



Policy Amendment Proposal EA-15 Employer's Notice of Injury

This policy amendment proposal relating to an employer's notice of injury 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 Employer's Notice of Injury policy will reflect minor changes to ensure consistency with the provisions of the Act and will incorporate changes relating to administrative penalties and prosecution.

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 with regards to an employer's requirement to provide notice of injuries to the board.

Relevant sections of the Act

The following sections of the Act are relevant:

- 89 employer's notice to board

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions
- new policy title to reflect Act terminology
- new provisions relating to administrative penalties and prosecution
- sets out consequences for failure to provide notice of a work-related injury (currently Board Order 2008/20, Employer Failure to Provide Notice of a Work-related Injury)
- addition of immediate requirement to report serious incidents and injuries due to amalgamation of safety legislation

Board Orders/Regulations

The following board order/regulation will be revoked as content has been incorporated into the policy amendment proposal:

- [2008/20 Employer Failure to Provide Notice of a Work-related Injury](#)



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Current policy

[EA-15 Employer Penalties for Failure to Provide Timely Notice of a Work-Related Injury](#)

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



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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 about an employer's requirement to provide written notice of injuries to the board.

Definitions

board means the Workers' Safety and Compensation Board

work-related injury means an injury or death arising out of an in the course of a worker's employment, resulting from

- a. a chance event occasioned by a physical or natural cause,
- b. a willful and intentional act, not being the act of the worker,
- c. a disablement, or
- d. an occupational disease,

but does not include

- e. mental stress, or
- f. an injury resulting from any decision by the worker's employer relating to the worker's employment, including a change in the work to be performed or working conditions, or promotion, transfer, demotion, lay-off-discipline, suspension or termination

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

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



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Policy Statement

1. General

An employer must give the board written notice, in the form required by the board, of any, or the possibility of any, work-related injury that comes to their attention, within three days after the employer receives the information, and must:

- describe the circumstances that gave rise to the work-related injury, including the time, date, place and nature of the work-related injury; and
- send a copy of the notice to the worker.

An employer must also provide the board with any further information that the board requests regarding the work-related injury within a reasonable time.

The notice provides the board with important information needed to adjudicate and manage a claim efficiently and effectively. The employer must provide notice even if they are not sure the injury is work-related. Late notices by employers causes delays in processing claims and interferes with the early and safe return to work process. It may also cause an injured worker financial hardship due to possible delays in receiving benefits.

The Act gives the board authority to levy administrative penalties or prosecute employers who fail to provide notice within the time required.

2. Notice of Injury

Employers are required to give **the board** written notice of a worker's work-related injury or possibility of a work-related injury that comes to the employer's attention within three days, after the employer receives the information. The employer may receive information about a work-related injury, or possibility of a work-related injury from sources such as:

- the injured worker;
- a supervisor, co-worker or witness;
- **the board**; or
- a **medical practitioner** or other health care provider.

The **required form** can be completed on-line or submitted by fax, mail, email, or in person.



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3. Possibility of a Work-related Injury

In many cases, there is a clear cause-and-effect relationship between the work and the injury, and reporting the injury is straight forward. In some cases, it is not obvious whether there is an injury, or whether an injury is work-related.

In the following examples, it is not immediately obvious whether the worker has an injury, or whether the worker's injury is work-related. Since there is a possibility that it is, the employer must **provide notice to the board**:

On Monday morning, Steve calls in sick. On Tuesday, he comes in to work with a doctor's note that says Steve hurt his back at work on the prior Friday afternoon. Nobody saw Steve get hurt and he didn't say anything at the time, but he says his back injury happened at work.

Samantha often gets itchy, watery eyes and hives on her skin. She submits a claim saying she is allergic to something at work.

Leonard and Darryl are unloading construction materials from the pick-up truck in preparation for the decking job they're about to start. Darryl faints and is rushed to the hospital. He may have had a heart attack.

The board determines whether an injury is work-related and is eligible to receive compensation by weighing evidence provided by the employer, the worker, health care providers and other sources,. To facilitate timely decision-making, it is important for employers to provide the notice of injury within the time required, even if they are not sure an injury is work-related.

4. Requirement to immediately report serious incidents and injuries

There is also an additional requirement for an employer or prime contractor to immediately report the time, date, place and nature of the incident or injury to the board if it is a serious incident, serious injury or death.

Further information on what is considered a serious incident or injury is set out in section 57 of the Act.

5. Failure of an employer to provide notice of injury

If an employer fails to provide a written notice to the board of a work-related injury or the possibility of a work-related injury within three days after receiving the information, the board may impose an administrative penalty on the employer.

The amount of the administrative penalty is \$100 as the initial penalty, increasing by \$25 for each day the required report is overdue, to a maximum of \$500. Even if the worker does not



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submit a claim for compensation, the employer is required to submit a notice of injury under the Act.

If an employer fails to provide notice of a work-related injury or possibility of a work-related injury to the board within three days after receiving the information, the board may investigate and charge the costs of the investigation to the employer.

The board may investigate whether:

- the employer has a reporting process in place;
- injury reporting is encouraged in the workplace;
- supervisors are trained in reporting requirements;
- workplace parties are knowledgeable about their responsibilities for reporting and recording injuries; or
- any other associated or related issues, as determined by the board.