

**Chapter:** Introduction

**Legislative authority:** part 8

*Prevention statement*

*Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.*

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## Purpose

This policy outlines how the Act and policies apply to matters that arose before the coming into force of the Act on July 1, 2022.

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## Definitions

**board** means the Workers' Safety and Compensation Board

**former Occupational Health and Safety Act** means the *Occupational Health and Safety Act R.S.Y. 2002*

**former Workers' Compensation Act** means the *Workers' Compensation Act S.Y. 2008*

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## Policy statement

### 1. General

Under the Act, the Yukon Workers' Compensation Health and Safety Board is continued as the Workers' Safety and Compensation Board.

At common law there is a presumption that despite the repeal of a statute, vested or accrued benefits and rights are not affected. As such, subject to the transition provisions of the Act, the rights and benefits of an injured worker are governed by the legislation in effect at the time of the injury.

Procedural provisions are not accrued rights of any person but are about process. Therefore, subject to the transition provisions in the Act, procedural provisions in the new Act apply both to existing or ongoing events and current and future events.

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**Effective date:** July 1, 2022

## 2. Transition provisions

### *2.1 Entitlement to compensation*

Subject to Part 8, Division 1 of the Act, entitlement to compensation and the rights and privileges relating to a work-related injury are determined in accordance with the legislation in force on the date of the work-related injury.

### *2.2 Permanent impairment benefits*

Compensation payable under former Workers' Compensation Acts for a permanent impairment that was not paid before the coming into force of the Act must be paid, when the worker is eligible, as a lump sum.

### *2.3 Annuities*

An annuity payable under former Workers' Compensation Acts that was not paid before the coming into force of the Act must be paid, when the worker is eligible, as a lump sum.

### *2.4 Indexing*

After the coming into force of the Act, section 126 of the Act applies in determining average weekly earnings, the maximum wage rate and the compensation payable to a spouse and dependants of a deceased worker, in respect of work-related injuries that occurred before the coming into force of the Act.

### *2.5 Requests for review and appeals under former Workers' Compensation Act*

A request for a determination of whether a right of action is removed that was made under subsection 50(5) of the former *Workers' Compensation Act* but not heard before the coming into force of the Act is continued as an application under section 128 of the Act.

A request for review that was made under section 53 of the former *Workers' Compensation Act* but not heard before the coming into force of the Act is continued as a request for reconsideration under subsection 153(1) of the Act.

An appeal that was made under section 54 of the former *Workers' Compensation Act* but not heard before the coming into force of the Act, is continued as an appeal under subsection 155(1) of the Act.

An appeal that was made under section 85 of the former *Workers' Compensation Act* relating to an assessment but not heard before the coming into force of the Act is continued as an appeal under subsection 153(2) of the Act.

A right to request a review or to appeal under the former *Workers' Compensation Act* that existed immediately before the coming into force of the Act continues, respectively, as a right to request a reconsideration or to appeal under the Act and the time limits that applied to making the request or appeal under the former *Workers' Compensation Act* apply in respect of making the request or appeal under the Act.

A request by an employer for access to claim file information under subsection 56(2) of the former *Workers' Compensation Act* that had been made but not completed on the coming into force of the Act is treated as a request under subsection 156(2) of the Act.

### ***2.6 Policies of the board***

Policies of the board of directors that were in force at the time of the worker's injury will apply, unless a subsequent policy states otherwise.

Under the Act, the board of directors has the authority to establish policies, including policies under earlier *Workers' Compensation Acts*

### ***2.7 Board orders***

Any board order made under the former *Workers' Compensation Act* that was in effect immediately before the coming into force of the Act remains in effect until it is replaced or revoked by the board of directors.

### ***2.8 Appeals under the former Occupational Health and Safety Act***

An appeal that was made under section 17, 26 or 45 of the former *Occupational Health and Safety Act* but not heard before the coming into force of the Act is continued as a request for reconsideration under section 73 of the Act.

A right of appeal under section 17, 26 or 45 of the former *Occupational Health and Safety Act* that exists immediately before the coming into force of the Act continues as a right to request a reconsideration under section 73 of the Act.

### ***2.9 Codes of practice***

Any code of practice made under the former *Occupational Health and Safety Act* that was in effect immediately before the coming into force of the Act remains in effect until it is replaced or repealed by the board of directors.

### ***2.10 Contracts and agreements***

Any agreement, memorandum of understanding, contract, licence, right or obligation that was in effect immediately before the coming into force of the Act in which the Yukon Workers' Compensation Health and Safety Board is named, and any instrument in which the Yukon

Workers' Compensation Health and Safety Board is named, must be construed and given effect as if the Workers' Safety and Compensation Board ('the board') were named.

### 3. Amendments to the Act

When any amendments are made to the Act, the board of directors will, as soon as practicable, make any changes to its policies that are required to ensure consistency with any amended provisions or section references to the Act.

Where any inconsistency exists between a provision of a policy of the board of directors and a provision of the Act, the provision of the Act will prevail to the extent of the inconsistency.

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## History

- IN-03 Transition Policy, effective January 1, 2013, revoked July 1, 2022
- IN-13 Transition Policy – *Workers' Compensation Act 2008*, effective July 1, 2008, revoked January 1, 2013
- IN-03 Transition Policy – *Workers' Compensation Act 2008*, effective April 26, 2005, revoked July 1, 2008
- PL-03 Transition Policy – Amendments to The *Workers' Compensation Act*, effective April 26, 2005, revoked July 1, 2008
- GC-02 Bill 83 Transition Policy, effective January 1, 2001, revoked April 26, 2005
- GC-09 Transitional Clause, effective March 7, 1995, revoked April 26, 2005
- GC-12 2002 Revised Statutes of the Yukon Transition Policy, effective December 2, 2003, revoked April 26, 2005