



WORKERS' COMPENSATION BOARD OF BC

Policy and Research Division

Mailing Address

PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

Location

6951 Westminster Highway
Richmond BC

Telephone 604 276-5160
Fax 604 279-7599

June 2005

Update 2005 – 4

TO: HOLDERS OF THE *ASSESSMENT MANUAL*

This update to the *Assessment Manual* contains amendments to the *Manual* implemented since Update 2005 – 3.

The following two amendments become effective on **June 1, 2005**.

- AP1-42-1 Experience Rating
- AP1-42-3 Transfer of Experience Rating Between Firms

Also included in this update is a housekeeping amendment:

- AP1-42-2 Experience Rating Cost Inclusions/Exclusions

A summary of the amendment is attached and the amended pages are included as part of the package.

If you have any questions regarding subscription information for updates to the *Assessment Manual*, please contact WCB Customer Service at the following:

Local phone: 604-232-9704
Toll-free: 1-866-319-9704

Local fax: 604-232-9703
Toll-free fax: 1-888-232-9714

Roberta Ellis
Vice President
Policy and Research Division

Attachments

ASSESSMENT MANUAL

SUMMARY OF AMENDMENTS – Update 2005 – 4

| | | |
|---|-------------|---|
| Table of Contents | Pages 5 - 6 | Title change to AP1-42-3 |
| AP1-42-1 Experience Rating | Pages 1 - 4 | Updated to provide a definition of “experience”. |
| AP1-42-2 Experience Rating Cost Inclusions/Ex- clusions | Pages 1 - 2 | Housekeeping change to update cross references to reflect recent policy changes. |
| AP1-42-3 Transfer of Experience Rating Between Firms | Pages 1 - 3 | Policy amended to enable the WCB to consider "affiliation" and “control” as criteria for experience transfer. |

- (e) Cancellation of registration

AP1-38-2 PAYROLL – CATEGORIES

- (a) General
- (b) Wages and salaries
- (c) Shareholders' earnings
- (d) Contractors' earnings

AP1-38-3 PAYROLL – PRINCIPLES FOR DETERMINING

- (a) Severance or termination pay
- (b) Self-funded leaves of absence
- (c) Living out allowances
- (d) Payments for vehicles
- (e) Goods and Services Tax (GST)
- (f) Administration/management payroll
- (g) Volunteer firefighters

AP1-38-4 PAYROLL – OUT-OF-PROVINCE EMPLOYERS AND OPERATIONS

- (a) BC employers sending workers out of province
- (b) Out-of-province employers operating in BC
- (c) Jurisdictions where principals of corporations have voluntary coverage
- (d) Air carriers

AP1-38-5 PAYROLL ESTIMATES

AP1-38-6 MAXIMUM WAGE

AP1-39-1 ASSESSMENT RATES

AP1-39-2 ASSESSMENT PAYMENTS

- (a) Remittance schedules
- (b) Manner of reporting and payment
- (c) Pre-payment of assessments
- (d) Overpayments
- (e) Transfers between accounts

AP1-40-1 PENALTIES

AP1-42-1 EXPERIENCE RATING

**AP1-42-2 EXPERIENCE RATING COST
INCLUSIONS/EXCLUSIONS**

AP1-42-3 TRANSFER OF EXPERIENCE BETWEEN FIRMS

AP1-45-1 COLLECTION OF ASSESSMENTS

- (a) Payment proposals
- (b) Bankruptcy and receivership
- (c) Writ of seizure and sale
- (d) Land judgements
- (e) Garnishing orders
- (f) Write off

RE: Experience Rating**ITEM: AP1-42-1**

BACKGROUND

1. Explanatory Notes

Experience rating is a means of adjusting individual employers' assessment rates to reflect their actual claims cost experience. Employers whose experience is better than their rate group average receive a discount. Employers whose experience is worse than their rate group average pay a surcharge.

The experience rating program attempts to promote positive safety attitudes and to provide equity through a system of recognition and accountability for claims costs. The goal is to encourage employers with high injury costs to reduce them, and to encourage employers with low injury costs to keep them low. The desired outcome is a reduction in the social and economic costs of work-related injuries and diseases.

2. The Act

Section 42:

The Board must establish subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as may be considered just; and where the Board thinks a particular industry or plant is shown to be so circumstanced or conducted that the hazard or cost of compensation differs from the average of the class or subclass to which the industry or plant is assigned, the Board must confer or impose on that industry or plant a special rate, differential or assessment to correspond with the relative hazard or cost of compensation of that industry or plant, and for that purpose may also adopt a system of experience rating.

POLICY

Effective January 1, 2000, a new experience rating ("ER") plan took effect. The main features of the plan are:

- (1) The same ER plan applies to all employers and independent operators in rateable classes.
- (2) The ER plan is prospective in application. ER adjustments are calculated on the basis of past claims costs and payroll and are applied to employers'

assessments. Thus, a firm's experience is a measure of a firm's performance relative to its rate group based on information derived by the Board from appropriate past claims costs and payroll.

- (3) ER adjustments are based solely on claims costs. The costs used are those directly associated with compensation claims, including the capitalized value of pensions awarded. The cost used for fatal claims is the five-year moving Board-wide average rather than the actual cost of each claim.
- (4) The Board's administrative costs are not included in the ER calculation.
- (5) The ER plan uses claims costs arising from claims commenced in the three calendar years prior to the year in which the calculation is made (the "ER Window"). This includes all costs of those claims up to and including June 30th of the year of calculation.
- (6) The costs included are subject to maximum limits for each claim as follows:
 - 100% of the first \$70,000;
 - 50% of the next \$50,000; and
 - 10% of all costs above \$120,000.
- (7) An employer's cost to assessable payroll ratio is compared to the cost to assessable payroll ratio of the rate group to which the employer is assigned.
- (8) The payroll used is the total assessable payroll used to calculate employers' assessments in the ER Window. This amount excludes earnings above the maximum wage, and includes Personal Optional Protection amounts.
- (9) In determining the cost to assessable payroll ratio in the ER Window, the most recent year is weighted at 50%, the prior year at 33.3%, and the most distant year at 16.7%.
- (10) The calculation involves combining an employer's cost experience in the ER window with its ER factor for the previous year. The ER factor reflects the fact that employers participate at different levels, based on the size of the employer's assessment before the ER adjustment. The higher an employer's base assessment, the higher its level of participation in the plan. A higher level of participation means an employer's ER adjustment is more responsive to its claims costs experience in the current ER window.
- (11) The minimum participation level is set at 10%.
- (12) The maximum ER discount is 50%. The maximum ER surcharge is 100%.

- (13) Employers enter the plan for the first time when they have had some payroll within the current ER window.
- (14) Where any part of an employer's payroll has been estimated, any resulting discount will not be applied. If a surcharge results, it will be applied. If an estimate is replaced by the actual payroll information, the experience rating will be recalculated.
- (15) The employer for experience rating purposes is the legal entity operating the business. If an employer operates divisions, whether they are separately registered with the Board or not, the employer's combined experience determines the rating for all the employer's operations.
- (16) Employers registered voluntarily under sections 3(5) to (7) of the *Act* or by a variance from a general exemption order under section 2(1) of the *Act* are excluded from participating in the experience rating plan.
- (17) For simplicity, ER discounts or surcharges are generally expressed as percentage adjustments to employers' base assessment rates.

PRACTICE

Further information on the experience rating system can be found on the WCB website at http://www.worksafebc.com/for_employers/premiums/experience_rating/default.asp.

For any other relevant PRACTICE information, readers should consult the Practice Directives available on the WCB website.

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| EFFECTIVE DATE: | June 1, 2005 |
| AUTHORITY: | s. 42, <i>Workers Compensation Act</i> . |
| CROSS REFERENCES: | See also Requesting a Variance from a General Exemption (AP1-2-2), Personal Optional Protection (AP1-2-3), Extending the Application of the <i>Act</i> (AP1-3-1) with regard to sections 3(5) to 3(7) of the <i>Act</i> , Classification – Changes (AP1-37-3), Registration of Employers (AP1-38-1), Payroll Estimates (AP1-38-5), Maximum Wage Rate (AP1-38-6), ER Cost Inclusions/Exclusions (AP1-42-2) and Transfer of Experience Between Firms (AP1-42-3) in the <i>Assessment Manual</i> . |
| HISTORY: | Updated to define “experience” effective June 1, 2005. Replaces Policies No. 30:50:10 and 30:50:41 of the <i>Assessment Policy Manual</i> and Decision No. 401 in Volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> . This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording |



WORKERS' COMPENSATION BOARD OF BC

ASSESSMENT MANUAL

APPLICATION:

changes necessary to reflect legislative and other changes since the policies and items referred to in the HISTORY were issued. The amended policy applies to all decisions made on or after June 1, 2005.

RE: Experience Rating Cost Inclusions/Exclusions ITEM: AP1-42-2

BACKGROUND

See Item AP1-42-1.

POLICY

As a general rule, every acceptable claim assigned to a particular employer is counted for experience rating purposes. The Board does not exclude the costs of claims from being considered on the basis that a particular injury or the resulting costs were not the fault of the employer.

Some types of claims costs are excluded from consideration. These are:

- (1) costs recovered by way of a third party action under section 10 of the *Act*;
- (2) costs transferred to the class of another employer or independent operator under section 10(8) of the *Act*;
- (3) costs assigned to the funds created by section 39(1)(d) and (e) of the *Act*; and
- (4) occupational disease claims which on average require exposure for, or involve latency periods of, two or more years before manifesting into a disability. The diseases excluded on this ground are:
 - Non traumatic hearing loss, excluding hearing loss resulting from other injuries
 - Silicosis
 - Asbestosis
 - Other pneumoconioses, for example anthracosis and siderosis
 - Heart disease
 - Cancer

- Hand-arm vibration syndrome, vinyl chloride induced Raynaud's phenomenon, disablement from vibrations

Several policies in the *Rehabilitation Services & Claims Manual* also provide for relief of costs. These costs are also excluded from consideration for experience rating purposes.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WCB website.

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| EFFECTIVE DATE: | January 1, 2003 |
| AUTHORITY: | s. 42, <i>Workers Compensation Act</i> . |
| CROSS REFERENCES: | See also Experience Rating (Item AP1-42-1) in the <i>Assessment Manual</i> and Recurring Temporary Disabilities (policy item #15.30), Serious and Wilful Misconduct (policy item #16.60), Vocational Rehabilitation — Training-On-The Job (Item C11-88.40), Vocational Rehabilitation — Formal Training (Item C11-88.50), Investigation Costs (policy item #113.10), Occupational Diseases (policy item #113.20), Transfer of Costs from One Class to Another (policy item #114.10), Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability (policy item #114.40), Experience Rating Cost Exclusions (policy item #115.30), Injuries or Aggravations Occurring in the Course of Treatment or Rehabilitation (policy item #115.31), and Claims Involving a Permanent Disability Award and a Fatality (policy item #115.32) in the <i>Rehabilitation Services & Claims Manual</i> , Volume II. |
| HISTORY: | Cross References section updated effective June 1, 2005. Replaces in part Policy No. 30:50:52 of the <i>Assessment Policy Manual</i> and Decision No. 49 of Volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> . This Item results from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the HISTORY were issued. |
| APPLICATION: | This policy applies to all decisions made on or after January 1, 2003. |

RE: Transfer of Experience Between Firms**ITEM: AP1-42-3**

BACKGROUND

1. Explanatory Notes

Employers may sell or otherwise transfer all or part of their business to another person or entity. When changes of this nature occur, the question arises whether there should be a transfer of the experience of the firm.

2. The Act

See Item AP1-42-1.

POLICY

1. Overview

Principles to consider in experience transfer include:

- Experience rating is a measure of a firm's "hazard or cost of compensation" within the workers' compensation system.
- A firm has control over the way it conducts its business operations, which in turn may impact claims costs.
- The Board applies experience rating to a firm, and maintains each firm's earned experience, to promote continuity and premium equity.

Therefore, when business operations or assets move between firms, the Board must determine whether or not it is appropriate to transfer the original firm's experience history to a successor firm.

2. Descriptions of Terms

The following terms assist in interpreting policy:

Affiliation

Firms are affiliated where:

- directly or indirectly through one or more intermediaries or by other means, one firm controls the other firm, or both firms are controlled by the same person or group of persons, or
- the firms are controlled by family members, immediate, extended, or equivalent.

Where an original firm's business operations or assets are split between multiple successor firms, affiliation is determined on the basis of the relationship between the original firm and each individual successor firm.

Control

Control is the ability or power, actual or potential, direct or indirect through intermediaries, to direct or cause the direction of the management of a firm's business operations, through the ownership of voting securities, by contract, or by other means.

Firm

A firm is any person or entity carrying on a business. An "original firm" is one that moves assets or business operations to one or more other firms. A "successor firm" is one receiving assets or operations from an original firm.

Business Operations

The commercial, industrial, or professional activities of a firm; which generally comprise its assets and activities respecting property, plant(s), equipment, products, or services.

3. Experience Transfer Guidelines

The following guidelines are used when considering whether experience should transfer between firms:

- a) Generally, experience will not transfer where a firm's business operations or assets move to another firm and the firms do not meet the description of affiliation. Experience may transfer where an original firm's business operations or a significant portion or aspect of an original firm's business operations move to an affiliated successor firm.

As an exception, experience may transfer between unaffiliated original and successor firms where both are publicly traded companies, and it is anticipated that the successor firm will continue the business operations unchanged by preserving the original undertaking, management, staff, plant, equipment, location and customers/clients.

Where experience transfer is considered between firms, generally the classification of the operations should remain the same. If the classification of

the operations changes, the provisions of Item AP1-37-3 (Classification - Changes) are considered in conjunction with this policy.

- b) Generally, a firm's experience will remain with the firm if it undergoes a change in ownership through a share purchase or other means, as the same firm remains in operation.

PRACTICE

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WCB website.

For the Practice Directive "Transfer of Experience" - AP1-42-3, readers should see, in particular,
http://www.worksafebc.com/law_and_policy/practice_directives/assessment_and_revenue_services/default.asp.

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| EFFECTIVE DATE: | June 1, 2005 |
| AUTHORITY: | s. 42, <i>Workers Compensation Act</i> . |
| CROSS REFERENCES: | See also Coverage Under <i>Act</i> – Descriptions of Terms (Item AP1-1-1) and Classification – Change (Item AP1-37-3) and Experience Rating (Item AP1-42-1) in the <i>Assessment Manual</i> . |
| HISTORY: | Changes to the criteria by which experience transfers are adjudicated were made effective June 1, 2005. This Item resulted from an editorial consolidation of the former <i>Assessment Policy Manual</i> , which was effective on January 1, 2003. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policy No. 30:50:50 in the former <i>Assessment Policy Manual</i> was replaced by this Item. Consequential changes to this Item made as a result of the <i>Workers Compensation Amendment Act (No. 2), 2002</i> were effective on March 3, 2003. |
| APPLICATION: | The amended policy applies to all decisions made on or after June 1, 2005. |