



Policy Background Paper:

Review of Extended Earnings Replacement Benefit (EERB)

February 12, 2026

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1. Purpose

In the fall of 2025, Bill 144 amended the *Workers' Compensation Act* (the "Act") to allow the WCB to review an extended earnings-replacement benefit (EERB) at any time instead of only at fixed intervals (36 and 60 months). The change became effective January 1, 2026. This change to the *Act* will enable the WCB to adjust an EERB to ensure it reflects a worker's earnings loss due to a work-related injury on a more frequent basis. Please refer to [Bill 144](#) for details.

This background policy consultation document will:

- Provide background information on EERBs.
- Provide an overview of the WCB's proposed draft policy on EERB reviews.
- Describe how you can participate in the policy consultation.

2. Background

What is an EERB?

An EERB is a monthly benefit paid to a worker when the worker has a long-term loss of earnings (LOE) resulting from a work-related injury.

What is changing?

Bill 144, effective January 1, 2026, provides the WCB the ability to review and adjust an EERB at any time.

Prior to Bill 144, the WCB could review and adjust an EERB 36 months after the initial award of the EERB, and (where conditions were met) 24 months after the 36-month review, when a worker's PMI changed by ten-percent or more, or where misrepresentation was suspected. This meant the WCB had a very limited opportunity to review and potentially adjust (increase or decrease) a worker's EERB to accurately reflect their LOE.

The draft policy in Appendix A sets out the WCB's updated approach to EERB reviews.

What's happening with EERB reviews now?

In light of the Bill 144 changes to the *Act*, the existing EERB review policy was rescinded by the WCB Board of Directors effective January 1, 2026. In the interim, previously scheduled EERB reviews may continue under the broad authority of the *Act*, and any un-scheduled reviews will be considered on a case-by-case basis until a new policy is approved by the Board of Directors.

3. Draft EERB review policy

We are proposing a new EERB review policy as set out in Appendix A. The proposed policy communicates the WCB's updated approach to EERB reviews.

A general overview of the draft policy follows:

- ***Timing of EERB reviews***

The WCB will generally schedule annual reviews commencing on the anniversary date of the EERB award, until the fifth anniversary of the award. The WCB may adjust the review schedule or carry out an ad hoc review as appropriate.

- ***Information used in review***

The WCB will collect and review relevant information to determine if there have been changes in the LOE used to calculate the EERB since the EERB award, or most recent EERB review. This includes earnings from employment, Canada Pension Plan – disability (CPP-D) payments the worker is receiving and updated medical/functional and/or labour market/vocational information.

- ***Responsibility to report changes***

As required by the Act (Section 84) a worker must notify the WCB immediately of any change in circumstances that affects, or may affect, the worker's initial or continuing entitlement to compensation, including an EERB.

- ***Adjusting an EERB***

As required by the Act (Section 38), the WCB always reduces EERB payments by 50% of the amount of CPP-D being received by a worker. The WCB will also adjust an EERB when the LOE used to calculate the EERB award changes such that it results in a ten-percent variation in the amount of EERB currently paid to the worker. The effective date of adjustments is dependent on the date the WCB determines the change in the worker's LOE occurred.

4. Providing Your Comments

We are interested to hear your comments on the proposed policy. We appreciate all feedback provided, however please note that requirements contained in the *Act* cannot be changed through policy.

You can participate and send us your feedback in a few different ways:

1. **Attend one of our policy webinars.** If you subscribe to our Policy notification list you will receive an invitation. If not, please sign up here [Policy Subscription](#). The first webinar will be held on **February 26th, from 3pm to 4 pm**.
2. **Make a written submission with your feedback on the proposed new policies.** You can send the submission to our policy email Policy@wcb.ns.ca, or send it in hard copy in the mail to:

Policy Department
WCB of Nova Scotia
PO Box 1150
Halifax NS B3J 2Y2
E-mail: Policy@wcb.ns.ca

You can always reach us at Policy@wcb.ns.ca with questions and the paper is also available at www.wcb.ns.ca. The consultation period concludes on **March 16th, 2026**.

Appendix A: Draft EERB review policy

Policy Number: 3.4.3 Review of Extended Earnings Replacement Benefit (EERB)

Topic: Review of Extended Earnings Replacement Benefit (EERB)

Section: Short-Term and Long-Term Benefits

Subsection: Extended Earnings Replacement Benefit (EERB)

Effective: XXXX

Issued: XXXXXX

Approved by Board of Directors: XXXXXX

Preamble

A worker may be eligible for an Extended Earnings-Replacement Benefit (EERB) when they have a permanent medical impairment and experience a loss of earnings resulting from a work-related injury.

As set out in Section 73(1) of the *Workers' Compensation Act* (the "Act"), the WCB may review and adjust its determination of the amount of EERB paid to a worker at any time. This policy describes when an EERB will be reviewed to ensure that the EERB is still based on accurate information and continues to reflect the worker's true earnings loss.

Definitions

"anniversary date" means the date on which the EERB award to the worker became effective.

"functional abilities" means a worker's abilities, limitations, and restrictions (what the worker can and cannot do) with respect to a work-related injury.

"loss of earnings (LOE)" is equal to the net pre- LOE earnings less net post-LOE earnings.

The following is included in post-LOE earnings:

- a) net earnings from employment;
- b) net earnings the WCB estimates the worker is capable of earning in suitable and reasonably available employment; and
- c) net 50% of Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) periodic disability benefits.

"suitable and reasonably available employment" has the same meaning as set out in policies 3.5.1- *Definition of Suitable Employment* and 3.5.2- *Definition of Reasonably Available Employment*.

Policy Statement

1. Timing of EERB reviews

1.1 General

The WCB may review EERBs at any time. Generally, the WCB will review EERBs:

- a) annually, commencing on the anniversary date of the EERB award, until the fifth anniversary of the award; and
- b) on an ad hoc basis at any time.

1.2 Annual reviews

The WCB may suspend or vary the frequency of annual reviews due to the circumstances of a claim, operational considerations, or other reasons. For example:

- a) The WCB may determine an annual review of an EERB is unnecessary if the worker is severely disabled and it is unlikely the worker's earnings capacity will change. In such a case the WCB may schedule reviews less frequently or suspend annual reviews altogether.
- b) When there may be a change in the worker's circumstances that could affect the amount of the EERB award. For example, the worker is participating in a vocational rehabilitation training plan at the fifth anniversary of the EERB award. In such a case, the WCB may extend the review schedule.

1.3 Ad hoc reviews

The WCB may review an EERB on an ad hoc basis at any time. Examples of when an ad hoc EERB review may be initiated include:

- a) a worker reports changes in circumstances (see Section 3) which may affect the worker's LOE earnings used to calculate the current amount of EERB in pay; or
- b) fraud or misrepresentation is suspected. As part of the review the WCB will consider and apply *Policy 10.3.7R2 - Fraud and Misrepresentation* and *Policy 10.2.1R1- Recovery of an Overpayment* as appropriate.

References: Workers' Compensation Act, Sections 38, 73, and 84.

2. EERB review

During an EERB review the WCB collects information to determine if there have been changes in the LOE used to calculate the EERB since the time of the EERB award, or last EERB review. This information may include, but is not limited to:

- a) actual earnings from employment. This will include a review of a worker's information received from the Canada Revenue Agency (CRA). The WCB may use alternate means of verifying a worker's earnings where appropriate. This includes asking the worker to provide proof of earnings through pay stubs or other similar records;

- b) whether the worker is receiving Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) disability benefits;
- c) updated medical/functional information; or
- d) updated labour market/vocational information as required.

References: Workers' Compensation Act, Sections 73, 84(1)(c) and (d), 194.

3. Worker responsibility to report change in circumstances

A worker must notify the WCB immediately of a change in circumstances that affects, or may affect, the worker's initial or continuing entitlement to compensation. In particular, a worker must notify the WCB immediately if there is a change that may affect the worker's LOE used to calculate the amount of EERB they are receiving, since the time of the EERB award or last EERB review. The types of changes the worker must report to the WCB include, but are not limited to:

- a) change in employment status or earnings;
- b) receipt of CPP/QPP disability benefits; and
- c) change in functional abilities.

Workers are expected to maintain adequate records to assist the WCB in comparing the LOE used to calculate the EERB to the worker's current LOE.

If possible, a worker should notify the WCB of a change, such as a planned return to work, before it happens. This helps prevent an overpayment that will need to be recovered from the worker. The WCB will pursue recovery of overpayments that are created by workers not reporting changes in circumstances as per *Policy 10.2.1R1- Recovery of an Overpayment*.

References: Workers' Compensation Act, Sections 73, 84 (1)(c) and (d), 84(2).

4. Adjusting an EERB

4.1 Variation of ten-percent or more in EERB amount

- a) As set out in Section 73 (2) of the Act, the WCB may adjust the amount of EERB paid to a worker if changes in the LOE used to calculate the EERB at the time of the EERB award, or most recent EERB review, results in at least a ten-percent variation in the EERB amount being paid to the worker at the time of the review.
- b) The WCB will terminate an EERB if the review indicates the worker no longer has a LOE due to the work-related injury. Increases to the amount of EERB paid to a worker will be considered if the worker's reduced earning capacity is due to the effects of the work-related injury on the worker's functional abilities.
- c) Notwithstanding Section 4.1 (a), the WCB will always adjust an EERB to reflect worker receipt of CPP/QPP disability benefits.

4.2 Effective date of adjustment

- a) If the WCB determines through the EERB review that an EERB should be adjusted, the current EERB amount will continue to be paid on a go-forward basis until the end of the month in which the review was completed. The new EERB amount is effective the following month.
- b) If the WCB determines through the EERB review that an EERB should be adjusted retroactively, the adjustment is calculated based on the date when the change to the worker's LOE is determined to have occurred.

References: Workers' Compensation Act, Sections 38, 73(2).

Application

This policy applies to EERB reviews completed on or after January 1, 2026.