



Policy Amendment Proposal GN-07 Negligence Cost Transfer

This policy amendment proposal relating to a negligence cost transfer will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed amended Negligence Cost Transfer policy will reflect minor changes to ensure consistency with the provisions of the Act.

A five-year policy review plan will be developed later in 2022. After July 1, 2022, all amended policies to align with the new Act will be prioritized for a more detailed review.

The purpose of this policy is to provide information on how costs are transferred when negligence has been determined.

Relevant sections of the Act

The following sections of the Act are relevant:

- 136 employer's experience accounts

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions

Board Orders/Regulations

N/A

Current policy

[GN-07 Negligence Cost Transfer](#)



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The board of directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the board of directors approving any amendments.

Engagement on this policy proposal closes on **March 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) on our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by March 31, 2022, by mail or drop off at
*Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8*

By the end of April a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



Policy Amendment Proposal

GN-07 Negligence Cost Transfer

Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation 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.

Purpose

This policy provides information on how costs are transferred when negligence has been determined.

Definitions

board means the Workers' Safety and Compensation Board

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

negligence means a breach of either duty of care or standard of care that has caused injury or death

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written, or oral, express or implied and as further defined in section 77 of the Act

Policy Statement

1. General

If a worker's work-related injury results (in whole or in part) from the negligence of an employer who is not the employer of the injured worker or from the negligence of a worker of that employer:

- a. the board may charge the costs of any claim to the experience account of that employer; and
- b. if the employer is in a separate class or sub-class of industry from the injured worker's employer, the board may charge the costs of any claim to the class or sub-class in which that employer is included, in proportion to the degree of negligence that the board attributes to the employer or the employer's worker.



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Upon the request of the injured worker's employer or where deemed appropriate by the board, the board will determine whether there was negligence on behalf of another employer or worker of that employer. Although the board will attempt to identify cases where there is the potential for applying this provision, the primary responsibility rests with the injured worker's employer to request a determination. Requests from the injured worker's employer must be made in writing within 24 months of the date of the injury.

Where more than one employer (including the injured worker's employer) is found to be negligent in a particular case, the past and future injury costs of the claim will be apportioned among the negligent employers' experience accounts based on degree of negligence.

Where the board is satisfied that the injury or death of a worker is due to the negligence of more than one employer and degrees of negligence cannot be determined, the costs of the injury will be charged equally to the experience accounts of the employers involved.