchy of Return to Work Outcomes

The Case Manager uses the Hierarchy of Return to Work Outcomes to determine what vocational rehabilitation services may be appropriate for the worker. Each outcome, beginning with outcome one, must be considered and deemed unsuitable before the next outcome is considered.

The WSCC may offer vocational rehabilitation services to facilitate a timely and safe return to work when a worker is unable to return to their pre-injury employer.

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VOCATIONAL REHABILITATION ELIGIBILITY

Outcome	Description
1) Same work with the same employer	The worker returns to the pre-injury employment.
2) Modified work with the same employer	The worker returns to suitable, similar or comparable work with the pre-injury employer. Some work restrictions or modifications are required.
3) Different work with the same employer	The worker returns to the pre-injury employer with alternate suitable work.
4) Same work with a different employer	The worker is unable to return to the pre-injury 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-injury employer and work restrictions or modifications are required with the new employer.
6) Different work with a different employer	The worker is unable to return to the pre-injury employer and pre-injury work.

Vocational Rehabilitation Services and Programs are outlined in Policy 05.02, Vocational Rehabilitation Services and Programs.

Completion 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-injury work earnings or earnings in a comparable occupation in the claimant's area of residency or geographical area of pre-injury employment. The following criteria are considered when determining suitable work:

- hours of work;
- location; and
- previous work history.

Suitable work would not normally include excessive work hours (+40 hours/week) or wages earned through secondary employment.

When a worker regains employability, is offered suitable work, completes their VR Plan, or completes job search, the WSCC will discontinue the worker's vocational rehabilitation services, including any allowances to which the worker was previously entitled. The WSCC notifies the worker in writing when vocational rehabilitation services are discontinued and that the WSCC has fulfilled its vocational rehabilitation responsibilities.

In order to mitigate their disability, a worker is required to actively participate in their vocational rehabilitation services. Vocational rehabilitation allowances are dependent on cooperation with the VR Plan. 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, 04.11, Claims Management, and Sections 35 and 142 of the *Acts*.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 10; 34; 35; 36; 38; 46; 47(l); 142 subsections 41(3)
Nunavut *Workers' Compensation Act*:	Sections 10; 34; 35; 36; 38; 46; 47(1); 142 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 and Dependants
Policy 05.02	Vocational Rehabilitation Services and Programs
Policy 05.05	Vocational Rehabilitation Program Allowances and Grants

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VOCATIONAL REHABILITATION ELIGIBILITY

HISTORY

Policy 05.01 (Apr 01/22)	Vocational Rehabilitation Eligibility
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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VOCATIONAL REHABILITATION SERVICES AND PROGRAMS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to their pre-injury employment. The goal of vocational rehabilitation is to assist workers to regain employability and/or become employed. 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.
Return to Work:	A process to help injured workers return to safe, productive employment doing suitable work as soon as medically appropriate.
Suitable Work:	Includes 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; • where possible, that restores pre-injury earnings, 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 Exploration:	A process to evaluate the worker's aptitudes, academic history, work history and employment interests. Vocational Exploration assists the Case Manager, the worker, and the vocational rehabilitation counsellor to understand a worker's skills and develop employment goals.
Vocational Rehabilitation Allowance:	"…an allowance, not exceeding the compensation payable under section 38 for total disability, [provided] while the worker is undergoing vocational rehabilitation" (per ss. 46(d) of the *Workers' Compensation Acts*).
Vocational Rehabilitation Plan (VR Plan):	A written document that outlines the worker's re-employment goal and the steps the worker takes to achieve this goal. The VR Plan is used to monitor the worker's progress and determine the success or failure of vocational rehabilitation.

POLICY

General

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

Eligibility

The Case Manager determines a worker's eligibility for vocational rehabilitation programs using the Hierarchy of Return to Work Outcomes and other criteria as detailed in Policy 05.01, Vocational Rehabilitation Eligibility.

Vocational Rehabilitation Plan Development

Vocational Exploration

All workers referred by their Case Manager for vocational rehabilitation must participate in Vocational Exploration, unless the worker is only participating in Job Search.

Information gathered during Vocational Exploration is used to develop a Vocational Rehabilitation Plan (VR Plan). Vocational Exploration should be completed within eight weeks of referral to a vocational rehabilitation counsellor. If an extension of Vocational Exploration beyond eight weeks is required, the extension must be approved by the appropriate Claims Services Manager.

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

- Labour Market analysis that identifies job market trends for suitable employment options, by province or territory;
- Functional Capacity Analysis: identifies a worker's current and/or reasonably expected functional abilities and workplace restrictions;
- Transferable Skills Analysis: identifies the worker's employment history, current skills and abilities, including;
- Job history and experience summary, including: education, certification or licensing history; and
- A description of job duties that could be considered suitable work, based on the worker's transferrable skills, relevant past occupations, functional abilities, and pre-injury earnings.

Vocational Exploration assists the Case Manager, worker and vocational rehabilitation counsellor to determine if the worker can regain employability, or be employed. Vocational Exploration also outlines the worker's physical and/or mental functional abilities in order to identify workplaces, types of work or volunteer activities that are appropriate for the worker.

Vocational Rehabilitation Plan (VR Plan)

The Case Manager, worker and vocational rehabilitation counsellor develop the VR Plan. The VR Plan assists the injured worker to identify their return to work goals and identifies a roadmap with relevant time frames to obtain suitable work and/or regain employability. The WSCC may consult with potential employers, the treating health care providers, the WSCC Medical Advisor and other expert health care or service providers,

as deemed necessary. The VR Plan may include temporary paid or unpaid work to be completed by the claimant while enrolled in academic or training programs.

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. Once completed and signed, the VR Plan is typically not revised. If the VR Plan requires revision, a written addendum is signed by the Case Manager, the worker and appropriate Claims Services Manager.

The Case Manager and vocational rehabilitation counsellor monitor the worker's progress. The WSCC fulfills its vocational rehabilitation obligations to a worker when the worker regains employability, is offered suitable work, or completes their VR Plan.

Vocational Rehabilitation Services

Workplace Assessment

A Workplace Assessment assists the employer, WSCC, worker, and health care provider to assess whether a worker is able to perform alternate duties and if the worker has the capacity to learn a new job. A Workplace Assessment is arranged with employers or training institutions. Worker participation in Workplace Assessment does not mean the employer will hire the worker participating in the program.

A Workplace Assessment may be considered when a worker is unable to return to their pre-injury employment, but may be able to return to an alternate position with the pre-injury employer. The WSCC recognizes that some workers may benefit from completing a workplace assessment when it is unknown whether the worker is unable to return to their pre-injury employment and they have not yet reached maximum medical recovery. Exemptions for eligibility to this program can be made on a case-by-case basis, to assist the worker in achieving their return to work goals.

A Workplace Assessment does not extend beyond four weeks without the approval of the appropriate Claims Services Manager, in consultation with the involved employer or training institution.

Job Search Assistance

The WSCC may offer Job Search Assistance services to eligible workers to assist them in developing a résumé and prepare for job interviews. Job Search Assistance is provided for a maximum of two weeks prior to the commencement of the Job Search program. The

appropriate Claims Services Manager, approves any extension of services beyond two weeks.

Job Search

Job Search may be provided to assist the worker to find suitable employment opportunities. This service is used to assist workers re-entering the labour market. The duration of the Job Search services is a cumulative total 13-week maximum, regardless of whether Job Search is used consecutively or at different times during the course of a worker's claim. During the Job Search, workers continue to be paid their entitled Vocational Rehabilitation Allowance.

Eligibility for Job Search and its continuation is conditional upon the worker's active cooperation and participation. The WSCC expects the worker using Job Search to apply for a set number of jobs per week, as determined in their VR Plan. Workers must record and report the number of job applications submitted before the WSCC provides a Vocational Rehabilitation allowance.

Workers in academic or training programs may participate in Job Search services during school breaks for up to four weeks at a time without depleting their 13-week allowance for Job Search.

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 allowed for Job Search. 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 academic breaks.

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 paid to an eligible worker during Job Search 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, or complete the Job Search with or without securing suitable work.

Vocational Rehabilitation Programs

Training on the Job

When a worker's skills are applicable to employment other than their pre-injury employment, the WSCC may 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. Under Training on the Job, the worker and the employer agree and set realistic expectations of the skills the worker will gain through the program. The WSCC fulfils its vocational rehabilitation obligation to the worker when Training on the Job is complete.

Academic Programs

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-injury employment;
- The academic program aligns with the worker's transferable skills and training, when possible;
- 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 to pre-injury employment earnings, where possible.

Self-Employment Assistance Program

In limited circumstances, a worker may request self-employment as a Vocational Rehabilitation option. Workers may receive assistance with self-employment, only after Vocational Exploration is complete and all other vocational rehabilitation options have been explored and considered inappropriate. The Case Manager determines whether a worker might be eligible to receive assistance with self-employment.

A worker interested in the Self-Employment Assistance Program must present a business plan, in addition to a feasibility study, to the Case Manager within four weeks of

completing Vocational Exploration. The four week period may be extended to accommodate a worker's special circumstances with the approval of the appropriate Claims Services Manager. A feasibility study and review of the worker's Business Plan, including realistic financial projections and the worker's anticipated income, 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. The Case Manager will evaluate the feasibility study and use the following guiding questions to determine whether Self-Employment Assistance Program is a suitable vocational rehabilitation option for the worker:

- Are the self-employment plan and financial projections viable?
- Is the work (including probable hours of work) suitable for the worker' functional abilities?
- Does the worker have the necessary skills and abilities to successfully operate the business?
- Does the business opportunity make use of the worker's transferable skills?
- Will the self-employment venture maximize the worker's earning capacity?

The Self-Employment Assistance Program is approved by the appropriate Claims Services Manager. To receive approval, the cost of the Self-Employment Assistance Program must be equal to or less than the WSCC's average financial contribution for a VR Plan.

The Self-Employment Assistance Program results in a one-time payment to the worker. The WSCC fulfils its vocational rehabilitation commitment to the worker when the Self-Employment Assistance Program payment is made.

Retirement Transition

The Retirement Transition is intended for workers where they are already eligible, or are approaching eligibility for the Government of Canada Old Age Security (OAS) pension prior to, or shortly after completing their VR Plan.

A worker may be eligible for the Retirement Transition if the worker is:

- Eligible for vocational rehabilitation services; and
- The Vocational Exploration and VR Plan has determined that the duration of time to complete the plan, and secure a minimum of 2 years of suitable work, cannot reasonably be completed before the worker becomes eligible for an OAS pension.

If a worker is determined to be eligible for the Retirement Transition, the worker is given the choice of receiving the following, up until they are eligible for an OAS pension, or 24 months; whichever comes later:

- Pursuing their VR Plan while receiving appropriate Vocational Rehabilitation Allowances; or
- Receiving the equivalent of total disability compensation, less any awards for partial disability or partial impairment.

If the worker is eligible for an OAS pension at the time that their claim is accepted, and can reasonably confirm their employment would have continued, they may be eligible for the Retirement Transition. The payment amount is 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.

Vocational Rehabilitation Extension

Workers may seek extensions to their VR Plan by written request. The request must explain the reason for the extension, the cause of delays in the VR Plan's completion, and the extension period required. The appropriate Claims Services Manager, will approve requests for a program extension when one of the following situations occurs:

- 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.

Other reasons, if determined justifiable, will be considered and may be approved on a case-by-case basis.

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VOCATIONAL REHABILITATION SERVICES AND PROGRAMS

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 10; 34; 35; 36; 38; 46; 47 subsections 41(3)
Nunavut *Workers' Compensation Act*:	Sections 10; 34; 35; 36; 38; 46; 47 subsections 41(3)

POLICY RELATED DOCUMENTS

Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.11	Claims Management
Policy 04.14	Return to Work
Policy 04.15	Support Services for Injured Workers and Dependents
Policy 05.01	Vocational Rehabilitation Eligibility
Policy 05.05	Vocational Rehabilitation Program Allowances and Grants
Policy 06.01	Pension Entitlement

HISTORY

Policy 05.02 (Apr 01/22)	Vocational Rehabilitation Programs
Policy 05.02 (Feb 10/20)	Vocational Rehabilitation Programs (Non-Substantive Change)
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

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VOCATIONAL REHABILITATION SERVICES AND 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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VOCATIONAL REHABILITATION PROGRAM ALLOWANCES AND GRANTS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) may provide vocational rehabilitation to workers unable to return to work with their pre-injury employer. When a worker is referred to Vocational Rehabilitation Programs, they may be eligible for specific allowances and/or grants to support them in completing their Vocational Rehabilitation Plans.

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*)

Claim Owner: The WSCC employee responsible for adjudicating or managing a worker's claim.

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*)

Primary Residence:	The dwelling where a person lives most of the time. A 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.
Suitable Work:	Includes 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; • where possible, restores pre-injury earnings, 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 Allowance:	"…an allowance, not exceeding the compensation payable under section 38 for total disability, [provided] while the worker is undergoing vocational rehabilitation" (per ss. 46(d) of the *Workers' Compensation Acts*
Vocational Rehabilitation Plan (VR Plan):	A written document that outlines the worker's re-employment goal and the steps the worker 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.

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VOCATIONAL REHABILITATION PROGRAM ALLOWANCES AND GRANTS

POLICY

General

A worker may be eligible for a vocational rehabilitation allowance and/or grant if they are participating in vocational rehabilitation. The vocational rehabilitation allowances and grants that a worker may be eligible include:

- Supplementary Living Allowance;
- Transportation Allowance;
- Interim Program Allowance;
- Academic Program Allowances;
- Tuition, Books and Supplies Allowance;
- Relocation Grant;
- Tools and Equipment Grant; and
- Workplace/Worksite Modification Grant.

Program Allowances and Grants

Supplementary Living Allowance

The WSCC makes best efforts to place a worker in a vocational rehabilitation program in the community where their primary place of residence is located. However, it is not always possible to do so. The Supplementary Living Allowance is intended to offset the additional costs of maintaining a secondary residence for the purpose of attending a vocational rehabilitation program, and is provided for a maximum duration of 16 weeks. The WSCC provides a Supplementary Living Allowance to workers who:

- Attend a vocational rehabilitation program located outside reasonable commuting distance of their place of primary residence; and
- Continue to make significant financial contributions to their primary residence for the duration of the program. Ongoing financial contributions to a worker's primary residence may include, but is not limited to, contributions to rent or mortgage payments, insurance, utilities, and day to day maintenance costs. Acceptable proof of the worker's ongoing financial contribution to their primary residence must be provided.

The WSCC may also provide a Supplementary Living Allowance when a worker:

- Attends a WSCC-approved vocational rehabilitation appointment; or
- Receives a relocation grant and while travelling to their destination is required to obtain overnight accommodations.

The Supplementary Living Allowance includes:

- Reimbursement for commercial or private accommodations; and
- A meal and incidental allowance. The meal and incidental allowance is based on the Medical Subsistence Allowance per diems outlined in Section 6 of the Workers' Compensation General Regulations for the Northwest Territories and Nunavut.

If the worker is staying in a commercial or private accommodation with a suitable kitchen, they are entitled to 50% of the meal and incidental allowance for the first 30 days, for the remaining duration up to and including 16 weeks, they are entitled to 25% of the meal and incidental allowance. If a worker is staying in a residence at a training centre or education institution, they will be reimbursed the cost of a standard meal plan with the provision of a receipt. The WSCC makes best efforts to secure accommodations with a suitable kitchen when possible.

Eligible workers who are attending a vocational rehabilitation program that is longer than 16 weeks will only receive the Supplementary Living Allowance for 16 weeks. For the remaining duration of the program workers will be reimbursed the cost of private or commercial accommodations.

Transportation Allowance

The WSCC provides a Transportation Allowance for workers required to attend WSCC-approved training, academic programs or appointments outside of their home community. 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, if required;
- Hiring an accessible vehicle or taxi for those with a disability or impairment impacting their mobility; and
- Cost of overnight commercial or non-commercial accommodations during travels.

The appropriate Claims Services Manager, may approve Travel Allowances for return transportation to a worker's home community in the event of a family emergency or compensable medical appointment in the home community.

Limits to WSCC Transportation Payments

The WSCC does not normally pay for transportation costs when the WSCC approved vocational rehabilitation training, academic programs or appointments are located within 50 kilometres (each way) of the worker's place of residence, with exception to when the worker's travel was pre-authorized by the Claim Owner for paid travel within the 50 kms limit.

The WSCC covers the worker's travel expenses when attending WSCC approved vocational rehabilitation training, academic programs or appointments more than 50kms from the worker's place of residence according to rates established in ss.4(3), Workers' Compensation General Regulations.

Relocation Grant

The WSCC provides a Relocation Grant to cover the costs of moving a worker's household belongings if:

- Suitable work is not available in the worker's home community and employment at the new community is confirmed, prior to relocation;
- The total cost for the applicable allowances and relocation costs are less than having the worker travel to their VR Program; 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 assistance is equal to or in-excess of what the WSCC covers. A reduced Relocation Grant is provided to a worker when third party moving assistance is less than what the WSCC covers. The reduced Relocation 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. The Manager of Case Management is responsible for approving all Relocation Grants.

A worker may use a personal vehicle, a trailer or truck rental, or a professional mover to relocate. If the worker uses a personal vehicle for the move a Transportation Allowance is provided. A Supplementary Living Allowance is provided to workers and each dependant, while moving to a new residence, in accordance with the provisions of the Supplementary Living Allowance section of this policy.

Tuition, Books and Supplies Allowance

The WSCC pays for any academic fees, books or supplies that are a requirement of the academic program a worker takes as part of their VR Plan.

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 and needed by the worker.

The worker is responsible for the repair, maintenance and replacement of all items purchased by the WSCC.

Academic Program Allowances

A worker engaged in academic studies in order to complete their VR Plan is provided with an Academic Program Allowance. In order to receive the Academic Program Allowance, workers must be cooperating with their VR Plan.

A worker may receive an allowance during breaks in their academic studies equal to what they received while attending school. A worker is entitled to Job Search Allowances when they actively search for or find paid or unpaid work during their academic program breaks. The worker in these cases are provided up to four weeks of Job Search Allowance at a time when searching for a job. If Job Search is used for this purpose, it does not exhaust the worker's 13-week Job Search Allowance usable after completing their VR Plan.

Once a worker finds paid or unpaid work, they will be eligible for the Interim Program Allowance. Any Interim Program Allowance the worker receives will be reduced by any pay earned by the worker during the academic break. If a worker's earnings during an academic break are in excess of what the WSCC would pay, the worker does not receive an allowance.

To receive an Academic Program Allowance for work in between academic studies 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 work.

If courses required by a worker's academic program are offered during Spring and Summer terms, the worker will be expected to enrol in and complete them.

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 Services and Programs. A worker is eligible for an Interim Program Allowance if 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 program.

If the Interim Program Allowance is to be continued beyond one month, the Manager of Case Management, must approve the extension.

Tools and Equipment Grant

The WSCC may provide a Tool and Equipment Grant to workers who complete their VR Plan to purchase tools and equipment if 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 applicable tools or equipment purchased and provide the WSCC with a signed note from the employer stating the items are required for work.

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 an employer who hires a worker that completes vocational rehabilitation 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 allows a worker access the workplace/worksite and accommodates the worker's functional abilities in order to meet employment requirements. Worksite modifications are made with the employer's written consent, including confirmation that the modifications result in the worker's employment. The specific modifications must be the most-cost effective options available while still overcoming the worker's barrier to become employed at the worksite.

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' Compensation Act*:	Section 46; 47
Nunavut *Workers' Compensation Act*:	Section 46; 47
Northwest Territories *Workers' Compensation General Regulations*:	Section 6
Nunavut *Workers' Compensation General Regulations*:	Section 6
Northwest Territories *Safety Act*:	Sections 4; 5
Nunavut *Safety Act*:	Sections 4; 5
Northwest Territories *Human Rights Act*:	Section 10
Nunavut *Human Rights Act*:	Section 10

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VOCATIONAL REHABILITATION PROGRAM ALLOWANCES AND GRANTS

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 and Dependents
Policy 05.01	Vocational Rehabilitation Eligibility
Policy 05.02	Vocational Rehabilitation Services and Programs

HISTORY

Policy 05.05 (Apr 01/22)	Vocational Rehabilitation Program Allowances and Grants
Policy 05.05 (Feb 10/20)	Vocational Rehabilitation Allowances and Grants (Non-Substantive Change)
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

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Chairperson

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PENSION ENTITLEMENT

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides pensions to permanently impaired 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.

This policy establishes how a pension for the workers with a permanent injury or disease or a worker's spouse or dependants are entitled.

DEFINITIONS

Child:	"…in respect of a worker, a natural or adopted child of the worker or a person for whom the worker stands or stood in the place of a parent;" (per ss.1(1) of the *Workers' Compensation Acts)*
Compensation:	"…any medical aid, payment, money, pension, vocational rehabilitation, counselling or other benefits payable or provided under this Act as a result of a worker's personal injury, disease or death;" (per ss.1(1) of the *Workers' Compensation Acts*)
Dependant:	A worker's spouse, or child of the worker less than 19 years of age, or a dependent child of the worker 19 years of age or over and attending school, or a dependent child of the worker who is of any age and who is physically, functionally, mentally or psychologically incapable of earning their living.
Disability:	"means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity;" (per 1(1) of the Workers' Compensation Acts)
Family Member:	"…in respect of a person a) a brother, sister, half-brother, or half-sister of the person; b) a parent, step-parent, or grandparent of the

person; and

c) a person who stands or stood in the place of a parent for the person;" (per ss. 1(1) of the *Workers' Compensation Acts*)

Impairment:	"means the condition of having a permanent physical, functional, mental or psychological abnormality or loss, caused by the worker's personal injury or disease" (per 1(1) of the Workers' Compensation Acts)
Net Annual Remuneration:	"…the amount of the worker's annual remuneration minus the amount of the worker's annual deductions, 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;
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

the assessable payroll of employers for the year." (per ss. 1(1) of the *Workers' Compensation Acts*)

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PENSION ENTITLEMENT

POLICY

General

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. 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.

Entitlement for Permanently Impaired 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*.

Pension Calculation

Pensions are calculated in accordance to Policy 06.03, Calculation of Impairment Compensation.

Pension Conversion or Advance

Impaired workers can request a pension conversion (full or partial lump-sum payment) or advance in accordance to Policy 06.02, Pension Conversions and Advances.

Subsequent Injury or Disease

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.

Entitlement for a Deceased Worker's Dependent Spouse

A surviving dependent spouse receives a monthly pension equal to 3.08 percent of the YMIR in the year of the worker's death. This pension benefit is payable for as long as the surviving spouse lives.

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PENSION ENTITLEMENT

The WSCC pays an additional one time 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.

Additional Compensation for a Spouse Incapable of Earning a Living

In accordance to subsection 48(1)(c) of the *Acts*, if a spouse is physically, functionally, mentally or psychologically incapable of earning a living, they may be entitled to additional compensation as considered appropriate by the WSCC.

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; or
- a surviving spouse with a deteriorating medical condition.

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 worker's death as well as the medical requirements of the spouse when providing additional compensation.

Requests for additional compensation may be approved at the discretion of the Manager, Claims Services on a case-by-case basis. The Manager may consult with the WSCC Medical Advisor, as necessary.

Entitlement for Multiple Spouses

In accordance to subsection 48(4)(a) of the *Acts*, the primary surviving spouse is entitled to all compensation which a surviving dependent spouse is entitled under the relevant provisions in the *Acts*. The primary surviving spouse is the person considered to be a spouse in accordance to section 7 of the *Acts* on the day immediately preceding the day of the worker's death.

Any other surviving dependent spouse, in accordance to 48(4)(b) of the *Acts*, is entitled to a monthly pension equal to 3.08 percent of YMIR in the year of the worker's death, for a maximum of five years after the date of the worker's death or until that surviving spouse dies, whichever is earlier.

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PENSION ENTITLEMENT

Entitlement for a Deceased Worker's Dependent Children

The child of a deceased worker who is 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 is 19 years of age.

Criteria for Continuation of a Pension for Child Enrolled in an Academic Institution

The monthly pension may continue after the age of 19 as long as the child is enrolled in an academic institution and meets the requirements of the academic institution they are attending or are enrolled in full-time studies as established by the academic institution.

The WSCC will terminate entitlement to a child's pension once the child is granted a university degree or college diploma for the first time or completes a course of technical or vocational training, whichever occurs first.

Dependent children 19 years of age or older who withdraw from school may re-establish entitlement to compensation if they return to school after an absence of one semester or less.

The WSCC may, at any time, request confirmation of academic progress and enrollment in an academic institution.

A Child Incapable of Earning a Living

In accordance to subsection 11(1)(d), a dependent child, of any age, of the deceased worker is provided a pension for as long as they are not physically, functionally, mentally or psychologically capable of earning a living. The WSCC may provide additional compensation in addition to their base pension.

Circumstances that may create a need for additional compensation include but are not limited to:

- increased medical costs in relation to their functional abilities;
- deterioration in medical condition;
- equipment costs;
- need for specialized aids, such as hearing aids, wheelchairs, leg and arm braces, or voice amplifiers;
- need for special services such as tutors or sign language interpreters; or

- need for the services of an attendant or placement in an institution.

Requests for additional compensation are approved at the discretion of the Manager, Case Management and Pensions, on a case-by-case basis. The Manager may consult with the WSCC Medical Advisor, as necessary.

Entitlement to a Person Responsible for a Child

The WSCC shall pay a monthly pension to any person who assumes full or shared responsibility for a child of a deceased worker where there is no surviving dependent spouse or the surviving dependent spouse is deemed to be not properly caring for the child. The amount of the pension is equal to the amount the dependent spouse would have received.

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. The person responsible for the child of the deceased worker will continue to be entitled to a monthly pension until the child reaches 19 years of age.

Entitlement for Dependent Family Members

Dependant family members of a deceased worker may be entitled to a pension when there is no entitlement for compensation from:

- a dependent spouse;
- a child; or
- the person who assumes full or shared responsibility for the deceased worker's dependent child.

Pension entitlement to a dependent family member is based on the financial support the dependent family member would have expected to receive had the worker not suffered the workplace fatality, up to a maximum of 3.08% of YMIR for the year in which the fatality took place.

Entitlement to Other Expenses

The WSCC pays for the funeral expenses in accordance to the amount outlined in the Northwest Territories and Nunavut *Workers' Compensation General Regulations*. If the death of a worker occurred away from their last usual place of residence within Canada, the WSCC will cover the expense of transporting the worker's body back to their usual place of residence.

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PENSION ENTITLEMENT

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 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 dependent spouse whose pension was terminated upon marriage is eligible for a one-time 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.

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PENSION ENTITLEMENT

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections: 1.1; 7; 11; 41; 42; 43; 44; 45; 48; 49; 50; 51; 55; 56; 59 Subsections: 172(4); 172(5)
Nunavut *Workers' Compensation Act*:	Sections: 1.1; 7; 11; 41; 42; 43; 44; 45; 48; 49; 50; 51; 55; 56; 59 Subsections: 172(4); 172(5)
Northwest Territories *Workers' Compensation General Regulations*:	Section 9
Nunavut *Workers' Compensation General Regulations*	Section 9

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

Policy 06.01 (Feb 10/20)	Pension Entitlement (Non-Substantive Change)
Policy 06.01 (Jun 13/14)	Pension Entitlement (Non-Substantive Change)
Policy 06.01 (Mar 27/12)	Pension Entitlement
Policy 06.01 (Mar 31/08)	Pension Entitlement
Policy 04.12 (Apr 1/08)	Lump Sum Payments to Pre-1985 Surviving Spouses
Policy 06.01 (Oct 23/03)	Pension Entitlement
Policy 06.01 (Aug 31/01)	Pension Entitlement
Policy 06.01 (Apr 19/01)	Pension Entitlement
Policy 06.01 (Apr 21/99)	Pension Entitlement
Policy 06.01 Jan 01/96)	Pension Entitlement

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Chairperson

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PENSION CONVERSIONS AND ADVANCES

POLICY STATEMENT

Workers receiving a pension from the Workers' Safety and Compensation Commission (WSCC) may request a conversion of the pension 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 ss.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.

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PENSION CONVERSIONS AND ADVANCES

Workers who receive a pension conversion or advance remain entitled to medical treatment or vocational rehabilitation for their compensable injury or disease.

Eligibility Criteria for Pension Conversions

Workers who have been awarded a pension are eligible to request a pension conversion unless:

- the worker's impairment is unsettled and there is significant risk of deterioration; or
- 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 by the Review Committee or under appeal with the Appeals Tribunal.

Independent Financial Advice

To assist the worker in making informed financial decisions the WSCC will offer the option for independent financial advice to workers who request a pension conversion.

Independent financial advice can be 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.

Pension Conversions

Pension Conversions for Workers with Impairments of 10 Percent or Less

The WSCC automatically approves a worker's request for a full pension conversion when the worker's impairment is up to and including 10 percent and the worker is not receiving additional compensation under Section 43 of the *Workers' Compensation Acts*.

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PENSION CONVERSIONS AND ADVANCES

Pension Conversions for Workers with Impairments Greater Than 10 Percent

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.

The Vice President WSCC Northwest Territories may approve an application for a full or partial pension conversion when:

- the conversion does not put the worker's ability to pay for every-day expenses and on-going financial obligations at risk;
- the worker has 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 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
- the worker identifies a specific purpose for the conversion. Applicants may request for conversions to be paid directly to the supplier of goods and services; and
- the worker provides documentation supporting their long-term financial viability.

Reporting Pension Conversions

The President reports all approved pension conversions for impairments greater than 10 percent to the Governance Council quarterly.

Additional Impairment

If an additional impairment has been awarded for the same injury or disease, requests for conversions are automatically granted up to a total impairment of 10 percent or less. Any additional impairment over 10 percent is subject for approval as outlined in the section *Pension Conversions for Workers with Impairments Greater Than 10 Percent.*

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PENSION CONVERSIONS AND ADVANCES

Pension Advances

The WSCC may advance sums against a worker's pension, to a maximum of one year's pension income. The Manager, Case Management and Pensions 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.

Advances are for the purchase of specified goods or services. Advances may be requested to be paid directly to the supplier of goods and services. 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 WSCC Northwest Territories considers the recovery amount and cost before seeking monies from the estate.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Section 43; 55; 56
Nunavut *Workers' Compensation Act*:	Section 43; 55; 56

POLICY RELATED DOCUMENTS

Policy 06.01	Pension Entitlement
Policy 06.03	Calculation of Impairment Compensation

HISTORY

Policy 06.02 (Feb 10/20)	Pension Conversions and Advances (Non-Substantive Change)
Policy 06.02 (Jun 13/14)	Pension Conversions and Advances (Non-Substantive Change)
Policy 06.02 (Mar 27/12)	Pension Conversions and Advances

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PENSION CONVERSIONS AND ADVANCES

Policy 06.02 (Sep 25/08)	Pension Conversions and Advances
Policy 06.02 (Dec 5/03)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Aug 31/01)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Jan 18/01)	Lump Sum Payments and Advances on Pensions
Policy 06.02 (Oct 26/95)	Lump Sum Payments and Advances on Pensions
Policy 3.003 (Dec 15/93)	Commutation of Pensions and Lump Sum Payments

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Chairperson

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CALCULATION OF PERMANENT IMPAIRMENT COMPENSATION

POLICY STATEMENT

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

This policy explains how the WSCC calculates impairment compensation.

DEFINITIONS

Annual Remuneration:	The estimated gross annual remuneration a worker would receive if their workplace injury or disease did not happen. Annual Remuneration cannot exceed the Year's Maximum Insurable Remuneration (YMIR).
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.
Dependant:	A worker's spouse, or child of the worker less than 19 years of age, or a dependent child of the worker 19 years of age or over and attending school, or a dependent child of the worker who is of any age and who is physically, functionally, mentally or psychologically incapable of earning their living.
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)
Maximum Medical Recovery: (MMR)	The point at which further medical or surgical interventions will have a negligible impact on restoration of function.

Net Annual Remuneration:	"… the amount of the worker's annual remuneration minus the amount of the worker's annual deductions, determined in accordance with the regulations;" (per s. 59 of the *Worker's Compensation Acts*).
Net Monthly Remuneration:	"… an amount equal to 1/12 of the net annual remuneration of the worker determined under section 59, for the year in which the personal injury, disease or death occurred;" (per s.1(1) of the *Workers' Compensation Acts*).
Partial 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*.
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*.
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 eyes; • 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.
Year's Maximum Insurable Remuneration:	"… a prescribed maximum remuneration for any year for the purposes of determining: (a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under section 5(1), and (b) the assessable payroll of employers for the year." (per ss. 1(1) of the *Workers' Compensation Acts*).

POLICY

General

There are two categories of impairment compensation:
- partial impairment (PI); and
- total impairment (TI).

Workers' Safety & Compensation Commission

CALCULATION OF PERMANENT IMPAIRMENT COMPENSATION

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.

Calculation of Impairment Compensation

The calculation of impairment compensation requires a worker's annual and net remuneration, which are determined in accordance to Policy 00.10, Determining Annual Remuneration. A Stage Two wage calculation must be carried out for a seasonally or partially employed worker.

Total Impairment Compensation

The WSCC pays a Basic Pension Benefit to a worker who suffers Total Impairment (TI) based on 90% of the worker's Net Monthly Remuneration and is calculated as follows:

Basic Pension Benefit for TI = 90% x Net Monthly Remuneration,

If a worker's monthly TI pension 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 Impairment Compensation

The WSCC pays a Basic Pension Benefit to a worker who suffers a Partial Impairment (PI) based on 90% of the Worker's Net Monthly Remuneration multiplied by their PMI Rating. The WSCC determines and assigns the worker's PMI Rating using the *American Medical Association Guide to the Evaluation of Permanent Impairment* (AMA).

Basic Pension Benefit for PI = 90% x Net Monthly Remuneration x PMI Rating

Impairment Adjustment

The WSCC may adjust a TI or PI to reflect a change in the worker's compensable condition if medical evidence supports either an improvement or deterioration. This may increase or decrease the Basic Pension Benefit amount.

Additional Compensation

Criteria

In accordance to subsection 43 (a) and (b) of the *Workers' Compensation Acts (*the *Acts)*, the WSCC may pay an injured worker additional compensation if the WSCC determines the Basic Pension Benefit is significantly inadequate because:

- the worker's injury or disease results in a loss of earning capacity that is greater than the permanent impairment compensation the worker is entitled to; or
- the worker's Net Annual Remuneration before their injury did not fairly represent the worker's probable earning capacity.

The WSCC may request a worker participate in a vocational rehabilitation program to develop or redevelop employment capabilities before the WSCC considers additional compensation.

When there is a change in the worker's condition, the WSCC may review, reassess, or terminate an injured worker's additional compensation. The WSCC will review the worker's entitlement to additional compensation at least once every 24 months.

Additional compensation is available until the worker is eligible for a Government of Canada Old Age Security (OAS). If the worker is approved for additional compensation when they are already eligible for OAS, or two or less years before their eligibility, additional compensation is available for up to 24 months.

Additional compensation is approved by the Vice President WSCC Northwest Territories. Each case will be judged on its own merits and justice.

Calculating Adjusted Pension

Adjusted pensions are calculated for workers approved for additional compensation.

The worker's adjusted pension is calculated through adjustments to the worker's assigned PMI Rating. Adjustments to the PMI Rating are dependent on the worker's employment once they reach MMR and are calculated as follows:

The worker has Partial Impairment and is unable to fully return to pre-injury or other comparable employment because of their impairment, but is able to return to suitable employment:

Adjusted PMI Rating = Assigned PMI Rating x 1.5

The worker has Partial Impairment, but they are not employable in any capacity in the future, as confirmed by the AMA Guide:

Adjusted PMI Rating = Assigned PMI Rating x 2.0

Additional adjustment to the PMI Rating, for the purposes of calculating the adjusted pension payable, may be considered in exceptional circumstances by the VP WSCC Northwest Territories. Each case will be judged on its own merits and justice.

The Adjusted PMI Rating for the purposes of calculating the Adjusted Pension Benefit cannot exceed 100%.

The calculation of the Adjusted Pension Benefit is as follows:

Adjusted Pension Benefit = 90% x Net Monthly Remuneration x Adjusted PMI Rating

The combined total of the worker's pension benefits, and any other form of remuneration cannot exceed 90% of the worker's Net Monthly Remuneration.

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. The increase is indexed to the average Canadian Consumer Price Index (CPI) from July to June of each year.

The SPI is calculated as follows and is capped at a 4% increase annually. The Governance Council maintains the discretion to exceed the cap up the full CPI increase as calculated below.

$$\text{SPI for January of year X} = \left[\left(\frac{\text{12 month average CPI [July of year (X - 2) to June of year (X - 1)]}}{\text{12 month average CPI [July of year (X - 3) to June of year (X - 2)]}}\right) - 1\right] \text{x} 100$$

Where: X = 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.

Increases are applied to all existing pensions on January 1st annually.

Other Considerations

Disability Compensation for Recurrence of Original Injury or Disease

A worker receiving a partial impairment pension that suffers a recurrence of the original injury, and results in either a partial disability (PD) or total disability (TD), may be entitled to additional compensation. The compensation amount is equal to the compensation payable for their PD or TD less their monthly partial impairment 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.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 41; 42; 43; 44; 45
Nunavut *Workers' Compensation Act*:	Sections 41; 42; 43; 44; 45
Northwest Territories Workers' Compensation *General Regulations*:	Sections 1; 10
Nunavut Workers' Compensation *General Regulations*:	Sections 1; 10

Northwest Territories Civil Emergencies Measures Act	Section 20
Nunavut Emergency Measures Act	Subsection 13(o)
Northwest Territories Corrections Act	Section 33
Nunavut Corrections Act	Section 33

POLICY RELATED DOCUMENTS

Policy 00.10	Determining Annual Remuneration
Policy 02.05	Reporting Payroll
Policy 03.03	Arising Out of and During the Course of Employment
Policy 03.05	Renewable Resource Harvesters
Policy 03.07	Calculation of Disability Compensation
Policy 04.01	Payment of Compensation
Policy 06.01	Pension Entitlement
Policy 06.02	Pension Conversions and Advances

HISTORY

Policy 06.03 (Jul 10/2023)	Calculation of Permanent Compensation
Policy 06.03 (Jul 10/2023)	Calculation of Permanent Impairment Compensation (Non-Substantive Change October 23, 2023)
Policy 06.03 (Jul 10/2023)	Calculation of Permanent Impairment Compensation
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)

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CALCULATION OF PERMANENT IMPAIRMENT COMPENSATION

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
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 5/79)	Calculation – Total Disability Benefits
Directive D-5 (Mar 28/77)	Workers Injured While Employed on Tour of Duty

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Chairperson

Workers' Safety & Compensation Commission

ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION INFORMATION

POLICY STATEMENT

Information obtained by the Workers' Safety and Compensation Commission (WSCC) about employers, and workers or their dependents through the administration of legislation and workplace inspections and investigations is confidential. The WSCC may release information under the authority of the Northwest Territories and Nunavut *Workers' Compensation Acts*, and in accordance with the Northwest Territories and Nunavut *Access to Information and Protection of Privacy (ATIPP) Acts*.

DEFINITIONS

Claimant:	"… a person claiming compensation;" (per ss. 1(1) of 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 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*).

Relevance	Having some reasonable connection with, and some value or tendency to prove or disprove a matter of fact significant to an issue.
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* and the *Access to Information and Protection of Privacy Acts*.

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 or employers must submit an access to information request under the

authority of the *ATIPP Acts*, or request information through the *Workers' Compensation 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 listed in section 24(1) of the *ATIPP Acts*. Claimants may access their information by sending a written request to the WSCC.

A claimant may request 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 dependents 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*.

Alternate Disclosure to Mitigate Harm

Under the authority of section 163 of the *Workers' Compensation Acts,* the WSCC may choose to provide information appearing on a claimant's file to a legal or personal representative instead of the claimant if:

- The claimant is affected by a mental disorder that has impaired their cognitive functioning;
- The information may not be understood by the claimant; or,
- The information may hinder the claimant's recovery.

In order for the WSCC to disclose a claimant's information to their legal or personal representative instead of the claimant, medical information must confirm that one of the above conditions are met.

Employer Access to Information

Employers may request information from the WSCC about their worker's claims or about their own employer information.

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ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION 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, such as a *Functional Abilities Form*.

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 (e.g. what incident caused a workplace injury), the disposition of that claim (e.g. if a claim is open or closed), the recovery of the worker (e.g. updates regarding a worker's functional abilities or expected duration of disability) and any vocational rehabilitation of the worker.

Employer Access to Employer Information

Employers may access all information that is generated by the WSCC in the management of their payroll and assessment accounts, 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.

Employer Access to Information Pertaining to a Review or Appeal

The WSCC will disclose any information that it considers relevant to an issue under review by the WSCC Review Committee when the employer is a party to the review. The process for an employer or claimant to request a review of a decision is outlined in Policy 08.01, Reviewing Decisions.

The Appeals Tribunal will disclose information that it considers relevant to an appeal when the employer is a party to the appeal.

Safety Inspection and Investigation Report Information Disclosure

All information contained in Inspection and Investigation Reports made under the *Safety Acts* is confidential. Any request for Inspection and Investigation Reports made under the *Safety Acts* must be submitted through an access to information request to the ATIPP Coordinator. Confidential information contained within Inspection Reports is managed according to relevant legislation, including the *Safety Acts.*

Disclosure to Government Departments and Agencies

The WSCC may enter into agreements with government departments or agencies as required by federal or territorial legislation, to access relevant information. Section 48 of the *ATIPP Acts* and Section 95 of the *Workers' Compensation Act(s)* detail the authorities allowing for the provision 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

Any media requests that include the WSCC releasing personal information or the identification of business information, must be submitted through an access to information request to the ATIPP Coordinator.

Auditors

The WSCC may disclose personal information to the Auditor General of Canada (OAG) or other prescribed person for audit purposes, in accordance to the ATIPP Acts.

Contracted 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. Any opinions resulting from such counsel is privileged and confidential.

Information and Privacy Commissioner

Under the authority of the *ATIPP Acts*, the WSCC may release personal information to the Information and Privacy Commissioners that is necessary for the performance of their duties.

Research

The WSCC may release information that does not include personal or third party business information, for the purposes of research, including statistical research. The WSCC may also release personal information for research purposes under the authority of the *ATIPP Acts*. Section 49, of the ATIPP Acts, outlines the requirements for releasing personal or other information for the purposes of research, such as removing individual identifiers, and ensuring the security and confidentiality of the information disclosed.

Other Access to Information Requests

All other requests for access to information are submitted to the ATIPP Coordinator in writing as outlined in section 6 of the ATIPP Acts. The WSCC may accept a request for information based on an oral request if:

- the applicant's ability to read or write in an Official Language is limited, and/or
- the applicant has a physical disability or condition that impairs their ability to make a written request.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 95; 110; 161; 162; 163; 164 Subsections 25(5)
Nunavut *Workers' Compensation Act*:	Sections 95; 110; 161; 162; 163; 164 Subsections 25(5)
Northwest Territories *Access to Information and Protection of Privacy Act*:	Sections 6; 24; 40; 41; 42; 48; 49; 52
Nunavut *Access to Information and Protection of Privacy Act*:	Sections 6; 24; 40; 41; 42; 48; 49; 52

Northwest Territories *Access to Information and Protection of Privacy Regulations*:	Sections 3; 4; 11; 12; 13; 14
Nunavut *Access to Information and Protection of Privacy Regulations*:	Sections 3; 4; 11; 12; 13; 14
Northwest Territories *Safety Act*	Section 11
Nunavut *Safety Act*	Section 11

POLICY RELATED DOCUMENTS

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

HISTORY

Policy 07.01 (Dec 4/15)	Access to Workers' Safety and Compensation Commission Information
Policy 07.01 (Sep/14/11)	Access to Information
Policy 07.02 (Sep/14/11)	Employer File Information Access
Policy 07.03 (Sep/14/11))	Inspection Reports Information Access
Policy 07.01 (Apr 1/08)	Non-Substantive Change (New Workers' Compensation Act(s)
Policy 07.01 (Apr 22/04)	Access to Claim File Information
Policy 07.01 (Oct 18/01)	Access to Claim File Information
Policy 07.01 (Aug 31/01)	Access to Claim File Information
Policy 07.01 (Apr 01/99)	Access to Claim File Information
Policy 07.01 (Jul 16/98)	Access to Claim File Information
Policy 07.01 (May 26/98)	Access to Claim File Information
Policy 07.01 (Jan 01/96)	Access to Claim File Information
Policy 1.003 (Jul 22/92)	Access to Claim Files – Issue in Dispute
Policy 1.004 (Jul 22/92)	Authorization of Representatives
Policy 1.005 (Nov 18/94)	Release of Worker's Information to Government Agencies
Board Directive 1.003D (Jul 22/92)	Access to Claim Files – Issue in Dispute

Workers' Safety & Compensation Commission

ACCESS TO WORKERS' SAFETY AND COMPENSATION COMMISSION INFORMATION

Board Directive 1.004D (Jul 22/92)	Authorization of Representatives

Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑏᑦ

Personal Information Privacy Protection

POLICY STATEMENT

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

DEFINITIONS

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

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

Claimant: "… a person claiming compensation;" (per ss. 1(1) of the Workers' Compensation Act(s)).

Employer: "…

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

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

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

(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

(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.

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.

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.

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);

- In instances, where collection from the individual may not result in accurate information being received to verify the eligibility of an individual to participate in a program or receive a benefit established under the Acts, the WSCC may collect this information from a third party; or,
- The information is collected for the purpose of investigating an offence under the Acts, or other law enforcement purpose; or,
- The information is collected for the purpose of collecting a fine or a debt owed to the WSCC.

Examples of the types of personal information that the WSCC collects include, but are not limited to:

- An injured worker's name, phone number, and address;
- Description of incident;
- Employer information;
- Earnings information;
- Medical information specific to the work-related injury/disease; and/or
- Medical information specific to other conditions that may impact the work-related injury/disease.

The stakeholder is required to cooperate with the WSCC in order to ensure that the required information is provided or made available through authorized consents or other means of requesting the required information.

If a claimant is considered to have willfully failed to provide information that the WSCC requires in order to decide a matter related to their claim, the WSCC may reduce, suspend or terminate compensation to the claimant, in accordance with Policy 04.01, Payment of Compensation.

If an employer fails to provide information that the WSCC requires, the employer may be subject to a penalty.

Notification to Claimant

The ATIPP Acts permit the WSCC to collect, use and disclose personal information necessary to administer the Workers' Compensation Acts. When the WSCC requires the collection of personal information, it will inform the individual who the information is about of the following:

- the purpose for collecting the information;
- the specific legal authority that allows the WSCC to collect the information; and,

- the title and contact information for the employee at the WSCC who can answer questions about the collection.

Notification regarding the collection of information may not be required where it might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected (e.g. investigations of misrepresentation).

Authorization for Third Party Disclosure of Personal Information to the WSCC

To expedite the collection of information necessary to make determinations on a claim, the WSCC may request the claimant to provide a signed authorization for disclosure form to allow health care providers and health care facilities to disclose personal health information to the WSCC. The request for authorization for disclosure will include details on the specific nature of the information being requested, the purpose of the collection, proposed uses and further disclosures, and any timelines or other parameters that may limit the scope of the information to be collected.

Where a claimant has signed an authorization for disclosure form for the collection of personal health information, the WSCC will ensure that the claimant is aware of the significance of the consent being provided and how it impacts the way personal information is handled.

Withdrawing or Limiting Authorization for Use, Collection, or Disclosure

A claimant may withdraw or limit their authorization for the use, collection or disclosure of information. If a claimant chooses to withdraw or limit their authorization for the use, collection, or disclosure of their personal information, it may impact whether a claim is entitled and/or a claimant's eligibility for compensation. Any reduction, suspension or termination of compensation due to required information not being provided will be done in accordance with Policy 04.01, Payment of Compensation.

The WSCC will only collect information that it requires in order to determine a matter under its jurisdiction.

Unsolicited Information

If unsolicited information is received regarding a stakeholder, the WSCC will investigate to determine if the information is relevant and accurate prior to adding it to the stakeholder's record/file.

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.

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.

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂᒃ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅᑏᑦ

Personal Information Privacy Protection

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, *Health Information Act*	Section 1(1)
Northwest Territories, *Access to Information and Protection of Privacy Act*	Sections 2; 40; 41; 42, 43
Nunavut, *Access to Information and Protection of Privacy Act*	Sections 2; 40; 41; 42, 43
Northwest Territories, *Workers' Compensation Act*	Sections 25; 30; 1(1); 72(3)(d); 73(c); 81; 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, *Archives Act*	Sections 1, 5, 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

New Policy

Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

REVIEWING DECISIONS

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)*

Review Requestor:	The individual, or organization, requesting a review of a decision.
Workers' Advisor:	"…the Workers' Advisor appointed under subsection 107(3)." (per ss. 1(1) of the *Workers' Compensation Acts*)

POLICY

General

The Northwest Territories' and Nunavut's *Workers' Compensation Acts* (*Acts*) provide the Review Committee with the authority to review a WSCC decision.

The WSCC Review Committee may exercise any of the powers available to the WSCC when making a decision under review.

Claimants and employers or their representatives may, in writing, request a review of a WSCC decision respecting a claim for compensation.

Employers may also request a review of a decision concerning:
- the classification of the employer and the determination of claims experience;
- the liability for, or the amount of, an assessment;
-
- whether the employer is a successor or related employer, or subject to common control; or
- whether the individual or organization is an employer; or
- whether a person is a worker of the employer.

Industry classification assessment rates set by the Governance Council are not reviewable by the Review Committee.
All WSCC decisions are in effect until the Review Committee renders a decision.

For clarity, an employer remains liable to pay any assessment owing to the WSCC pending the final decision of a review.

When the decision on a claim results in a change to benefits, the effective date is retroactive to the date the worker or dependent was determined to be entitled, or not entitled, to the benefits addressed by the review decision. Instances where the review decision results in an overpayment due to the claimant no longer being entitled to

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 t 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

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

- 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

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:

- substantive new information brought forward by a party to the review which requires an extension of time for review and response by other parties; clarification of issue(s) required by the Review Committee;
- resolution of preliminary issue(s) identified by the Review Committee;
- additional information required by the Review Committee; and
- Review Requestor indicates they are not ready to proceed with the review.

The deferral of a review may not be limited to a single occurrence, but may occur multiple times throughout the review process, if required.

When a review is deferred, the review process is interrupted. As a result, the 50 working-day timeline for the completion of a review will be suspended for the duration of the deferral(s).

If a deferral occurs, the reason for the deferral will be communicated to all the parties participating in a review.

Reconsidering a Review Committee Decision

The Review Committee may initiate a reconsideration of a Review Committee decision on its own initiative, or by request by a claimant, employer or any other person. Each request for reconsideration is evaluated on a case by case basis taking into account:

- any new evidence**;**
- whether there were errors or omissions in the evidence considered in the previous decision**;**
- whether the previous decision was consistent with legislation and WSCC policy;
- whether the requestor has a direct interest in the subject matter of the previous decision; and
- whether the party requesting the reconsideration is dealing with the WSCC in good faith and is providing accurate, timely and complete information to the best of their ability when the request for a reconsideration of a decision is made.

Requests for reconsideration must be received by the Review Committee within 3 months from the date that the review decision was made. If a request for reconsideration is due to new evidence, the Review Committee member responsible for making the decision may exercise their discretion to accept the request for reconsideration beyond 3 months from

the date of their decision, if the new evidence is material and may have led to a different decision. In order for evidence to be considered new evidence, it must meet the criteria outlined for New Evidence in this policy.

Before the Review Committee decides if a request for reconsideration is accepted, it will notify all parties to that decision of the reasons provided in support of the request for reconsideration. Each person participating in a review for which a reconsideration has been received will have the opportunity to respond to the reasons why a reconsideration was requested before the decision to accept the request for reconsideration is made.

When a request for reconsideration is received on the basis that the decision either allowed errors or omissions with regards to evidence or that the decision was inconsistent with WSCC policy, or the Acts, the decision of whether to accept the request for reconsideration will be made by a Review Committee member who did not make the original decision.

If a request for a review is denied by the Review Committee, the Review Requestor may still appeal the decision to the Appeals Tribunal, in accordance with the Acts.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections112; 113; 114; 115; 116; 128 Subsections 94(2); 109(2); 109(3) 126(1)(a).
Nunavut *Workers' Compensation Act*:	Sections 112; 113; 114; 115; 116;128 Subsections 94(2);109(2); 109(3);126(1)(a);

POLICY RELATED DOCUMENTS

Policy 00.02	Reconsidering a Decision
Policy 00.08	Decision Making
Policy 02.11	Successor and Related Employers
Policy 03.07	Calculation of Temporary Compensation
Policy 04.02	Medical Aid and Associated Costs
Policy 08.02	Appealing Decisions
Review Committee Terms of Reference	

HISTORY

Policy 08.01 (Feb/10/20)	Reviewing Decisions (Non-Substantive Change)

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

REVIEWING DECISIONS

Policy 08.01 (Jun 10/16)	Reviewing Decisions
Policy 08.01 (Sep 11/12)	Reviewing and Appealing Decisions
Policy 08.01 (Sep 24/09)	Reviewing and Appealing Decisions
Policy 08.01 (Sep 25/08)	Reviewing and Appealing Decisions
Policy 08.01 (Feb 19/04)	Reviewing and Appealing Decisions
Policy 08.01 (Apr 01/99)	Decision Review
Policy 08.01 (Jul 24/97)	Decision Review
Policy 08.02 (Feb 14/96)	Decision Review: Appeals Tribunal
Policy 08.01 (Feb 14/96)	Decision Review: Review Committee
Policy 25-07-01 (Apr 04/91)	Provision of Right of Review
Policy 30-01-01 (May 1/89)	Employer Appeals
Policy 9.001 (Apr 21/93)	Re-imbursement of Expenses/Wage Loss
Policy 20-03-02(Apr 21/93)	Re-imbursement of Expenses/Wage Loss
Policy 25-08-02 (Apr 21/93)	Re-imbursement of Expenses/Wage Loss

Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

APPEALING DECISIONS

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 the decision to the Appeals Tribunal.

DEFINITIONS

Appellant:	The individual or organization requesting the appeal of a decision.

POLICY

General

The Northwest Territories and Nunavut *Workers' Compensation Acts* (*Acts)*, subsection 117(2) establishes the Appeals Tribunal as independent 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. Only decisions made by the WSCC Review Committee can be appealed to the Appeals Tribunal. The Appeals Tribunal also has exclusive jurisdiction to determine whether a person is immune from action under section 63 of the *Acts*.

The Appeals Tribunal

The Appeals Tribunal is governed by the *Acts* and applicable Regulations including the *Appeals Tribunal Rules of Procedure.*

Claimants and employers or their representatives may request an appeal of a Review Committee decision to the Appeals Tribunal. A request to appeal a Review Committee decision must be made in writing to the Appeals Tribunal no more than three years after the day of the Review Committee's decision. An extension may be provided if the Appeals Tribunal considers there is a justifiable reason for the delay.

Once the Appeal Tribunal releases its written decision of an appeal, the decision will be implemented as soon as is reasonably possible by the WSCC operating unit.

APPEALING DECISIONS

Application Concerning Immunity from Action

In addition to the Appeals Tribunal's role as the final body for WSCC decisions, the Appeals Tribunal hears applications 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.

Review Committee Decisions

All Review Committee decisions are in effect until the Appeals Tribunal renders a decision.

For clarity, an employer remains liable to pay any assessment owing to the WSCC pending the final decision of an appeal.

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 provides advice or guidance to claimants or appellants on matters related to WSCC Policies, the appeal process, or the issues under appeal.

It is the Appellant's responsibility to contact the Office of the Workers' Advisor for assistance with their appeal and/or request the Workers' Advisor to make a representation on their behalf.

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.

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APPEALING DECISIONS

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 the *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 reasons, is sent to the applicant, the Appeals Tribunal and any party to the appeal. Governance Council decisions are final and cannot be appealed.

The Appeals Tribunal may seek clarification from the Governance Council of its decision, reasons, or direction to rehear prior to rehearing an appeal.

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.

The Governance Council may not direct a rehearing 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' Compensation Act*:	Sections 63; 114(2); 117; 119; 126; 128; 129; 130;131; 132; 133

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APPEALING DECISIONS

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 (Jun 10/16)	Appealing Decisions
Policy 08.02 (Sep 14/11)	Rehearing an Appeal
Policy 08.02 (Sep 25/08)	Rehearing an Appeal

Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

SAFETY TRAINING

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) is committed to eliminating workplace diseases and injuries by promoting workplace health and safety. The WSCC works to achieve this vision by ensuring that training required by Occupational Health and Safety (OHS) legislation meets the requirements of the WSCC, and that employers understand their responsibility for worker training.

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*.
Chief Inspector of Mines:	The person appointed by the WSCC to be the Chief Inspector of Mines under the authority of the *Mine Health and Safety Act(s)*.
Chief Safety Officer:	The person appointed by the WSCC to be the Chief Safety Officer under the authority of the *Safety Acts*.
Occupational Health and Safety Legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Act(s)*, *Safety Act(s)*, and *Explosives Use Act(s)*, and associated regulations.
Partner:	An individual or other entity who works with the WSCC towards achieving a common goal.

Training:	Training is instruction of how to do something. Training includes the application of knowledge in practical settings. Training ensures workers gain specific skills and are able to perform certain tasks.

POLICY

General

Under the authority of Occupational Health and Safety (OHS) legislation, the Chief Safety Officer and Chief Inspector of Mines approve specific training courses on behalf of the WSCC. The WSCC works with employers and third-party training providers to ensure that training required by OHS legislation is available.

WSCC Approved Safety Training

Approved safety training has a practical purpose and ensures that workers obtain specific occupational health and safety skills and/or knowledge that are required by OHS legislation. The completion of required safety training courses ensures that workers gain specific skills and/or knowledge and are able to perform their work, and/or supervise the work of others safely.

Under OHS legislation, the WSCC is responsible for designating specific safety training courses as an Approved Course and/or specific providers as an Approved Agency. The WSCC Chief Safety Officer and Chief Inspector of Mines are required to approve the following under the regulations.

Courses Approved Under the Occupational Health and Safety Regulations

Courses requiring Chief Safety Officer approval under the *Occupational Health and Safety Regulations* include the following.

- First Aid Qualification
    - Level 1 Qualification
    - Level 2 Qualification
- Emergency Medical Technologist Training
- Supervisor Regulatory Familiarization

Approving Agencies and Courses
In order to obtain status as an Approved Agency, or to have a course listed above designated as an Approved Course, a training service provider must apply to the Chief Safety Officer.

The WSCC maintains standards and processes that an organization or individual must meet before becoming an Approved Agency, or before a course becomes an Approved Course.

Monitoring and Auditing
The WSCC reserves the right to undertake quality assurance monitoring or a quality assurance audit of an Approved Agency or an Approved Course to ensure that it meets the standards and processes required by the WSCC at the time the Agency or Course was originally approved.

Suspending or Removing Approval
The Chief Safety Officer may suspend or remove approval of an Approved Agency or an Approved Course based on the results of monitoring or an audit showing that the Approved Agency or the Approved Course is not meeting the standards set by the WSCC.

Courses or Certification Approved Under the Mine Health and Safety Regulations

Courses or certification requiring approval by the Chief Inspector of Mines or a Panel created under authority of the *Mine Health and Safety Regulations* include the following.

- Supervisor's Certificate Level I
- Supervisor's Certificate Level II
- Shift Boss Certificate
- Mine Rescue Instructor
- Mine Rescue Certificate
- Supervisor Mine Rescue Certificate
- Blasters Certificate

Approving Courses
In order to have a course listed above designated as an Approved Course, a course provider must apply to the Chief Inspector of Mines.

The WSCC maintains standards and processes that an organization or individual must meet before a course becomes an Approved Course.

Providing Certifications
The Chief Inspector of Mines provides certifications for the completion of courses approved under the *Mine Health and Safety Regulations*.

Suspending or Removing Approval
The Chief Inspector of Mines may suspend or remove approval of an Approved Course based on the results of monitoring or an audit showing that the Approved Course is not meeting the standards set by the WSCC.

WSCC Registry of Approved Agencies and Courses

Once approved, information about Approved Agencies and Approved Courses is communicated to the public on the WSCC website.

Employer Responsibility

Approved safety training does not replace an employer's responsibility for providing safety training specific to an employer's workplace or their obligations as outlined in OHS legislation.

Under the authority of OHS legislation employers are required to provide workplace training beyond that approved by the WSCC. This training is beyond the scope of this policy and is the responsibility of the employer to identify and provide. During worksite inspections and investigations, a Safety Officer or Mine Inspector may require proof of additional employer provided training.

Safety Training Provided by Partners

The WSCC may work with individuals, organizations or government departments to promote and facilitate safety training that the WSCC does not provide. Training provided by the WSCC is limited to:

- Workplace Hazardous Materials Information System (WHMIS)
- Young Worker Certificate
- Mine Supervisor Certifications

Policy 00.09, Partnerships, outlines how the WSCC develops and supports partnerships for the promotion and facilitation of safety training.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Subsection 94(1)

SAFETY TRAINING

Nunavut *Workers' Compensation Act*:	Subsection 94(1)
Northwest Territories *Safety Act*:	Section 21
Nunavut *Safety Act*:	Section 21
Northwest Territories *Mine Health and Safety Regulations*:	Section 6.02; 7.06; 7.07; 7.21; 7.31; 8.58
Nunavut *Mine Health and Safety Regulations:*	Section 6.02; 7.06; 7.07; 7.21; 7.31; 8.58
Northwest Territories *Occupational Health and Safety Regulations*:	Section 1; 16.1(c); 18; 21(h); 35(4)(i); 58(2)(a)
Nunavut *Occupational Health and Safety Regulations*:	Section 1; 16.1(c); 18; 21(h); 35(4)(i); 58(2)(a)

POLICY RELATED DOCUMENTS

Policy 00.09	Partnerships
Policy 09.05	Safety Education, and Prioritizing Safety Outreach

HISTORY

Policy 09.01 (Mar 09/17)	Safety Education and Training
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

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Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

PRIORITIZING WORKSITE INSPECTIONS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) inspects and investigates worksites across the Northwest Territories and Nunavut to ensure safe work.

The WSCC prioritizes worksite inspections; ensuring that industries, employers, and worksites, with a greater likelihood for work-based injury or illness are the priority for inspections.

This policy provides guidance for prioritizing worksite inspections to efficiently use the financial and human resources of the WSCC in the regulation of safe work. However, nothing in the policy restricts a Safety Officer or Inspector of Mines from conducting an inspection they believe, and can reason, is necessary under authority of the *Safety Act(s)* or *Mine Health and Safety Act(s)*.

DEFINITIONS

Chief Inspector of Mines:	The person appointed by the WSCC to be the Chief Inspector of Mines under the authority of the *Mine Health and Safety Act(s)*.
Chief Safety Officer:	The person appointed by the WSCC to be the Chief Safety Officer under the authority of the *Safety Acts*.
Inspection:	Spot-checks of worksites to ensure ongoing compliance with occupational health and safety legislation.
Investigation:	A legal and factual inquiry performed by an Inspector of Mines or Safety Officer to examine a worksite, and collect necessary evidence that may be used in the enforcement of occupational health and safety legislation.
Inspector of Mines:	A person appointed by the Chief Inspector of Mines as an Inspector of Mines under authority of the *Mine Health and Safety Act(s)*.

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PRIORITIZING WORKSITE INSPECTIONS

Occupational health and safety legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Act(s)*, *Safety Act(s)*, and *Explosives Use Act(s)*, and associated regulations.
Reportable Incident:	A reportable incident is an incident that results in serious injury or death; an accident causing serious bodily injury; or a dangerous occurrence.
Safety Officer:	A person appointed by the Chief Safety Officer as a Safety Officer under authority of the *Safety Act(s)*.
Safe Workplace Program:	A WSCC program that recognizes employers who demonstrate a commitment to making workplace health and safety a core company value.
Worksite:	A worksite is any place where work is carried out.

POLICY

General

To ensure compliance with occupational health and safety legislation, and to reduce workplace injury and illness, the WSCC prioritizes worksite inspections on an ongoing basis to meet changing economic and industrial realities of the Northwest Territories and Nunavut.

Criteria for Prioritizing Worksite Inspections

The Northwest Territories and Nunavut contain many geographically remote worksites, as well as economic and industrial activities that can result in severe injury and illness. The always-evolving economic and industrial realities of the Northwest Territories and Nunavut require a responsive process for determining what worksites to inspect and when to inspect those worksites.

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PRIORITIZING WORKSITE INSPECTIONS

Criteria

The WSCC uses criteria to determine if a worksite should be a priority for WSCC inspection. The criteria help ensure that the WSCC is using its limited financial and human resources as efficiently as possible in pursuit of its Vision to eliminate workplace diseases and injuries. Worksites meeting one or more criteria will be more likely to have a worksite inspection. Worksites that do not meet any criteria, or meet fewer criteria than other worksites will see a worksite inspection from an Inspector of Mines or Safety Officer less frequently.

The WSCC prioritizes worksite inspections according to the following criteria. Priority worksites are worksites where an employer is present and the employer does not meet any one or more of the WSCC *Safe Workplace Program* criteria:

- an employer does not have an active occupational health and safety program in place according to the requirements of the *Safe Workplace Program*;
- an employer has time loss claim volume above the industry class average based on the last five years' performance;
- an employer has outstanding inspection directions for non-compliance with occupational health and safety legislation;
- an employer has had one or more fatality(ies) in the previous 12 months.

In addition to the criteria established by the *Safe Workplace Program*, the WSCC also uses the following criteria when prioritizing worksite inspections:

- an employer is present that had a conviction under occupational health and safety legislation in the previous 36 months;
- an employer is present that has received a stop work order in the previous 36 months due to failure to comply with directions of an Inspector of Mines or Safety Officer;
- an employer is present who is newly registered with the WSCC, or has reactivated their registration with the WSCC in the previous 12 months.

Inspections of a Worksite Not Included in a Prioritization Plan

While this policy provides guidance about how the WSCC prioritizes worksite inspections in order to efficiently use the financial and human resources of the WSCC in the regulation of safe work, nothing in this policy restricts a Safety Officer or Inspector of Mines from conducting an inspection they believe, and can reason, is necessary under authority of the *Safety Act(s)* or *Mine Health and Safety Act(s)*.

Inspections of worksites that do not meet the criteria for prioritizing worksite inspections occur when the Chief Inspector of Mines, Chief Safety Officer, or an Inspector of Mines or Safety Officer has reason to be concerned for the health and safety of a worker(s) after receiving information from a relevant and reliable source. In these instances, inspections

are conducted by an Inspector of Mines or Safety Officer in accordance with the authority of the *Safety Act(s)* or *Mine Health and Safety Act(s)*.

Inspection of Additional Non-Priority Worksites While Travelling

Inspections may also occur at worksites that do not meet the criteria for prioritizing worksite inspections when a Safety Officer is travelling to inspect a priority worksite in a community other than where WSCC employees are normally based. The cost of travel in the Northwest Territories and Nunavut is high, so to ensure that the WSCC is using its resources efficiently and effectively, a Safety Officer travelling to inspect a priority worksite may use the opportunity to inspect other non-priority worksites in that location. While these inspections are not a priority of the WSCC based on the criteria set in this policy they help to ensure safe work across the Northwest Territories and Nunavut.

Investigations

This policy does not direct the investigation of worksites. Investigations occur outside the scope of prioritizing worksite inspections. Investigations occur when a reportable incident occurs or when the Chief Inspector of Mines, or Chief Safety Officer determines that an Investigation is necessary according to the facts of the situation.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	subsections 89(b)
Nunavut *Workers' Compensation Act*:	subsections 89(b)
Northwest Territories *Safety Act*:	subsections 9(1); 9(3)
Nunavut *Safety Act*:	subsections 9(1); 9(3)
Northwest Territories *Mine Health and Safety Act*:	subsections 21(1)
Nunavut *Mine Health and Safety Act Safety Act*:	subsections 21(1)

POLICY RELATED DOCUMENTS

Policy 01.01	Industry Classification
Policy 01.02	Industry Re-Classification
Policy 09.04	Home Worksite Inspections

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PRIORITIZING WORKSITE INSPECTIONS

HISTORY

New

Chairperson

WSCC Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅ᐀ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴ

HOME WORKSITE INSPECTIONS AND INVESTIGATIONS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) inspects and investigates worksites across the Northwest Territories and Nunavut to ensure safe work.

This policy provides guidance on when the WSCC may inspect or investigate a home worksite. It is the position of the WSCC that home worksites are not inspected or investigated unless there is immediate concern for the health and safety of the worker.

DEFINITIONS

Chief Safety Officer:	The person appointed by the WSCC to be the Chief Safety Officer under the authority of the *Safety Acts*.
Home worksite:	A permanent or temporary residence kept or occupied by the worker, which is used as a place of work by the worker.
Inspection:	Spot-checks of worksites to ensure ongoing compliance with occupational health and safety legislation.
Investigation:	A legal and factual inquiry performed by an Inspector of Mines or Safety Officer to examine a worksite, and collect necessary evidence that may be used in the enforcement of occupational health and safety legislation.
Occupational health and safety legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Acts*, *Safety Acts*, and *Explosives Use Acts*, and associated regulations.
Reportable Incident:	A reportable incident is an incident that results in serious injury or death; an accident causing serious bodily injury; or a dangerous occurrence.

Safety Officer:	A person appointed by the Chief Safety Officer as a Safety Officer under authority of the *Safety Act(s)*.
Worksite:	A worksite is any place where work is carried out.

POLICY

General

To ensure compliance with occupational health and safety legislation, and to reduce workplace injury and illness, the WSCC conducts worksite inspections. It is the position of the WSCC that home worksites are not inspected or investigated unless there is immediate concern for the health and safety of the worker. This policy does however outline when the WSCC may inspect or investigate a home worksite when it is identified as a priority for inspection, as well as when the WSCC may inspect or investigate a home worksite within the broader authority of a Safety Officer outlined in legislation. This policy also outlines the steps taken prior to inspecting or investigating a home worksite.

This policy does not apply to home worksites where employees of the worker who resides in the home, or contract workers who do not reside in the home are present.

It is the position of the WSCC that an inspection of a home worksite will not occur unless it is necessary to ensure the health and safety of a worker(s) according to this policy.

Safety Officer Authority for Home Worksite Inspections

While this policy provides guidance about when the WSCC may inspect or investigate a home worksite, this policy does not restrict a Safety Officer from conducting an inspection they believe, and can reason, is necessary under authority of the *Safety Act(s)*.

When the WSCC may Inspect a Home Worksite

Home worksites are not normally a priority for worksite inspections as the WSCC does not normally have reason to be concerned for the immediate health and safety of workers at home worksites. The WSCC prioritizes worksite inspections according to Policy 09.03, Prioritizing Worksite Inspections. Any decision to prioritize the inspection of a home worksite occurs under the authority of Policy 09.03.

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HOME WORKSITE INSPECTIONS AND INVESTIGATIONS

Inspecting a Home Worksite Under a Prioritization Plan

In the rare situation where a home worksite is selected for inspection under a prioritization plan, and there is no immediate concern for the safety of the worker(s), then the Safety Officer gives the worker 24-hours notice before inspecting the home worksite.

After providing notice to the worker, the Safety Officer must receive written consent from the worker to enter the home worksite and perform an inspection.
While this policy does not restrict a Safety Officer from conducting an inspection under authority of the *Safety Act(s)* and according to Policy 09.03, it is the position of the WSCC that if a worker does not provide their written consent for an in-person inspection to occur, and there is no immediate concern for the safety of the worker, then an in-person inspection should not occur. A virtual inspection may occur if the worker does not agree to an in-person inspection but the Safety Officer believes an inspection is necessary and the worker agrees.

If a Safety Officer determines that they need to inspect a home worksite in-person, but the worker has not provided their written consent, the Safety Officer must inform the Chief Safety Officer of their decision to move forward with an in-person inspection of the worksite.

Inspecting or Investigating a Home Worksite Not Included in a Prioritization Plan

Discretion is provided to Safety Officers under authority of the *Safety Act(s)*, to conduct a worksite inspection outside of the prioritization plan if one or more of the following criteria have been met:

- The WSCC receives a *Report of Unsafe Work*; or
- The WSCC has reason to believe that the work activities are of a significant risk that a worker(s) may suffer a significant illness, injury, or death.

In the situation where a Safety Officer exercises their authority under the *Safety Act(s)* to conduct an inspection or investigation when a home worksite is not included in a prioritization plan, the Safety Officer is not required to provide the worker with 24-hour notice. Notice is not required in this instance as an inspection or investigation will be occurring as a result of a Safety Officer having reason to be concerned for the immediate health and safety of a worker(s) after receiving information from a relevant and reliable source.

If a Safety Officer determines that they need to inspect or investigate a home worksite that is not on a prioritization plan for inspection, the Safety Officer must inform the Chief Safety Officer of their decision to inspect or investigate the worksite.

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HOME WORKSITE INSPECTIONS AND INVESTIGATIONS

Safety Officer Actions When Inspecting or Investigating a Home Worksite

When inspecting a home worksite Safety Officers must ensure they are respectful of the worksite, as the worksite is the worker's home. A Safety Officer should limit their inspection to parts of the home being used by the worker(s) to work. Any parts of the home that are not being used for work should not be inspected.

Determining the area of a home used for work and not used for work may be difficult and discretion remains with the Safety Officer to determine what part of a home is being used to perform work. The discretion of the Safety Officer is important to ensure that they are able to inspect any aspect of a worksite to ensure that work is being carried out safely.

Inspecting and Investigating as a Team

When inspecting and investigating a home worksite, Safety Officers will complete the inspection as part of a team with a minimum of two Safety Officers. Inspecting and investigating a home worksite as a team supports workers to understand that the WSCC is respectful of their home worksite, and ensures the safety of Safety Officers.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	subsections 89(b)
Nunavut *Workers' Compensation Act*:	subsections 89(b)
Northwest Territories *Safety Act*:	subsections 9(1); 9(3)
Nunavut *Safety Act*:	subsections 9(1); 9(3)

POLICY RELATED DOCUMENTS

Policy 09.03	Prioritizing Worksite Inspections

HISTORY

New

Chairperson

Workers' Safety & Compensation Commission | ᐃᖅᑲᓇᐃᔭᖅᑎᓄᑦ ᐊᑦᑕᓇᖅᑐᓂ ᐊᒻᒪ ᓇᓪᓕᐅᒃᑯᒫᓂᒃ ᖃᐅᔨᓴᖅ

SAFETY EDUCATION AND PRIORITIZING OUTREACH

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) provides workplace health and safety education and outreach to employers to support their compliance with occupational health and safety (OHS) legislation. The purpose of safety education and outreach is to prevent workplace diseases or injuries before they happen.

This policy provides guidance for the development of safety education resources and the prioritization of safety outreach to efficiently use the financial and human resources of the WSCC. However, nothing in the policy restricts the WSCC from supporting an employer who asks for support to improve OHS at their workplace.

DEFINITIONS

Analysis:	The review of an issue in order to understand more. Analysis of OHS issues gives the opportunity for employers to identify and implement occupational health and safety improvements in their workplace.
Education:	Education raises awareness on a subject. Education focuses on transferring information to a person to increase understanding. Education gives context to why something is done the way it is-or is not-done at all.
Occupational Health and Safety Legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Act(s)*, *Safety Act(s)*, and *Explosives Use Act(s)*, and associated regulations.
Outreach:	Outreach is support that provides technical expertise, analysis, and consultation and collaborative services to improve workplace occupational health and safety programs and outcomes. Outreach is supported by the use of education resources.

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SAFETY EDUCATION AND PRIORITIZING OUTREACH

POLICY

General

The WSCC provides safety education and outreach support to employers to support their compliance with occupational health and safety legislation, and to prevent and eliminate workplace injury and illness. The WSCC works with employers to ensure the health and safety of workers across the Northwest Territories and Nunavut.

The WSCC identifies, prioritizes and offers support to employers who it determines can benefit from OHS compliance support. This policy outlines the WSCC's criteria for prioritizing the employers to whom it provides safety outreach and support.

Safety Education

WSCC safety education raises awareness about the importance of workplace safety in the Northwest Territories and Nunavut. The WSCC uses both external education resources and educational resources developed internally to promote knowledge on safety.

The WSCC provides safety education resources 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 developing a safety culture through youth education, school-based curriculum development and social marketing. Safety education resources are outreach tools used to communicate information about workplace safety.

Criteria for Prioritizing Safety Outreach

The Northwest Territories and Nunavut contain many geographically remote worksites, as well as economic and industrial activities that can result in severe injury and illness. The always-evolving economic and industrial realities of the Northwest Territories and Nunavut require a responsive process for determining which employers to reach out to in order to support for compliance with OHS legislation.

Criteria

The WSCC uses several criteria to determine if an employer should be a priority for WSCC safety outreach. The criteria help ensure that the WSCC is using its limited financial and human resources as efficiently as possible in pursuit of its Vision to eliminate workplace diseases and injuries. Employers meeting one or more criteria will be more likely to be offered WSCC safety outreach than other employers.

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SAFETY EDUCATION AND PRIORITIZING OUTREACH

The WSCC prioritizes employer safety outreach according to the following criteria. Priority employers are employers who do not meet any one or more of the WSCC *Safe Workplace Program* criteria:

- an employer does not have an active occupational health and safety program in place, according to the requirements of the *Safe Workplace Program*;
- an employer has time loss claim volume above the industry class average based on the last five years' performance;
- an employer has had one or more fatality in the previous 12 months.

In addition to the criteria established by the *Safe Workplace Program*, the WSCC also uses the following criteria when prioritizing employer safety outreach:

- an employer had a conviction under occupational health and safety legislation in the previous 36 months;
- an employer who is newly registered with the WSCC, or has reactivated their registration with the WSCC in the previous 12 months.

Employer Decision to Accept Outreach

The purpose of this policy is to establish the WSCC's criteria for prioritizing the employers who it will contact to provide outreach to in order to provide support for complying with OHS legislation. However, the decision on whether to accept or decline that support is the decision of the employer.

Supporting Employer Safety When an Employer is Not Included in a Prioritization Plan

While this policy provides guidance about how the WSCC prioritizes safety outreach to employers in order to efficiently use the financial and human resources of the WSCC, this policy does not restrict the WSCC from supporting an employer who asks for support to ensure their compliance with OHS legislation.

Support for an employer who does not meet the criteria for prioritizing safety outreach, but who has asked for support from the WSCC, will occur as and when WSCC resources are available.

Types of Employer Support

The WSCC provides safety outreach to employers to support their obligations under OHS legislation. This outreach includes technical expertise, analysis, and consultation and collaborative services to improve workplace occupational health and safety programs and outcomes, and education resources to employers so that they can improve workplace occupational health and safety programs and outcomes.

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SAFETY EDUCATION AND PRIORITIZING OUTREACH

Employer Responsibility for Safety

While the WSCC supports an employer to create a safe workplace, the responsibility for maintenance of a safe workplace is the responsibility of the employer alone. If a safe workplace is not maintained, the WSCC maintains the responsibility and authority to enforce OHS legislation to ensure the health and safety of workers across the Northwest Territories and Nunavut.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Subsection 89(b)
Nunavut *Workers' Compensation Act*:	Subsection 89(b)
Northwest Territories *Mine Health and Safety Act*:	Section 2
Nunavut *Mine Health and Safety Act:*	Section 2
Northwest Territories *Safety Act*:	Section 4; 7; 21
Nunavut *Safety Act*:	Section 4; 7; 21

POLICY RELATED DOCUMENTS

Policy 00.09	Partnerships
Policy 09.01	Safety Education and Training

HISTORY

NEW

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Chairperson

Workers' Safety & Compensation Commission

VIRTUAL AND DESKTOP REVIEW METHODS FOR INSPECTIONS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) inspects worksites across the Northwest Territories and Nunavut to ensure safe work and compliance with occupational health and safety legislation.

This policy provides guidance for the WSCC's use of virtual and desktop review methods for inspecting worksites. The purpose of using virtual and desktop review methods for inspections is to ensure the efficient use of the financial and human resources of the WSCC in the effective regulation of safe work.

Virtual and desktop review methods are only used if the findings of an inspection can reasonably be expected to be equal to or better than the expected findings of an in-person worksite inspection. As a result of a virtual or desktop inspection, there may be times where the findings of a virtual or desktop inspection identifies the need for a follow-up in-person inspection, or an investigation.

DEFINITIONS

Chief Inspector of Mines:	The person appointed to be the Chief Inspector of Mines under the authority of the *Mine Health and Safety Act(s)*.
Chief Safety Officer:	The person appointed to be the Chief Safety Officer under the authority of the *Safety Acts*.
Desktop Review:	A documentary analysis undertaken by a Safety Officer or Inspector of Mines at a location other than a worksite, for the purpose of performing a worksite inspection.
Geotag:	An electronic marker that confirms the geographical location of where a digital photograph or video is taken.
Inspection:	Examining and documenting worksites to ensure ongoing compliance with occupational health and safety legislation.

Inspector of Mines:	A person appointed by the Chief Inspector of Mines as an Inspector of Mines under authority of the *Mine Health and Safety Act(s)*.
Investigation:	A legal and factual inquiry performed by an Inspector of Mines or Safety Officer to examine a worksite, and collect necessary evidence that may be used in the enforcement of occupational health and safety legislation.
Occupational health and safety legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Act(s)*, *Safety Act(s)*, and *Explosives Use Act(s)*, and associated regulations.
Safety Officer:	A person appointed by the Chief Safety Officer as a Safety Officer under authority of the *Safety Act(s)*.
Virtual Review:	A virtual analysis undertaken by a Safety Officer or Inspector of Mines at a location other than a worksite, for the purpose of performing a worksite inspection. Virtual reviews may include the use of online meeting tools to assess a worksite remotely. They may also include videos, photos, digital documents, and any other source requested to inspect a worksite without the Safety Officer or Inspector of Mines being physically present.
Worksite:	A worksite is any place where work is carried out.

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VIRTUAL AND DESKTOP REVIEW METHODS FOR INSPECTIONS

POLICY

General

To ensure compliance with occupational health and safety (OHS) legislation, and to reduce workplace injury and illness, the WSCC inspects worksites across the Northwest Territories and Nunavut. This policy provides guidance for the WSCC's use of virtual and desktop review methods. The policy ensures these methods are used in ways that enhance the ability of Safety Officers and Inspectors of Mines to enforce OHS legislation across a large geographic area. Guidance for virtual and desktop reviews are provided in this policy for the enforcement of OHS legislation.

When To Use Virtual and Desktop Reviews

It is important to understand when Safety Officers and Inspectors of Mines may consider using virtual and desktop review methods. Use of these review methods may only occur when a Safety Officer or Inspector of Mines is confident that they can gather the information they require to successfully perform an inspection without being physically present at a worksite.

Before performing a virtual or desktop inspection that will not include an in-person review of a worksite, a Safety Officer or Inspector of Mines must first notify their supervisor of their plan to use either or both review methods instead of an in-person inspection.

Situations where virtual or desktop inspections may be appropriate include, but are not limited to:

- Protecting the health and safety of WSCC staff.
- Extreme weather or large travel distance means that a Safety Officer or Inspector of Mines will not be able to reach a worksite in an appropriate amount of time to perform an effective inspection.
- The purpose of the inspection is to review potential contraventions of OHS legislation that are not considered an immediate threat to the life, health, or safety of a worker. Examples include administrative contraventions of OHS legislation.
- A previous, in-person field visit was conducted and addressed similar issues.

It is also important for workers and employers to understand that participating in a virtual or desktop inspection may require greater participation of workers and employers to provide a Safety Officer or Inspector of Mines with the information they require to successfully perform their duties. Without a physical presence at a worksite more information may need to be collected and shared by the worker and employer with the Safety Officer or Inspector of Mines than would otherwise be necessary.

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VIRTUAL AND DESKTOP REVIEW METHODS FOR INSPECTIONS

Worksite inspections are prioritized and undertaken by the WSCC in accordance with *Policy 09.03, Prioritizing Worksite Inspections.* Prioritization ensures that industries, employers, and worksites with a greater likelihood for work-based injury or illness are the priority for inspections. Use of virtual and desktop review methods can allow Safety Officers and Inspectors of Mines to inspect more worksites than might otherwise be possible.

When considering if virtual or desktop review methods are an appropriate substitution for an in-person worksite inspection, Safety Officers and Inspectors of Mines must consider many different factors and questions. Examples of these factors and questions that may influence decision-making are listed below. This is not an exhaustive list.

- The outcomes of an inspection must reasonably be expected to have outcomes equal to or better than the outcomes of an in-person inspection.
- The inspection is occurring as part of WSCC inspection prioritization planning, or because the WSCC has received a Report of Unsafe Work or Employer's Report of Incident that requires a timely response.
- The intent of the inspection is to review documentation such as a safety program, proof of training, or other materials that can be easily shared virtually or digitally.
- Is it possible to speak with the necessary worker and employer representatives without being present in-person at a worksite?
- If the inspection is at a home worksite has the worker provided consent to inspect their home?

The primary reason for performing an inspection is to ensure compliance with and enforcement of OHS legislation. Before deciding on the best method for an inspection Safety Officers and Inspectors of Mines must consider the costs and benefits of performing virtual and desktop reviews in addition to or instead of an in-person inspection as part of their efforts to ensure compliance with OHS legislation.

Performing a Virtual or Desktop Review

When using virtual and desktop review methods to perform and inspection, Safety Officers and Inspectors of Mines use the same documentation processes they would if the inspection were happening in-person. Tools such as recording a virtual inspection, or geolocating or geotagging information documented during a virtual or desktop inspection should be used when possible.

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VIRTUAL AND DESKTOP REVIEW METHODS FOR INSPECTIONS

If it is not possible to record a virtual inspection or use geolocation or geotagging technology during a virtual or desktop inspection, a record of the location and time the information was collected, as well as what is depicted, and its significance must be recorded in the Safety Office or Inspector of Mines' inspection notes.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	subsections: 89(b)
Nunavut *Workers' Compensation Act*:	subsections: 89(b)
Northwest Territories *Explosives Use Act:*	Section: 11
Nunavut *Explosives Use Act:*	Section: 11
Northwest Territories *Safety Act*:	subsections: 9(1); 9(2); 9(3); 9(5)
Nunavut *Safety Act*:	subsections: 9(1); 9(2); 9(3); 9(5)
Northwest Territories *Mine Health and Safety Act*:	subsections: 21(1); 21(3); 23; 24
Nunavut *Mine Health and Safety Act Safety Act*:	subsections: 21(1); 21(3); 23; 24

POLICY RELATED DOCUMENTS

Policy 09.03	Prioritizing Worksite Inspections and Investigations
Policy 09.04	Home Worksite Inspections and Investigations

HISTORY

New

Chairperson

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ACCEPTING MINE PLANS

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) through the Chief Inspector of Mines is responsible for regulating compliance and enforcement of occupational health and safety (OHS) at mine worksites across the Northwest Territories and Nunavut.

Under the *Mine Health and Safety Regulations* the Chief Inspector of Mines has been granted authority for determining the acceptability of mine plans and for requiring the submission of mine plans on an annual basis.

This policy provides guidance for how the Chief Inspector of Mines uses the authority granted to them under the *Mine Health and Safety Regulations* to ensure the effective and safe operation of mine worksites across the Northwest Territories and Nunavut.

DEFINITIONS

Acceptable:	A standard that meets the expectations of the authority who must state something is acceptable. Saying something is acceptable is not the same as approval under authority of OHS legislation.
Chief Inspector of Mines:	The person appointed by the WSCC to be the Chief Inspector of Mines under the authority of the *Mine Health and Safety Act(s)*.
Manager:	A person appointed as a mine manager under subsection 8(1) of the *Mine Health and Safety Act*.
Occupational health and safety legislation:	The Acts and Regulations administered by the WSCC that concern occupational health and safety including the *Mine Health and Safety Act(s)*, *Safety Act(s)*, and *Explosives Use Act(s)*, and associated regulations.
Owner:	A person that meets the criteria within the definition of owner under the *Mine Health and Safety Act(s)*.

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ACCEPTING MINE PLANS

POLICY

General

To ensure compliance with occupational health and safety legislation at mine worksites, and to reduce workplace injury and illness, the Chief Inspector of Mines has been granted significant authority to determine the acceptability of a significant number of technical aspects of mine worksites.

This policy provides guidance for how the Chief Inspector of Mines determines what is an acceptable mine plan under authority of the *Mine Health and Safety Regulations*.

Acceptable Mine Plan

Under authority of the *Mine Health and Safety Regulations* the manager of a mine must make and keep complete and accurate plans acceptable to the Chief Inspector of Mines. Details about what must be included in the plans, and how the plans must be maintained at the mine are outlined in the regulations.

Determining Acceptability

The Chief Inspector of Mines is responsible for accepting mine plans under authority of the *Mine Health and Safety Regulations*. To fulfil this legislative requirement the Chief Inspector of Mines accepts mine plans where technical elements of the mine have been reviewed and approved by relevant experts, professional engineers, and qualified persons as defined by the *Mine Health and Safety Regulations*.

Mine operations are extremely complex operations, and the plans required to operate them safely are equally complex and varied. The Chief Inspector of Mines will work with mine owners, and mine managers to ensure that mine plans include information and approvals from relevant experts, professional engineers, and qualified persons.

Annual Submission of Plans

The owner or manager of a mine must submit mine plans to the Chief Inspector of Mines each year by March 31. The plans must include information up to date, to at least December 31 of the previous year.

The plans must be signed by the owner or manager of the mine to confirm that the plans are accurate as of the date of submission.

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ACCEPTING MINE PLANS

Stopping Work at a Mine

When work at a mine is to stop for more than 12 months, within 90 days of work stopping, the owner must send up to date plans to the Chief Inspector of Mines.

Failure to Submit Mine Plans

The Chief Inspector of Mines may require a mine survey and have updated mine plans prepared if the manager of a mine fails to provide plans that are up to date to the time work stopped at the mine. Costs for the survey and preparation of a plan may be recovered from the owner.

Responsibility of Mine Owner and Managers

Nothing about a Chief Inspector of Mines' acceptance of mine plans removes responsibility from a mine owner or manager to ensure the safety of workers at a mine. It remains the responsibility of the mine owner or manager to ensure that mine plans and corresponding health and safety measures are implemented according to a mine plan that has been accepted by the Chief Inspector of Mines.

Further, nothing about a Chief Inspector of Mines' acceptance of mine plans or other requirements of *Mine Health and Safety Act(s)* and *Mine Health and Safety Regulations* removes their ability to ensure enforcement of the OHS legislation whether through orders, application to the Supreme Court, or review of appeals made by another Inspector.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	subsections 89(b)
Nunavut *Workers' Compensation Act*:	subsections 89(b)
Northwest Territories *Mine Health and Safety Act*:	Section 1; 6 Subsection 8(1)
Nunavut *Mine Health and Safety Act*:	Section 1; 6 Subsection 8(1)
Northwest Territories *Mine Health and Safety Regulations*:	Sections 1.116; 1.117; 1.118; 1.119; 1.120; 1.122; 1.123; 1.124; 1.125

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ACCEPTING MINE PLANS

POLICY RELATED DOCUMENTS

Policy 09.03	Prioritizing Worksite Inspections

HISTORY

New

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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 Accounts:	The estimated amount of receivables the WSCC is 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' Compensation Act:*	Section 100
Nunavut *Workers' Compensation Act:*	Section 100
Northwest Territories *Financial Administration Act*:	Sections 59; 60; 61; 62
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)	Doubtful Accounts and Write-offs
Policy 10.01 (Nov 18/98)	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 01/89)	Collections
Operational Procedure 30-05-06 (May 10/89)	Doubtful Allowance and Write Offs
Finance Procedure 10-03-01	Allowance for Doubtful Assessment Receivable
Finance Procedure 10-04-01	Allowance for Doubtful Assessment Receivable

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Chairperson

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WORKERS' PROTECTION FUND INVESTMENTS

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.
Oversight Manager	An investment firm who is appointed by the asset owner to manage a portfolio on a discretionary basis.

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WORKERS' PROTECTION FUND INVESTMENTS

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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WORKERS' PROTECTION FUND INVESTMENTS

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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WORKERS' PROTECTION FUND INVESTMENTS

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Section 97; 98 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

Policy 10.02 (Sep 18/15)	Investment Policy
Policy 10.02 (Mar 16/11)	Investment Policy
Policy 10.02 (Apr 1/08)	Non-substantive change (New WC *Act(s)*)
Policy 10.02 (Jan 01/04)	Investment Policy
Policy 10.02 (Jan 01/04	Non-substantive change (Governance Council)
Policy 10.02 (Apr 1/99)	Investment Policy
Policy 10.02 (Jan 21/98)	Investment Policy

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Chairperson

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PROCUREMENT

POLICY STATEMENT

The Workers' Safety and Compensation Commission (WSCC) is committed to the responsible stewardship of the Workers' Protection Fund. To support this, the WSCC treats all prospective goods and services providers fairly and consistently while seeking to obtain the best value.

DEFINITIONS

Alternative Dispute Resolution (ADR):	Resolution of a dispute through negotiation, mediation, arbitration, or similar means, as opposed to litigation.
Best Value:	The most advantageous balance of price, quality and performance.
Bid:	An offer to sell or provide goods, services, real property, or a combination of these, that is submitted to the Senior Purchasing and Contracts Officer, on behalf of a Spending Authority, in response to a Request for Tender.
Bidder:	"…a person who submits a bid." (per ss. 1(1) of the *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.
Final Payment:	The payment that brings the balance owed by the WSCC to zero.
Northern Content:	The dollar value of the goods and services required by 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:	As per s.105 of the *Workers' Compensation Acts*, professional services include services provided by health care providers, lawyers, accountants, actuaries, and other professionals.
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 $5,000 and less than $25,000.
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 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 services 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.

Only Spending Authorities may enter into contracts on the WSCC's behalf. Spending Authorities can only enter into contracts when sufficient funds are available.

A Spending Authority must take reasonable steps to ensure the best value possible when making purchases on behalf of the WSCC, and to document these steps.

Only the Vice President, Performance and Corporate Services, or another Spending Authority from the Information Services Unit may enter into contracts for the purchase of computer hardware or software.

Purchases $25,000 or Less

A Spending Authority may purchase goods or services with an estimated value of $25,000 or less without submitting a Request for Tender (RFT) or Request for Proposal (RFP). These purchases may be made directly from a goods or services provider using a purchase order, Contract for Service, or corporate credit card.

Spending Authorities can proceed on their own or ask Financial Services for assistance in obtaining quotes and issuing a purchase order or contract for services for purchases valued at $25,000 or less.

Best practice:

- Whenever possible, for purchases above $5,000, obtain a minimum of two (2) written quotations from suitable businesses. Spending Authorities procuring goods and services under $25,000 are responsible for ensuring that the best value is obtained for the WSCC.
- Requests for quotations are to follow the established priority list under the Prioritization of Northern Business section.
- Northern Incentive Adjustments to quotations will not apply when the goods or services are valued at $25,000 or less.

If there is only one local northern business, additional quotations are not necessary.

The Senior Purchasing and Contracts Officer will be contacted when a purchase for services is greater than $25,000 in order to provide guidance with the procurement process.

Prioritization of Northern Businesses

The WSCC supports northern businesses. A northern business is a business that supplies goods or services within the Northwest Territories or Nunavut and meets the following criteria:

- A corporation registered under the *Business Corporation Act* of the Northwest Territories or Nunavut or the Canada Business Corporations Act and 51 percent of voting shares are owned by residents of the territory in which the corporation is registered;
- A co-operative registered under the *Co-operative Associations Act* of the Northwest Territories or Nunavut and at least 51 percent of voting shares are owned by residents of the territory in which the co-operative is registered;

- A partnership, or the majority interest in the partnership, is owned by residents or eligible corporations of the Northwest Territories or Nunavut; or
- A sole-proprietorship where the sole-proprietor has been a resident of the Northwest Territories or Nunavut for a year prior to submitting a bid or proposal on an RFT or RFP.

In addition to the above criteria, a northern business:

- Operates from a *bona fide* place of business owned or leased from year to year (or for a longer term of years) in the Northwest Territories or Nunavut and has done so prior to the date of its application for northern priority; and,
- Hold a current business license issued by a municipal corporation or government of the Northwest Territories or Nunavut.

Purchases $25,000 or less

Where possible, the Spending Authority will attempt to make purchases from northern businesses from the local community.

If a request for quotations is made, the Spending Authority will prioritize quotes as follows:

1. Northern businesses from the local community (first priority);
2. Northern businesses (second priority); and
3. All other businesses (third priority)

Purchases above $25,000 – Northern Incentive Adjustment

The Northern Incentive Adjustment (Incentive) is applied to bids or proposals from a qualifying northern business. When a northern business submits a bid or proposal including a completed *Business Incentive for Northern Contractors* form, the WSCC deducts the 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.

Authorities

The WSCC Chief Financial Officer, or delegate, reviews all Incentive deductions from eligible bids and proposals submitted to the WSCC.

The Governance Council, after consultation with the President, may approve an exception to the Incentive.

Disqualification and Damages

The Spending Authority may, without Governance Council approval, disqualify a 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 after the bid or proposal has been awarded.

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.

Request for Tenders

A Request for Tender is issued to promote competitive bidding.

The WSCC issues an RFT when the following conditions are met:

- The Spending Authority estimates that a contract is valued at greater than $25,000;
- 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.

An RFT includes the following information:

- The address to which the bid must be submitted;
- The deadline, including the date and hour, after which no further bids shall be accepted;
- 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.

Opening of Bids

The tender bid opening is completed by the Senior Purchasing and Contracts Officer or their delegate, a second WSCC employee and a witness. The Spending Authority cannot participate in the tender opening.

Tender bid openings are open to the public and completed as soon as possible after the tender submission deadline. 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 following is announced publicly:

- The name of the bidder;
- If a required security is in the bid; and
- The bid dollar amount.

The above information is recorded in a register and signed by 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 bid meets the requirements of the RFT. The Northern Incentive Adjustment is applied at this time, if a bid includes a *Business Incentive for Northern Contractors* form.

The Senior Purchasing and Contracts Officer and the Spending Authority decide 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
- It determines that the integrity of the bidding process is jeopardized by accepting or requesting further information for a bid that does not meet all RFT requirements.

Any bid that does not include/meet the mandatory requirement(s) is automatically disqualified.

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 Request for 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 the capability in all respects to fully perform the contract requirements, and the integrity and reliability to assure performance of the contract obligations.
- Responsive - the WSCC looks at whether or not the bid conforms in all material respects to the RFT.

If a bidder has been awarded a contract for service with the WSCC in the past, the performance of the bidder in completing that contract may be taken into consideration as part of the evaluation process and may be used to determine if a bidder is responsible.

Notification

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 and dollar amounts of unsuccessful bids. This information will normally be published on the WSCC corporate website.

Request for Proposal

A Spending Authority issues a Request for Proposal when:

- The WSCC cannot clearly define the requirements of a product or service;
- Negotiation is expected with proponents to finalize goods or service requirements.

An RFP includes the following information:

- The address to which the proposal is submitted;
- The deadline, including the date and hour, after which no further proposals shall be accepted;
- 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 of Proposals

The proposal opening is completed by the Senior Purchasing and Contracts Officer or their delegate, a second WSCC employee and a witness. The Spending Authority cannot participate in the proposal opening.

Proposal openings are open to the public and completed as soon as possible after the proposal submission deadline. The WSCC does not reimburse any proponents or members of the public for costs related to attending the opening.

During the proposal opening, the following is announced 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.

Evaluating and Awarding Proposals

A Proposal Evaluation Committee is struck for evaluating all proposals received in response to an 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 requirements 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 references 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 that 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.

Notification

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.

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 RFT or RFP criteria and their own evaluation;
- Information on the successful bid or proposal; and
- Information on all unsuccessful bids or 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; or
- Only one party is available and capable of performing the contract.

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 sole source criteria found on the Sole Source Authorization Form. The

Senior Purchasing and Contracts Officer and the Corporate Comptroller review all sole-source contracts and forward 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 Chief Occupational Health and Safety Officer is delegated sole-source contract authority up to a maximum $25,000 per air-charter.

Sole-source contracts over $25,000 are reported to the Governance Council Audit Committee quarterly.

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.

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 and tracking the budget. 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 terms and conditions of the 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.

LEGISLATIVE AUTHORITIES

Government of Canada Agreement on Internal Trade	Chapter 5
Northwest Territories *Access to Information and Protection of Privacy Act*	subsection 23(4)(i)
Nunavut *Access to Information and Protection of Privacy Act:*	subsection 23(4)(i)
Northwest Territories *Financial Administration Act*:	Section 89
Nunavut *Financial Administration Act*:	Section 89

PROCUREMENT

Northwest Territories *Government Contract Regulations*:	Section 5; 6; 7, 8, 12, 13, 15, 16 Subsection 2(2); 10(3)(c)
Nunavut *Government Contract Regulations*:	Section 5; 6; 7, 8, 12, 13, 15, 16 Subsection 10(3)(c)
Northwest Territories *Workers' Compensation Act*:	Section 67
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 (Mar 09/17)	Procurement
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*)
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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PREVENTING AND INVESTIGATING ABUSES AND OFFENCES

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*).

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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PREVENTING AND INVESTIGATING ABUSES AND OFFENCES

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.

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.

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

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' Compensation Act*:	Sections 91; 93; 141; 142; 148; 149; 150; 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 Information and Protection of Privacy Act*:	All
Nunavut *Access to Information and Protection of Privacy Act*:	All
Northwest Territories *Financial Administration Act*:	Sections 103; 104; 105; 106
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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PREVENTING AND INVESTIGATING ABUSES AND OFFENCES

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

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Chairperson

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FUNDING STRATEGY

POLICY STATEMENT

Under the authority of the *Workers' Compensation Acts (Acts)* of the Northwest Territories and Nunavut, the Workers' Safety and Compensation Commission's (WSCC) Governance Council must ensure the proper stewardship of the Workers' Protection Fund (the Fund). To ensure the financial stability of the Fund and the needs of both workers and employers, the Governance Council must maintain the desired ratio of assets to liabilities. This policy outlines the WSCC's funding strategy to ensure the long term financial security and stability of the WSCC and the Fund.

DEFINITIONS

Assessment Rate:	Financial compensation paid by employers to cover the administrative costs of the WSCC, the cost of compensation to injured workers or their dependants, as well as payment of pensions, medical aid, and rehabilitation.
Funding Ratio:	Total assets over total liabilities.
Provisional Assessment Rate:	The rate employers would pay if there was only one rate for all employers, and the rate the WSCC uses as a starting point when setting individual subclass rates to ensure the financial stability of the Workers' Protection Fund.
Workers' Protection Fund:	"…is one indivisible fund for the purposes of paying compensation and determining assets and liabilities." (per ss. 67(2) of the *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.

FUNDING STRATEGY

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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FUNDING STRATEGY

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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FUNDING STRATEGY

Investments

The WSCC's investment strategy is set out in Policy 10.02, Investment Policy.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act:*	Sections 67(2); 67(3); 67(4); 83(2)
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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REPORTING AN INJURY, DISEASE OR DEATH

POLICY STATEMENT

Workers, employers and health care providers are all responsible to report workplace injuries to the Workers' Safety and Compensation Commission (WSCC). This policy outlines the reporting requirements and responsibilities of each party 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 *Workers' Compensation Acts*).
Disability:	"means the condition of having temporarily reduced physical, functional, mental or psychological abilities caused by the worker's personal injury or disease, that results in a loss of earning capacity" (per ss. 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	First aid is a one-time treatment of minor injuries. This may include, but is not limited to cleaning minor cuts, scrapes, or scratches; treating a minor burn; applying bandages and/or dressings; applying a cold compress, cold pack, or ice bag; or other minor injuries which do not

	require medical treatment beyond the date of incident.
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*).
Injury:	Physical or psychological harm or damage. An injury includes exposure to a foreign or contagious substance that may result in an immediate or delayed reaction.
Medical Aid:	"… includes a) drugs, medical devices, medical care, dental care, surgery, psychiatric or psychological care, physical rehabilitation and any other health service provided by a health care provider or health care facility, b) the transportation of an injured or diseased worker for the purpose of receiving medical aid, and c) any other treatment to facilitate the recovery of an injured or diseased worker or to mitigate the worker's disability or impairment;" (per ss. 1(1) of the *Workers' Compensation Acts*).
Physician:	"…a person who is authorized by law to practice medicine in the place where the person is so practicing" (per ss. 1(1) of the *Workers' Compensation Acts*).
Worker:	"The following persons are deemed to be workers for the purposes of this Act: (a) a person who enters into or works under a contract of service;

(b) a person who, although not under a contract of service, is
   i. undergoing training or probationary work as a preliminary to employment with an employer,
   ii. engaged in, or training for, rescue or recovery services, ambulance services 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
(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 worker, employer, health care provider or dependant to, at any time, provide information needed for the entitlement or on-going management of a claim, in accordance with the *Workers' Compensation Acts*.

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REPORTING AN INJURY, DISEASE OR DEATH

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 to determine if a claim is compensable, and if compensable, to verify the worker's income for calculating compensation payments and the duration of compensation.

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.

In accordance with the *Worker's Compensation Acts,* 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.

A worker that does not initially meet the aforementioned criteria, and is not required to submit a *Worker's Report of Injury* may, in some circumstances, be required to submit a *Worker's Report of Injury* if the criteria is met at a later time. For example, a worker that initially only requires first aid, may at a later time require medical aid for the injury or disease arising out of, and during the course of employment.

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.

A worker is required to submit their claim within one-year after the day of the injury or diagnosis of the work-related injury or 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 or diagnosis of the work-related injury or disease, the worker must submit a letter, with justification, 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

In accordance with s. 18 of the *Workers Compensation Acts*, Employers are required to submit an *Employer's Report of Incident* to the WSCC within three business 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 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.*

Employer's have additional reporting requirements under the *Safety Acts*, and *Mine Health and Safety Acts*. This policy in no way absolves the employer of their reporting requirements outlined in the Northwest Territories and Nunavut *Safety Acts, Occupational Health and Safety Regulations,* Part 2 – Reporting, and the *Mine Health and Safety Acts, Mine Health and Safety Regulations,* Part XVI – Reportable Incidents and Dangerous Occurrences.

Reporting Penalty

An employer who fails to submit a completed *Employer's Report of Incident* in accordance with this policy or other required documentation to the WSCC within three business 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 business days.

A Manager of Claims Services may decide not to apply a reporting penalty if the employer complies and provides the WSCC with sufficient 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 business days of attending to, examining, or treating a worker who suffered an injury, disease, or death arising out of, and during the course of employment. 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 business days may be subject to a $250 penalty.

The applicable payment for medical aid reports provided to the WSCC may be reduced when medical reports or other required reports and information are not received by the WSCC within three business days of a request being made.

A Manager of Claims Services may decide not to apply a reporting penalty if the health care provider complies and provides the WSCC with sufficient written justification for the failure to provide information within the required timelines.

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' Compensation Act*:	Sections: 17; 18; 19; 20; 25; 30 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

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 (Feb 10/20)	Reporting an Injury, Disease or Death (Non-Substantive Change)
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
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

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Chairperson

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REPORTING AN INJURY, DISEASE OR DEATH

Reporting Requirements

Worker

Seek Medical Aid for Injury

Submit a Worker's Report of Injury within 1 year of injury or diagnosis.

Exceptions to the 1 year limit may be granted if a justifiable reason is presented in writing

In cases of Worker Fatality
WSCC will notify dependents they may be eligible for compensation

Employer

Submit *Employer's Report of Incident* to WSCC within 3 working days

Provide Copy of *Employer's Report of Incident* to worker

In cases of Worker Fatality
Submit *an Employer's Report of Fatal Injury* in addition to *Employer's Report of Incident*

Health Care Provider

Submit Medical Reports to WSCC within 3 days of attending Injured Worker

Provide medical information about the worker at the request of the WSCC