

June 30, 2002

Update 2002-3

**TO HOLDERS OF THE *REHABILITATION SERVICES & CLAIMS MANUAL* -
VOLUME I**

This update of the *Rehabilitation Services & Claims Manual* contains changes to the *Manual* approved by the Panel of Administrators in June 2002.

The *Workers Compensation Act* has been changed by the *Workers Compensation Amendment Act, 2002*. This volume will remain in effect after June 30, 2002 as noted below.

To better enable workers, employers and Board officers to identify the policies that will apply to a particular situation, the *Manual* now comprises two volumes. Volume I reflects the law and policy in effect immediately before June 30, 2002. Volume II reflects the law and policy in effect on or after June 30, 2002. To determine which volume applies, holders of the *Manual* are referred to Chapter 1 of each volume.

An updated Chapter 1 for Volume 1 has been included as part of this package.

If you have any questions regarding this update, or the *Manual*, please call the Publications and Videos section of the WCB at (604) 276-3068, or toll free within BC at 1-800-661-2112, local 3068.

MAUREEN NICHOLLS
Chair, Panel of Administrators

Attachment

TABLE OF CONTENTS

Page

CHAPTER 1 — SCOPE OF VOLUME I OF THIS MANUAL

#1.00	INTRODUCTION	
	#1.10	The Persons Covered by the Act 1-1
	#1.20	The Conditions under which Compensation is Payable 1-1
	#1.30	The Type and Amount of Compensation 1-1
	#1.40	Charging of Claims Costs 1-2
#2.00	WORKERS' COMPENSATION BOARD	1-2
	#2.10	Jurisdiction over Claims Adjudication 1-2

CHAPTER 2 — WORKERS AND EMPLOYERS COVERED BY THE ACT

#3.00	INTRODUCTION	2-1
#4.00	EXEMPTIONS AND EXCLUSIONS FROM COVERAGE	2-1
#5.00	COVERAGE OF WORKERS	2-1
#6.00	DEFINITION OF "WORKER" AND "EMPLOYER"	2-2
	# 6.10	Nature of Employment Relationship 2-2
	# 6.20	Voluntary and Other Workers Who Receive No Pay 2-2
# 7.00	SPECIFIC INCLUSIONS IN DEFINITION OF WORKER	2-3
	# 7.10	Members of Fire Brigades 2-3
# 8.00	ADMISSION OF WORKERS, EMPLOYERS, AND INDEPENDENT OPERATORS	2-3
	#8.10	Federal Government Employees 2-3

CHAPTER 3 — COMPENSATION FOR PERSONAL INJURY

#12.00	INTRODUCTION	3-1
#13.00	PERSONAL INJURY	3-1
	#13.10	Distinction Between an Injury and Disease 3-1
		#13.12 Disablement from Vibrations 3-3
	#13.20	Psychological Impairment 3-3
#14.00	ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT	3-3
	#14.10	Presumption 3-4
	#14.20	Occurrence or Non-Occurrence of a Specific Incident 3-5

#15.00	NATURAL CAUSES	3-6
	#15.10 Worker Has Pre-existing Deteriorating Condition	3-6
	#15.15 Firefighters and Heart Injury	3-7
	#15.20 Injuries Following Motions at Work	3-9
	#15.30 Recurring Temporary Disabilities	3-11
	#15.40 Ganglia	3-12
	#15.50 Herniae	3-12
	#15.51 Herniae Reopenings and Recurrences	3-16
	#15.60 Shoulder Dislocations	3-16
#16.00	UNAUTHORIZED ACTIVITIES	3-17
	#16.10 Intoxication or Other Substance Impairment	3-17
	#16.20 Horseplay	3-19
	#16.30 Assaults	3-19
	#16.40 Injury While Doing Another Persons Job	3-20
	#16.50 Emergency Actions	3-21
	#16.60 Serious and Willful Misconduct	3-22
#17.00	HAZARDS ARISING FROM NATURE	3-23
	#17.10 Insect Bites	3-23
	#17.20 Plant Stings	3-23
	#17.30 Frostbite, Sunburn and Heat Exhaustion	3-23
	#17A.10 Commencement of Employment Relationship	3-24
	#17A.20 Termination of Employment Relationship	3-25
#18.00	TRAVELLING TO AND FROM WORK	3-25
	#18.01 Entry to Employers Premises	3-25
	#18.10 Road Leading to Employers Premises	3-26
	#18.11 Captive Road Doctrine	3-26
	#18.12 Special Hazards of Access Route	3-28
	#18.20 Provision of Transportation by Employer	3-29
	#18.21 Provision of Vehicle by Employer	3-29
	#18.22 Payment of Travel Time and/or Expenses by Employer	3-30
	#18.30 Journey to Work Also Has Employment Purpose	3-31
	#18.31 Worker On Call	3-31
	#18.32 Irregular Starting Points	3-32
	#18.33 Deviations From Route	3-33
	#18.40 Travelling Employees	3-34
	#18.41 Personal Activities During Business Trips	3-34
	#18.42 Trips Having Business and Non-Business Purpose	3-36
#19.00	USE OF FACILITIES PROVIDED BY THE EMPLOYER	3-36
	#19.10 Bunkhouses	3-36
	#19.20 Parking Lots	3-37
	#19.30 Lunchrooms	3-39
	#19.31 Injury Results from Claimant's Personal Property	3-39
	#19.40 Medical Facilities	3-39

CHAPTER 1

SCOPE OF VOLUME I OF THIS *MANUAL*

#1.00 INTRODUCTION

Effective June 30, 2002, the *Workers Compensation Act* was amended by the *Workers Compensation Amendment Act, 2002* (“*Amendment Act, 2002*”). The amendments changed the law in relation to compensation benefits for injured workers. For convenience, the law and policy as they were immediately before being changed will be called the former provisions and the law and policy after the changes will be called the current provisions. Volume I of this *Manual* sets out the former provisions. Volume II of this *Manual* sets out the current provisions.

Unless otherwise stated, “*Act*” in Volume I of this *Manual* refers to the *Workers Compensation Act*, as it read immediately before June 30, 2002. The *Interpretation Act*, RSBC 1996, Chapter 238, applies to the *Act*, unless a contrary intention appears in either the *Interpretation Act* or the *Act*.

Section 35.1 of the *Act*, as amended by the *Amendment Act, 2002*, contains the following transitional rules:

1. Except as noted in items 3, 4, and 5, the former provisions apply to an injury that occurred before June 30, 2002.
2. The current provisions apply to an injury that occurs on or after June 30, 2002.
3. Subject to the transition rule respecting recurrences (item 4), if an injury occurred before June 30, 2002, but the first indication that it is permanently disabling occurs on or after June 30, 2002, the current provisions apply to the permanent disability award with two modifications:
 - (i) 75% of average earnings (former provisions) is used for calculating the award rather than 90% of average net earnings (current provisions); and
 - (ii) no deduction is made for disability benefits under the Canada Pension Plan (former provisions).

Under this transitional rule, for an injury that occurred before June 30, 2002, where the first indication of permanent disability also occurs before June 30, 2002, the permanent disability award will be adjudicated under the former provisions. Where the first indication of permanent disability is on or after June 30, 2002, the award will be adjudicated under the current provisions, using the modified formula described in items (i) and (ii) above. The determination of when permanent disability first occurs will be based on available medical evidence.

An example of when this transitional rule applies is where a worker, injured before June 30, 2002, shows no signs of permanent disability before that date. However, on or after June 30, 2002, the worker has surgery, which first causes permanent disability. The permanent disability award will be adjudicated under the current provisions, using the modified formula.

4. If an injury occurred before June 30, 2002, and the disability recurs on or after June 30, 2002, the current provisions apply to the recurrence.

This transitional rule only applies to a recurrence. A recurrence is to be distinguished from a deterioration. An example of a recurrence is where there has been total recovery from a disability and wage-loss payments have been terminated. Subsequently, there is a recurrence of the disability and the claim is reopened. An example of a deterioration is where a disability award has been assessed and the disability subsequently worsens.

5. Regardless of the date of injury or death, the current provisions on indexing apply to compensation paid on or after June 30, 2002. In the case of fatalities, the current provisions are the same as the former provisions. Indexing of retroactive awards payable before June 30, 2002, will be based on the former provisions.

Volume I of this *Manual* covers the major issues discussed below.

#1.10 The Persons Covered by the Act

Not everyone is entitled to compensation under the *Act*, even if injured at work. To qualify for compensation, a person must be a "worker" employed by an employer covered by the *Act*. (1) Where a compensable injury or disease results in the worker's death, certain of the worker's relatives are entitled, but they must usually have been "dependants" during the worker's lifetime. (2)

#1.20 The Conditions under which Compensation is Payable

Not all injuries or diseases are compensable. The *Act* prescribes the type of injuries (3) and diseases (4) and the circumstances in which they are compensable. (5) Thus, for example, in the case of injuries, compensation is limited to personal injuries arising out of and in the course of employment. (6)

#1.30 The Type and Amount of Compensation

There are a variety of types of compensation provided under the *Act*.

1. payments to compensate the injured worker for loss of earnings caused by a temporary disability; (7)
2. permanent disability awards for actual or estimated loss of earnings; (8)
3. pensions to dependants for loss of support by a deceased worker; (9)
4. health care benefits; (10)
5. rehabilitation assistance. (11)

#1.40 Charging of Claims Costs

The cost of compensation is normally charged to the employer rate group to which the worker's employer belongs. The cost may also affect the employer's experience rating. There are special provisions which relieve the rate group and/or the employer in certain situations. (12)

#2.00 WORKERS' COMPENSATION BOARD

The Workers' Compensation Board is a corporation set up under the *Act* to administer the provisions of the *Act*. (13) The *Act* defines the word "Board" as the Workers' Compensation Board. (14) The use of the word "Board" throughout this *Manual* means the Workers' Compensation Board.

The Governors of the Board consist of one governor who is the Chairman, five governors representative of workers, five governors representative of employers, and two governors representative of the public interest. In addition, the Chief Appeal Commissioner and the President/C.E.O. are non-voting governors. (15) Both the Chief Appeal Commissioner, who is responsible for the operation of the Appeal Division, and the President/C.E.O., who is responsible for the day-to-day operation of the Board, are appointed by the Governors of the Board. The use of the word "Governors" throughout this *Manual* means the Governors of the Board.

The Governors approve and superintend the policies of the Board, including policies respecting compensation, assessment, rehabilitation and occupational safety and health. (16)

#2.10 Jurisdiction over Claims Adjudication

The Board has exclusive jurisdiction to inquire into, hear, and determine all matters and questions of fact and law arising under the *Act*, and the action or decision of the Board thereon is final and conclusive and is not open to review in any Court. (17) Thus, the Board has sole jurisdiction over the adjudication of claims for compensation under the *Act*. This jurisdiction is primarily exercised through the Board's Claims Adjudicators, Claims Officers, Disability Awards Officers, and Adjudicators in Disability Awards, (18) with appeals being available to the review board, the Appeal Division, and, in cases where a medical decision is made, to a Medical Review Panel. (19)

The *Act* authorizes the Board to issue rules, regulations, orders, and directives for its due administration. These rules, regulations, orders, and directives are promulgated by the Governors, and they constitute the working rules of the system. These rules are reviewed from time to time by the Governors.

NOTES

- (1) Chapter 2
- (2) Chapter 8
- (3) Chapter 3
- (4) Chapter 4
- (5) Chapters 3 and 4
- (6) Chapter 3
- (7) Chapter 5
- (8) Chapter 6
- (9) Chapter 8
- (10) Chapter 10
- (11) Chapter 11
- (12) Chapter 17
- (13) S.1 S.80
- (14) S.1
- (15) S.81
- (16) S.82
- (17) S.96(1)
- (18) Chapter 12
- (19) Chapter 13