



Policy Amendment Proposal

RE-08 Re-Employment Provisions of Collective Agreements

This policy amendment proposal relating to re-employment provisions of collective agreements 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 Re-Employment Provisions of Collective Agreements 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 address how collective agreements work in conjunction with the re-employment provisions of the Act.

Relevant sections of the Act

The following sections of the Act are relevant:

- 118 employer's obligation to re-employ

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions

Board Orders/Regulations

N/A

Current 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 **May 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) 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 May 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 June 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 addresses how collective agreements work in conjunction with the re-employment provisions of the Act.

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

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 the provisions of section 118 of the Act conflict with a collective agreement that is binding on an employer, and the employer's obligations under section 118 give a worker better re-employment terms than the collective agreement does, section 118 prevails over the collective agreement. This does not operate to displace the seniority provisions of a collective agreement.

2. Collective Agreements (new title)

When a worker is covered by the re-employment provisions of both a collective agreement and the Act, the provisions of the Act will be applied, except where the workplace parties, in consultation with the bargaining agent or union representative, as the case may be, determine that the provisions of the collective agreement give the worker greater rights.

In such cases, the provisions of the collective agreement will prevail and the workplace parties **must** notify **the board** in writing of this finding as soon as possible.



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Seniority provisions

The re-employment provisions under the Act as it relates to the worker's return to work, do not displace the seniority provisions of the collective agreement. The application of the re-employment obligation is subject to the level of accumulated seniority in relation to co-workers, and the specific seniority provisions of the collective agreement.