



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Acts modernization external advisory group meeting 5 - assessments issues

Mount McIntyre Recreational Centre, Whitehorse

Thursday, November 28, 2019, 10:00 a.m. to 12:00 p.m.

Introduction

This is a summary of comments made by participants at the external advisory group session on November 28, 2019. For more information on the topics that were discussed [download](#) the assessments issues paper.

Method

Participants were divided into groups randomly and were asked to discuss acts modernization policy topics. Through group discussions that included Yukon Workers' Compensation Health and Safety Board (YWCHSB) staff, participants had their thoughts recorded on poster paper. The groups discussed three questions for each topic.

1. *What are the benefits to this approach?*
2. *What are the disadvantages/risks?*
3. *What are some other options to consider?*

The poster paper notes are reflected in this document.





Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Domestic service workers

Proposal

The Government of Yukon is proposing to clarify the criteria that must be met for a domestic service worker to be considered a worker under the *Workers' Compensation Act*.

Benefits

- Clear definition so there's no grey area and ambiguity;
- Protects owner/employer and worker (if incident/injury occurs);
- Reducing liability/risk;
- Expands public education;
- Preventing lawsuits;
- Confusion and risk of added expectation around prevention and performance;
- Clarity on whether or not you should get coverage;
- Clear responsibilities and protection for employers/homeowners;
- Protection and coverage for workers;
- Protected from being sued by worker if injured; and
- Clarity around whether coverage is needed and when.

Risks and challenges

- Lack of awareness;
- Risk of discrimination -> age of worker;
- Lack of risk assessment;
- Too restrictive, may limit opportunity for some age groups and employers to hire;
- Added cost to homeowner/employer;
- Difficulty with compliance for individuals not familiar with being an "employer";
- Perception of government trying to dictate;
- Added expectations that may be unanticipated;
- Strict parameters may exclude some people;
- People will avoid red tape with loopholes i.e. paying 'in kind';
- May complicate process of getting work for temporary foreign workers;
- Homeowners may be less inclined to hire help; and



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

- Added responsibility on homeowner to comply with occupational health and safety (OHS) regulations.

Other options to consider

- Remind sole proprietors that 90 day short-term is based on coverage amount;
- Purchase amount based on industry;
- Recognize in framework “pattern” rather than just hours worked;
- Education in schools as many domestic service workers are students;
- Increase website resources to help individuals avoid injury;
- Need resources and education on injury prevention but support vs. resolution;
- Optional coverage available so homeowner/employer is sole proprietor;
- Consider what other jurisdictions are doing;
- Consider what is reasonable to average homeowner; and
- Non employer-dependent compensation pool for injured workers such as domestic workers, foreign workers, babysitters.





Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Work outside Yukon, within Canada

Proposal

The Government of Yukon is proposing to:

- align the period of extended coverage with other Canadian provinces, enhancing interjurisdictional harmonization;
- reduce the time for extended coverage from 12 months to 6 months; and
- allow for extensions beyond 6 months upon application.

Benefits

- Based on statistics, proposal is evidence-based decision making;
- Similarity in all jurisdictions easier for all parties;
- Lower risk of high claims;
- Low number of workers stay outside the territory for more than six months;
- Lower admin costs;
- Logical sense;
- Aligns more closely with other jurisdictions;
- More awareness/tracking of where employers going;
- More cohesive/less guesswork;
- Simple;
- Less paperwork for employers and YWCHSB; and
- Less concerns that workers may not be covered.

Risks and challenges

- No risk as long as ability to extend coverage continues;
- Not in line with goal of less red tape;
- Current employers may forget decreased timeline;
- Affect workers by minimizing length of coverage; and
- Workers/employers may not be aware and forget to extend coverage.

Other options to consider

- Travelling back to Yukon resets time -> end date resets;
- Travelling back to Yukon paid by employer; and



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

- Online course for communication.



Work outside Canada

Proposal

The Government of Yukon is proposing to automatically cover workers travelling outside Canada for less than 10 consecutive days. Employers with workers travelling outside Canada for 10 or more consecutive days would still be required to apply for extended coverage. This will make it easier for workers and employers to ensure that they have compensation coverage for work outside Canada.

Benefits

- Benefit to workers and employers in automatic coverage;
- One less step for employers to take;
- Simplification and cohesion;
- Reciprocity agreements to help other areas; and



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

- Less paperwork for employers and YWCHSB to process.

Risks and challenges

- Destination not vetted by YWCHSB;
- Risk of parties going to any location;
- Geo-economic-political concerns of location (pandemic concerns);
- Too many unknowns that present risk;
- Employers may forget to extend application for coverage without first having to apply;
- Instability of destination countries;
- Worker risk;
- Fund risk - getting injured worker home;
- Even “safe” countries may not be safe;
- Riskier work outside Canada ;
- Requires more work/research for employer;
- Existing two stipulations no longer in effect;
- Challenges in awareness of not being covered beyond 90 day limit;
- What is definition of similar medical coverage to Yukon?
- Who makes this determination?
- Why have 3rd party insurance if already paying YWCHSB?
- No trigger to remind employers to extend coverage; and
- Automatic coverage extends to unsafe countries.

Other options to consider

- Not extend coverage outside of Canada at all;
- Stable countries -> UK, Australia, New Zealand, Canada, US – these countries similar politically, relatively safe;
- Hard deadline for application;
- Employers to have 3rd party insurance;
- Only select countries acceptable for travel;
- Based on travel advisories;
- Communication to what countries acceptable risk;
- Keep current two stipulations in place;
- Explore alternative insurance providers already used by employers;



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

- Make this easier for employers;
- Direct employers to other organizations for insurance;
- Blanket letter for certain amount of time;
- Reminder of extension on website; and
- Increased communication from YWCHSB.





Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Changes to optional coverage to ensure fairness of earnings loss benefits

Proposal

The Government of Yukon is proposing that all workers receive short and long-term earnings loss benefits. Specifically, the proposal is that short-term benefit rates for sole proprietors and partners will be based on purchased coverage, and long-term benefit rates will be based on proven earnings or purchased coverage, whichever is less.

Benefits

- Sounds logical, equitable, same as what everyone else gets;
- Sole proprietors maintain responsibility for keeping books up to date;
- Would help to speed up the process for sole proprietor coverage and benefits;
- Could increase clarity;
- Speeds up initial wage determination;
- Work with chambers to increase uptake;
- Less workplace injuries going to Yukon Health Insurance due to increase of coverage;
- Short-term benefit for 90 days is good, many sole proprietors have sporadic monthly earnings;
- Shortens time frame to getting benefit payments;
- Administrative burden decreased for sole proprietors and YWCHSB;
- Workers (sole proprietor) paid in a timely manner; and
- Clearer understanding of what coverage they get and when they will get it.

Risks and challenges

- Some could purchase higher coverage than they make and get more money for 90 days;
- Benefits could decrease substantially after 90 days in above situation;
- Some may still complain about not getting amount they purchased after 90 days insured;
- Long-term rate not always based on value put into their company – often don't pay themselves when building a business;
- Some might still not see benefits of purchasing coverage; and
- Possible lack of clarity.



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Other options to consider

- Source of income is a protected ground yet have to make sure small business owners aren't treated unfairly compared to others;
- Should give some thought to new start-ups and clarify what to report;
- May be a lack of understanding of risk and of the coverage options;
- Communicate more to sole proprietors and others about the coverage options;
- Should communicate regarding coverage details/remind sole proprietors when they purchase/renew;
- The name doesn't help, "optional coverage" is a bit ambiguous;
- Increased awareness about the risks of not having coverage;
- Would be interesting to have statistics available regarding injury frequency of sole proprietors; and
- Include this info when sole proprietors apply for business license.





Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Directors' liability

Proposal

The Government of Yukon is proposing to add a provision to make directors jointly liable for the debts of their corporation. This would provide an effective tool for YWCHSB to collect unpaid assessment premiums from the director or directors of a corporation.

Benefits

- Limiting risk to others in industry group;
- Paid dues is lower assessments;
- Better collections due to incentives to pay;
- Easier for YWCHSB to recover costs;
- May make rebates better;
- Consistency (jurisdictional);
- Public perception – positive;
- Accountability;
- Companies are better corporate citizens; and
- Other employers don't have to pick up the cost (fairness to rates).

Risks and challenges

- Financial hardship to director (small business);
- Perception that YWCHSB could be putting businesses at risk;
- Lack of awareness;
- Out of territory company accountability;
- Cost benefit analysis;
- Making it uncomfortable for accountability;
- Restricts who wants to be on a board;
- Financial liability "travel" with director;
- May draw funds away from other creditors; and
- People may be disinclined to take on director roles.

Other options to consider

- Shorter collection time (60 days);



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

- Threshold for collection;
- Exempt volunteer positions (volunteer board);
- Deposit for out-of-territory companies;
- More accountability on senior management;
- Monthly payments;
- Automatic payment;
- More language on leading business;
- Credit check on companies at start of process;
- Add YWCHSB Director Liability as a submission during YESAA application;
- Extend liability of director to workplace safety responsibility;
- Coverage for directors who volunteer on boards;
- Require payments for higher risk industries;
- Education and training for directors on boards;
- Education/information identifying liability; and
- Threshold of liability to limit exposure.





Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Parking Lot

When questions or statements arose throughout the meeting that were unrelated or were not covered by the topic under discussion, participants were encouraged to record thoughts on the “parking lot” poster paper.



No parking lot items were posted during this session.