

WORK SAFE. FOR LIFE.
WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

**Policy Background Paper:
Housekeeping Changes to WCB Policies**

September 2016

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1. Background

Periodically the WCB reviews its policies to identify potential housekeeping changes. Housekeeping changes typically include:

- the correction of spelling and grammar errors
- updating references and WCB department names
- updating minor process features

Making housekeeping changes to WCB policies is part of the Revolving Program Policy Agenda and was last done in 2009. Housekeeping changes do not change the intent of a policy and do not affect the financial health of the System, entitlement or level of worker benefits, or assessment rates. Rather, making housekeeping changes ensures policies are accurate and up to date.

2. Scope

Staff have identified 35 existing policies requiring housekeeping changes. The vast majority of these changes corrects spelling/grammar errors or update references. In a few instances minor process elements involving communication with the WCB are also updated.

3. Consultation

Considering the criteria in the WCB's Policy Consultation Strategy and *Policy 10.3.11 – Policy Consultation*, the WCB Board of Directors has decided a One-Stage consultation process with a 30 day consultation period is appropriate for the proposed housekeeping changes to policy. A One-Stage consultation process is appropriate because the proposed housekeeping changes:

- Don't impact policy intent. The changes correct spelling and grammar errors, update references, or update process elements; and
- Don't affect the financial health of the System, entitlement or level of worker benefits, or assessment rates.

Please note, the WCB is not consulting on policy intent or other substantive aspects of the policies discussed in this paper.

The Board of Directors will consider the input received from stakeholders before making final housekeeping changes to the policies.

If you would like to comment on the draft housekeeping changes to policies, please provide your feedback by Wednesday October 12th, 2016 to:

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4. Proposed Policy Changes

The following table describes the housekeeping changes proposed. In addition to the changes outlined in the table for specific policies, the following will also be updated for each policy:

- Revision number
- Effective date
- Date Issued
- Date approved
- Application (where applicable)

As well, a number of policies will require “consequential” updates. In these instances, policies that reference a policy undergoing a housekeeping change (listed below) will require an updated policy number. See appendix B for a list of these policies.

Full versions of all WCB policies can be found at the WCB’s website at www.wcb.ns.ca in the Policy section (in the Policy Manual).

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are <u>bold and underlined</u>)	Comment
1.	Back Injuries - 1.1.1R	6. In spondylolisthesis cases, the usual criterion for acceptance of a claim is that there must be trauma involved and such claims are, if accepted, usually accepted <u>accepted</u> on a limited liability basis”	Corrected spelling error.
2.	Workplace Noise Levels - 1.2.6R	Permissible Noise Exposure (Impulse of <u>or</u> Impact Noise) REFERENCES Workers’ Compensation Act (Chapter 10, Acts of 1994-95), Section 37(1). Policy 1.2.5 <u>Policy 1.2.5R1 and Policy 1.2.5AR1.</u>	Corrected grammar error in section title. Updated policy references.
3.	Volunteer Fire Fighters - 1.3.4	7. Members are not considered to be in the course of their employment while involved in activities of a strictly recreational, sporting or social nature (even if <u>if</u> the event is officially under the auspices of the department).	Corrected grammar error.

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
4.	General Entitlement – Arising out of and in the Course of Employment - 1.3.7	4. Where Section 10(5) of the Act is applicable, the WCB apportions benefits in accordance with Policy 3.9.11R <u>3.9.11R1</u> - Apportionment of Benefits.	Updated policy reference.
5.	Eyeglasses - 2.1.7R	3. b) damages <u>damage</u> results from putting on or taking off necessary safety equipment (i.e. goggles, helmets, etc.);	Corrected spelling error.
6.	Normal Recovery Times - 2.4.7R	REFERENCES Workers' Compensation Act (Chapter 10, Acts of 1994-95), Policy 3.3.5 <u>Policy 3.3.5R</u> .	Updated policy reference.
7.	Calculation of Gross Earnings - 3.1.1R3	13. For purposes of both the initial and long-term earnings profile, pre-LOE average earnings for a self-employed worker with Special Protection will be based on normal weekly earnings, except where personal coverage is less than the worker's normal weekly earnings. In these cases, the Earnings Replacement Benefit will be based on the amount of Special Protection in place at the time of the injury. , as verified by the Board's Assessment Department. This will be achieved via Section 4(7) by the Board setting appropriate terms of admission for self-employed workers.	While staff continues to carry out functions related to employer assessments, the WCB changed its organizational structure several years ago and the "Assessment Department" no longer exists. To ensure the policy remains up to date, the revision does not specify a department.
8.	Calculation of Net Earnings - 3.1.2R	1. Net average earnings will be calculated by deducting the following from the worker's gross earnings (as calculated in accordance with Policy 3.1.4 <u>3.1.1R4</u>): 5. If the worker wishes to change the TD 1 code, the worker must provide appropriate documentation from Revenue Canada <u>the Canada Revenue Agency</u> that supports the request.	Updated policy reference. Updated the reference to the Canada Revenue Agency.
9.	Calculation of Permanent-Impairment Benefit - 3.3.1R	REFERENCES Workers' Compensation Act (Chapter 10, Acts of 1994-95), Sections 34, 74(4) .	The reference to Section 74(4) of the Act is incorrect. Section 74(4) does not exist. The reference to

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
			Section 34 is adequate.
10.	Permanent-Impairment Rating Schedule - 3.3.2R2	3. Notwithstanding paragraphs 1 and 2, in cases of chronic pain, the Board shall determine the existence and degree of a worker's pain-related impairment using a modified approach to Chapter 18 of the American Medical Association "Guides to the Evaluation of Permanent Impairment – Fifth Edition as outlined in Policy 3.3.5 <u>3.3.5R1</u> – Eligibility Criteria and Compensation related to Chronic Pain.	Updated policy reference.
11.	Review of Permanent-Impairment Benefit - 3.3.3R	2. A review of the PIB will only be undertaken if there was a change in the worker's compensable condition that was not taken into account during the last assessment of the worker's permanent medical impairment rating by the Board. The permanent medical impairment rating is based on the schedule established pursuant to Section 34 (see Policy 3.3.2 <u>3.3.2R3</u>).	Updated policy reference.
12.	Determining Permanent Impairment Ratings using the Guides to the Evaluation of Permanent Medical Impairment (AMA Guides – 4th Edition) - 3.3.4R	DEFINITIONS "Usual pain" means all pain except for chronic pain as defined by the Act, Chronic Pain Regulations and Policy 3.3.5 <u>3.3.5R1</u> . 2. In determining the existence and degree of a pain-related impairment the Board shall use a modified approach to Chapter 18 of the American Medical Association "Guides to the Evaluation of Permanent Impairment - Fifth Edition as outlined in Policy 3.3.5 <u>3.3.5R1</u> – Eligibility Criteria and Compensation related to Chronic Pain.	Updated policy references.
13.	Apportionment Where More Than One Spouse Qualifies - 3.6.7	2. Once one spouse ceases to quality <u>qualify</u> for the survivor pension the whole of the survivor pension will be reapportioned among the remaining surviving spouses. Annuity contributions will then be based on five percent of the reapportioned amount payable to each remaining spouse.	Corrected spelling error.

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14.	Combining of Workers' Compensation Benefits - 3.9.3	2. The calculation of the net value of the maximum assessable earnings will be based on the individual worker's tax credits which include TD1 code amount, UI <u>EI</u> premiums, and CPP premiums.	Updated reference to Employment Insurance.
15.	Implementation of Appeal Board Decisions on Permanent Compensation in the Absence of Measurable Impairment - 3.9.6	1. Where: (c) the Workers' Compensation Board has difficulty determining, upon examination, an impairment using the Permanent Impairment Rating Schedule (contained in Policy 3.3.2 <u>3.3.2R3</u>),	Updated policy reference.
16.	Employer Coverage - 5.1.1R	3. To determine the number of workers "regularly" employed, the employer shall, on request, provide the Board with the information submitted to Revenue Canada <u>the Canada Revenue Agency</u> on the "Remittance for Current Source Deductions", Form PD7A. APPLICATION This Policy applies to workers whose date of injury is on or after February 1, 1996 (see Policy 5.2.1: Determination of Date of Injury for Purposes of Re-Employment). It replaces Policy 5.1.1 issued on December 15, 1995 and effective February 1, 1996.	Updated reference to Canada Revenue Agency.
17.	Worker Eligibility - 5.1.2	1. An employer is obligated to offer re-employment to a worker following an injury, where the worker's circumstances meet the following conditions: b) iii) the pause lasts thirty calendar days or more but, notwithstanding Policy 5.1.1 <u>5.1.1R1</u> (Employer Coverage), there is substantive evidence of a continuing employment relationship, such as, payment of ongoing employer paid benefits or a mutual agreement that the worker will return to work for the employer upon recall, subject to applicable seniority provisions.	Updated policy reference.
18.	Determination of Date of Injury for Purposes of Re-Employment - 5.2.1	REFERENCES Workers' Compensation Act (Chapter 10, Acts of 1994-95), Sections 89(2), 90(6) , 92(1)(a), 96(1), 97(1).	There is no Section 90(6) in the Act. Removed reference to S. 90(6).

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
19.	Discretionary Benefits to Surviving Dependents - 6.2.4	2. Where both parents of a child are deceased, and the child qualifies as a dependant (pursuant to s.64) at the time of the worker's death, any further amount in addition to the dependant <u>dependent</u> child benefit [see policy 6.2.3] shall be based on the child's level of financial dependence on the worker before the accident, as well as any extraordinary financial hardship imposed on the child as a result of the worker's death.	Corrected spelling of dependent child benefit.
20.	Criteria for Compensation for chronic pain – 7.5.6	4. The PMI rating referred to in section #3 of this Policy is in addition to any PMI rating a worker may have been awarded under Policy 3.3.2R <u>3.3.2R3</u> , Guidelines for Assessment of Permanent Medical Impairment, or under Policy 3.9.6.	Updated policy reference.
21.	Pre-Accident Earnings – 7.3.6	2. However, where Unemployment Insurance (UI) <u>Employment Insurance (EI)</u> benefits have formed a part of the worker's earnings profile over the three years prior to the accident, UI benefits over the 52 weeks prior to the accident may be included in the calculation of pre-accident earnings.	Updated reference to Employment Insurance benefits.
22.	Post-Accident Earnings – 7.3.8	1. When determining the worker's post-accident earnings, the Board shall require the worker to provide a certified copy of the worker's Statement of Income and Deductions from Revenue Canada the <u>Canada Revenue Agency</u> and/or such other documentation as the Board feels appropriate for the year(s) being reviewed.	Updated reference to the Canada Revenue Agency.
23.	Appeals and Referral to a Hearing Officer - 8.1.3R2	1.1.3 (a) A participant intending to appeal a reconsideration decision of the Workers' Compensation Board made pursuant to section 196 <u>shall submit</u> i) deliver personally to the Workers' Compensation Board; ii) post, regular mail; or	Section 196 of the <i>Act</i> was repealed in 1999. The WCB applies S. 1.1.3 of this policy to all types of appeals. Therefore reference to S. 196 and reconsideration decisions has been removed. As well,

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
		<p>iii) transmit by facsimile or electronic mail a fully completed Notice of Appeal in the Form attached to this policy no later than 30 days after the date referred to in paragraph 1.2, the proof of which shall rest with the participant.</p> <p><i>(Section 1.1.3 is long – please see copy of the entire section in Appendix A).</i></p> <p>2.1 On receipt of the complete Notice of Appeal, the Workers' Compensation Board WCB shall post by regular mail notification of the appeal and copies of the Notice of Appeal to every participant <u>notify appeal participants of the appeal and send them a copy of the Notice of Appeal.</u></p>	<p>reference to how participants file the appeal has been removed. This ensures the WCB can consider other ways in which participants could file an appeal in the future (e.g. On-line channels or portals). The Notice of Appeal form is on the WCB's website.</p> <p>The policy currently requires notification of appeal participants by "regular mail". Removing the requirement to notify by "regular mail" allows the WCB to consider other ways of communicating with appeal participants (e.g. secure e-mail) in the future. This change does not affect the requirement to notify appeal participants of an appeal and send them a copy of the Notice of Appeal. It simply gives the WCB flexibility to consider other ways of notifying participants.</p>
24.	Reconsiderations Pursuant to s. 185(2) Where a Final Decision of the Board Addressing an Issue Has Been Rendered – 8.1.7R1	NUMBER: 8.1.7R1 <u>8.1.7R2</u>	Corrected typo in policy number.
25.	Special Protection Coverage – 9.1.2	<p>REFERENCES</p> <p>Workers' Compensation Act (Chapter 10, Acts of 1994-95), Section 4.</p> <p>Policy 3.1.4. <u>3.1.1R4.</u></p>	Updated policy reference.
26.	Definition of Assessable Earnings – 9.8.5	<p>1. Assessable earnings includes all employment earnings reportable to the Canada Customs and Revenue Agency (CCRA) <u>Canada Revenue Agency (CRA)</u> in Box 14 of T4 slips, "Employment Income" or "Gross Earnings," less the following exceptions:</p>	Updated reference to Canada Revenue Agency.

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27.	Classification, Rate Setting and Experience Rating Process - 9.3.1R1	<p><u>1.6 Step 6 - Experience Rating</u></p> <p>... Employers with better than average accident experience may receive merits (rate decreases), while employer with worse than average accident experience receive demerits (rate increases). (See Policy 9.4.2R2, <u>9.4.2R4</u>) re: Maximum Merit/Demerit and Surcharge).</p> <p><u>1.7 Step 7 – Surcharge</u></p> <p>A surcharge will be applied to an employer's basic rate if the criteria outlined in Policy 9.4.2R2 <u>9.4.2R4</u> are satisfied.</p>	Updated policy reference.
28.	Classification of Firms not Eligible for Multiple Classification - 9.2.2	<p>1. If a firm with multiple operations does not meet the eligibility <u>eligibility</u> criteria for separate classifications (see Policy 9.2.1: Multiple Classification - Eligibility), all payroll will be assessed at one rate.</p>	Corrected spelling error.
29.	Charge for Late Reporting of Payroll Statements - 9.5.1R1	<p>1. An employer who fails to furnish certified copies or reports of their payroll, as required by Section 127 and 125(3), of the Workers' Compensation Act, shall pay a Late Reporting Charge in the amount of ten percent (10%) of the assessment premium for the reporting period.</p>	<p>Many employers report payroll electronically through the Canada Revenue Agency, making it impossible to provide certified copies. The change makes it clear that employers do not have to provide certified copies (they may do so if they wish).</p> <p>This change does not affect the requirement to report payroll.</p>
30.	Write-Off of Uncollectible Accounts - 9.7.1R	<p>3. Authorization levels:</p> <p>\$1 - \$100 Manager Field Services and Collections</p>	Like any organization, the WCB periodically reviews its organizational structure and/or staff roles. This increases the likelihood that

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
		<p>\$101 - \$5,000 Director Service delivery – Workplaces</p> <p>\$5,001 - \$10,000 Chief Financial Officer</p> <p>Over \$10,000 Chief Executive Officer</p>	<p>this policy will become out of date semi-regularly. Currently, the title Manager, Field Services and Collections and Director, Service Delivery – Workplaces have been changed.</p> <p>Eliminating reference to these specific titles ensures the same position level (e.g. manager) has the authority to write off the amount specified – but it does not specify the exact work unit. The titles Chief Financial Officer and Chief Executive Officer have not changed in many years.</p>
31.	Under Reporting of Payroll – 9.8.2.R1	<p>2. Interest will also be applied retroactively on the difference between the actual assessment required and the assessment as originally calculated. Interest will be calculated in accordance with the rate published quarterly by the Canada Customs and Revenue Agency Canada Revenue Agency as per sections 4301 and 4302 of the Income Tax Regulations (Canada).</p>	Updated reference to Canada Revenue Agency
32.	Accident Reporting – Penalties 10.1.2	<p>REFERENCES</p> <p>1. Workers' Compensation Act (Chapter 10, Acts of 1994-95), Section 86, Sections 86, 201.</p> <p>2. Policy 40.1.4 10.1.1R</p>	Updated policy reference.
33.	Photocopying of Clients' Files - 10.3.4	<p>1. A file will be copied once and provided free of charge to the client or the client's representative. The written request will be placed on the client's file. Subsequent information in the same file(s) will be copied, if requested.</p> <p>2. There will be a charge applied in an amount determined by the Board for second and subsequent copies of file material previously copied at the request of the client or the client's representative. It is the responsibility of the person requesting the information to make sure that the copied file(s) is/are transferred when and if the client chooses a new representative.</p>	Specifying a physical location to send claim file requests is not policy best practice. For example, many workers currently fax claim file request to our Halifax Fenwick Street location. As well the WCB is currently in the process of modernizing the way we do business. Removing this requirement allows the WCB to consider other ways in which workers can request (e.g. secure e-mail) copies of their claim file in

	Policy	Proposed Policy Change (strikethroughs are deletions and additions are bold and underlined)	Comment
		3. All written requests are to be addressed to: Workers' Compensation Board, 5668 South Street, P. O. Box 1150, Halifax, Nova Scotia B3J 2Y2.	the future. As well, the form workers use (posted on the WCB website) to request a copy of their claim file contains the physical address if they want to mail their request.
34.	Fraud and Misrepresentation - 10.3.7R	<p>8. An "overpayment" is a compensation payment or payment for goods or services that results in a person receiving an amount greater than the person's legal entitlement. The Board's policy and procedures on overpayments are separate from this Policy (see Policies 10.2.1, 10.2.2 <u>10.2.1R, 10.2.2R</u>).</p> <p>11.5 The Board's investigation unit will review the file and conduct any necessary investigation in accordance with its procedures. In assessment matters, the investigation unit will coordinate the investigation with the Assessment Department and its field representatives.</p>	<p>Updated policy reference.</p> <p>The "Assessment Department" no longer exists. The WCB may periodically change its organizational structure. To ensure the policy remains up to date, the revision does not specify a department.</p>
35.	Investment Policy - 10.3.8	<p>1. The Workers' Compensation Board (WCB) has an Investment Policy which defines the policies, standards, and procedures used to invest funds pursuant to Section 449 <u>172</u> of the Workers' Compensation Act. This document is available on the Nova Scotia WCB's Website at www.wcb.ns.ca or by contacting the WCB.</p> <p>REFERENCES</p> <p>Workers' Compensation Act (Chapter 10, Acts of 1994-95) (as amended), Section 449 <u>172</u></p>	Updated reference. The policy currently references a section from a previous Act.

Appendix A

Excerpt from *Appeals and Referral to a Hearing Officer - 8.1.3R2*

As noted in the body of this paper, Section 196 of the *Act* was repealed in 1999. The WCB applies S. 1.1.3 of this policy to all appeals. Therefore reference to S. 196 and reconsideration decisions has been removed. As well, reference to the how participants file the appeal has been removed. This ensures the WCB can consider other ways in which participants could file an appeal in the future (e.g. On-line channels or portals). The Notice of Appeal form is on the WCB's website.

1.3

(a) A participant intending to appeal a ~~reconsideration~~ decision of the Workers' Compensation Board ~~made pursuant to section 196~~ **shall submit**

i) ~~deliver personally to the Workers' Compensation Board;~~

ii) ~~post, regular mail; or~~

iii) ~~transmit by facsimile or electronic mail~~

a fully completed Notice of Appeal ~~in the Form attached to this policy~~ no later than 30 days after the date referred to in paragraph 1.2, the proof of which shall rest with the participant.

(b) In order to satisfy the requirement for submitting a Notice of Appeal within the time limit prescribed in subsection (a) above, the Notice must contain all of the following information:

1. The name of the appellant;
2. The address of the appellant;
3. The claim number of the appellant;
4. The name and address of the appellant's employer at the time of the accident;
5. The date of the ~~reconsideration~~ decision, and the name of the staff member who ~~conducted the reconsideration~~ rendered the decision;
6. An identification and discussion of the error alleged to have been made in the ~~reconsideration~~ decision;
7. Copies of any new evidence which supports the appeal, including a written explanation of how each piece of new evidence supports the appellant's argument;
8. Any written argument the appellant wishes the Board to consider;

9. Where the appellant wishes to have witnesses present evidence at an oral hearing, a list of the witnesses and a brief summary of the evidence they will be presenting; and

10. Where applicable, an application for an oral hearing.

(c) Where written submissions or evidence are forwarded by the requester after the 30-day time limit has expired, the Hearing Officer may consider the reasons for the late filing of the information and may, based on the reasons given, make a decision on whether the information will be considered in the appeal.

(d) Where appropriate, where the Board has not received the information required by subsection (b) within the 30 day time limit, the appeal shall not be carried out, and the staff member's decision shall be the final decision of the Board.

Appendix B

Policies Requiring Consequential Updates

The following policies will be assigned updated policy numbers as a result of the housekeeping changes to policies outlined in this paper:

General Entitlement – Occupational Disease Recognition – 1.2.14

Eligibility Criteria and Compensation related to chronic pain - 3.3.5R

Employer Coverage - 5.1.1R

Chapter 5 (re-employment) - policies 5.2.2 through 5.5.1 (12 policies)

Dependent-Child Benefit – 6.2.3

Calculation of Award – 7.3.5