

Workers' Safety and Compensation Act

April 2022 Policy Engagement

Stakeholder Feedback Summary Reports

This is a summary of all the stakeholder feedback received throughout April 2022. Comments of a similar nature are compiled into a single statement on the following:

Policy Amendment Proposals

- EA-02 Employer Registration
- EA-07 Super-Assessment
- EA-10 Transfer of Employer Experience Account
- EA-11 Mega Projects
- EA-12 Security Deposits
- EL-03 Payment of Interest on Compensation Benefits
- EN-01 Arising Out Of and In The Course of Employment
- EN-02 Merits and Justice of the Case
- EN-04 Emergency Transportation
- EN-05 Compensation for the Loss of Personal Property
- EN-06 Hearing Loss
- EN-07 Pre-Existing Conditions
- EN-08 Gradual Onset Musculoskeletal Injuries
- EN-10 Subsequent Inquiries, Disorders or Conditions
- EN-11 Worker, Attendant and Witness Travel
- EN-16 Recurrence of Injury
- HC-01 Overview: Provision of Health Care Assistance
- HC-02 Safe Use of Medications
- HC-03 Physiotherapy
- HC-04 Chiropractic Treatment
- HC-05 Therapeutic Massage
- HC-06 Activities of Daily Living
- HC-07 Alternative Treatment
- HC-08 First Nations or Inuit Traditional Healing
- HC-09 Psychological Treatment

Revocation Proposal

- EA-13 Taxi Cabs

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EA-02 Employer Registration

General Comments

- Combining the current EA-02 'Determining the Status of a Person: Employer, Worker, Sole Proprietor or Non-Working Director' and parts of the EA-06 'Coverage for Directors' makes sense overall and makes it easier to use
- There is a concern that employers and workers from outside of the territory can circumvent this policy or not hire Yukon workers, thereby disadvantaging Yukon workers and employers
- Section 2 Temporary non-Yukon employers – Pertaining to temporary non-Yukon employers being able to carry on business in Yukon on a temporary basis with non-Yukon workers for fewer than 10 calendar days without registering:
 - Clarify whether 10 days refers to the employer or for each worker
- Section 3 Corporations and Directors, Heading - Non-working director –
 - Suggest providing more clarification on whether a director can attend all of the corporation's board meetings and still be considered a non-working director
 - Suggest making it clear that the application is being submitted to be a non-working director
- Section 4 Proprietors and partners in a partnership –
 - In paragraphs 3 and 4 clearly identify the roles of who is the employer and who is the worker
 - Suggest amending paragraph 4 by adding the phrase 'while working for that employer' at the end of the paragraph to clarify that it is only during this arrangement that the proprietor is considered to be a worker
 - Heading - Factors to determine whether a person is a worker or a proprietor – Suggest including a general statement that all of these factors will be included when making a determination so that all scenarios will be covered

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Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

EN-06 Hearing Loss

General Comments

- In the past it was very helpful to have the participation and expertise from an expert in the field to review and provide feedback on the policies
- Section 1 General –
 - Confusion over definition of 'hazardous noise' as that which, "exceeds permissible noise exposure levels" and the requirement for employers to keep records for employees exposed to hazardous noise. Suggest that the policy is a little contradictory within itself on this issue and encourage more clarity in the drafting that, people will be exposed but there will be measures in place to manage it. Suggest revising the wording and including wording that by using the measures hearing loss may be mitigated. Recommend expanding the explanation in Section 1 to clarify this issue
 - Section is quite wordy
 - Clarify that not all employers need to have the audiometric program
- Section 3 Noise-induced hearing loss –
 - Suggest adding additional information to the criteria to clarify whether the 25 decibel loss is measured at a given frequency and whether it is in one ear or both
 - Perhaps include the reference to the exposure limits set out in the Act (regulations) that support this section

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- Section 7 Hearing aids and assistive listening devices –
 - Policy is unclear whether the Board, once receiving the diagnosis and required documentation, will pay for hearing aids. Suggest making policy more clear

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

EA-07 Super-Assessment

General Comments

- Typo requires correction; check all policies to ensure proper use of the term 'assessable' instead of 'accessible'
- Definitions - Recommend rewording the definition of 'rate group average' for clarity and incorporating additional information on how the rate group average is calculated.

rate group average means the average claims cost level, expressed as a percentage of *assessable* payroll, for the rate group the employer is assigned to under the board rate setting system. *It is calculated by dividing the total claims costs for all employers in the rate group by the total assessable payroll for all employers in the rate group.* All employers and industries in the same rate group have the same rate group average

- Section 1 General – minor grammatical edit to phrase "... prevention of injuries and presents higher than normal ..."
- Section 3 The watch list –
 - Paragraph 1 only makes sense if the employer's claims costs are way up there. Otherwise, it could apply to all employers. Suggested wording:

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Focusing on preventing injury and disability, the board recognizes the importance of early intervention. The watch list identifies employers whose claims costs are still within the expected range, *but are considerably higher than normal and whose safety practices are being monitored for the purpose of early intervention and deciding whether a super-assessment will be levied in the future*

- Paragraph 4 only makes sense if the negligence is caused by the worker. Surely negligence by the employer is not a factor that warrants removing the employer from the watch list. Suggested wording:

The board also determines whether any factors may warrant removing an employer from the watch list, such as recoveries through a third-party action or through the Interjurisdictional Agreement, a fraudulent claim, or negligence *by the worker* causing the work-related injury

- Section 5 Heading - Method for calculating the super-assessment – If a super-assessment is only levied once in any given year, that should be made clear

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

EN-08 Gradual Onset Musculoskeletal Injuries

General Comments

- Definitions – Minor edits to the definition of 'risk-factor' for spacing and punctuation

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Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

EN-10 Subsequent Injuries, Disorders or Conditions

General Comments

- Section 2. Heading - Subsequent Injuries, Disorders or Conditions (new title) – Subsequent injuries resulting from travel – suggested edits for clarity

Injuries which occur while a worker is traveling for approved treatment, diagnosis or rehabilitation (for example, a traffic collision that occurs while traveling to a specialist appointment) may be compensable.

Whether such an injury is compensable is determined under policy EN-01 Arising Out Of and In the Course of Employment

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

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EN-11 Worker, Attendant and Witness Travel

General Comments

- There are several references to travel rates but no clarification of what those rates are or where they can be found; recommend specifying this or putting a reference to the rates in the policy
- Section 7 Travel by Witnesses – minor edits for spelling

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

EN-16 Recurrence of Injury

General Comments

- Section 2 Situations other than recurrence of injury – minor edit for grammar

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

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HC-08 First Nations or Inuit Traditional Healing

General Comments

- The policy refers to First Nations and Inuit peoples but not Métis. This refers to two of the three recognized indigenous peoples in Canada

Gaps in the Policy Proposal

- No feedback received

Additional Comments

- No feedback received

Other Remaining Policy Amendment Proposals

No feedback received on the remaining policy amendment proposals:

- EA-10 Transfer of Employer Experience Account
- EA-11 Mega Projects
- EA-12 Security Deposits
- EL-03 Payment of Interest on Compensation Benefits
- EN-01 Arising Out Of and In The Course of Employment
- EN-02 Merits and Justice of the Case
- EN-04 Emergency Transportation
- EN-05 Compensation for the Loss of Personal Property
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- HC-01 Overview: Provision of Health Care Assistance
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- HC-05 Therapeutic Massage
- HC-06 Activities of Daily Living
- HC-07 Alternative Treatment
- HC-09 Psychological Treatment

Other Feedback - Engagement Process in General

- Questions raised about whether highlighting accurately captures what is new or changed