



Policy Amendment Proposal IN-03 Transition Policy

This policy amendment proposal relating to transition 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 Transition 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 outline how the Act and the board of directors' policies apply to matters that arose before the coming into force of the Act on July 1, 2022.

Relevant sections of the Act

The following part of the Act is relevant:

- Part 8 transitional provisions and consequential and related amendments

Proposed minor changes to this policy are highlighted in yellow

- Amended to cite and reflect the transition provisions of the Act

Board Orders/Regulations

N/A

Current policy

[IN-03 Transition Policy](#)



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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

IN-03 Transition Policy

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

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 R.S.Y. 2008*

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 apply both to existing or ongoing events and current and future events.

2. Transition provisions

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.



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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.

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.

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.

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.



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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*

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.

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.

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.

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.



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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.