

ANNUAL REPORT

For the period January 1 to December 31, 1999

POLICY AND REGULATION DEVELOPMENT BUREAU WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA

**Submitted by:
E. Louise Logan
Director General
April 28, 2000**

To: Panel of Administrators
Workers' Compensation Board of British Columbia

I am pleased to present the Policy and Regulation Development Bureau's annual report for 1999.

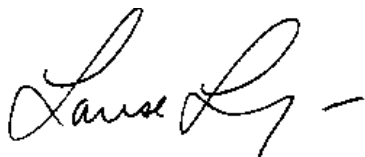
This past year has been a very busy and productive one at the Bureau. In fact, it has been the most productive year to date. Significant policy matters were addressed in all five areas around which the Bureau is organized: compensation, prevention, occupational disease, assessments and regulation review. The credit for these accomplishments goes to the staff at the Bureau. Working together, they researched, consulted on, and assisted the Panel in resolving approximately 30 policy and regulatory matters, including many controversial issues of long-standing concern.

In addition to drafting new policies and regulations, the Bureau played a key role in a number of new initiatives at the Board. For example, the Bureau took a lead role in developing the Board's response to policy issues arising from the Royal Commission, developed a new *Prevention Manual* for policies arising from Bill 14, the *Workers Compensation (Occupational Health and Safety) Amendment Act*, and participated actively in the implementation of both Bill 14 and the new Employer Assessment Classification System.

The Bureau also expended considerable time and resources to strengthen its stakeholder advisory committees and to consult extensively with workers, employers, scientific and legal experts and others on a wide range of issues.

I would like to take this opportunity to acknowledge the Bureau staff for their expertise and commitment to providing the Panel of Administrators with thorough, objective and independent policy advice. Their professionalism, energy, and effort are truly appreciated.

Yours truly,

A handwritten signature in black ink, appearing to read "Louise Logan", followed by a horizontal line.

E. Louise Logan
Director General

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1. INTRODUCTION

Policy and regulation development are cornerstones of governance at the Workers' Compensation Board (WCB) and are the responsibility of the Board's Panel of Administrators (the "Panel"). The Policy and Regulation Development Bureau (the "Bureau") was created in 1995 to advise the Panel on policy and regulation development issues. The Bureau is independent of the administration of the Board, enabling it to provide the Panel with unbiased, independent policy advice. The Director General of the Bureau reports directly to the Panel, through the Chair. The Panel establishes the Bureau's annual workplan.

In preparing policy proposals for the Panel's consideration, the Bureau consults with a variety of stakeholders, including employer and labour representatives, scientific and legal experts and the various Divisions of the WCB. The Bureau also acts as a liaison with the provincial Ministry of Labour and provides briefing materials and other information to the Minister upon request.

The terms of reference for the Director General describe the Bureau's mandate:

The Policy Bureau's mandate is to ensure that the Panel is provided with thoroughly researched "public interest" policy and regulatory alternatives and options which incorporate the views of major constituents (workers, their unions, employers and the WCB administrative operating Divisions).

In addition to its original mandate, the Panel has asked the Bureau to assume responsibility for reviewing and providing advice on major program and operational initiatives that have policy implications and to facilitate and report on stakeholder involvement in the development of programs and services.

2. COMPOSITION

Since 1998, the Bureau has been led by Louise Logan, Director General. In 1999, the Bureau had a total 20 FTEs as well as several contracted positions. Reporting to the Director General are five Policy Directors, an Administrative and Finance Manager and six Policy Analysts. Directors and Analysts are grouped into small policy teams covering five key areas of responsibility: Prevention; *Occupational Health and Safety Regulation (OHSR) Review*; Assessments; Compensation and Benefits and Occupational Disease. The Director General is supported by an Administrative Assistant and the policy teams are supported by five secretaries.

3. OPERATING PRINCIPLES

The Bureau's work is guided by three operating principles:

1. The Bureau will analyze issues objectively, with due regard to:
 - the Board's statutory responsibilities under *the Workers Compensation Act*;
 - other relevant legal, scientific, or medical findings;
 - the operating needs of the Divisions;
 - stakeholder perspectives; and
 - the need to support the Panel in carrying out its policy and regulatory-related responsibilities and priorities.
2. The Bureau will work collaboratively with both internal and external stakeholders to identify and assess the need for policy development. The Bureau will seek out appropriate information and resources to ensure a thoroughly researched, credible and balanced analysis. Where necessary, the Bureau will engage appropriate medical, scientific or legal experts to assist with this process.
3. The Bureau will carry out issue-appropriate consultation processes that are respectful and accessible to affected stakeholders and provide an accurate report of stakeholder views to the Panel.

4. CONSULTATION

Consulting with stakeholders is an integral part of the policy and regulation development process and an important part of the Bureau's work. To facilitate the consultation process, the Bureau coordinates three stakeholder advisory committees. These are:

- The Policy Development Consultative Committee (PDCC)
- The Occupational Disease Advisory Committee (ODAC)
- The Health and Safety Advisory Committee (HSAC)

All committees are chaired by the Director General and consist of both employer and worker representatives. A description of the members of the committees, the number of times each met in 1999, and the issues discussed are listed below.

POLICY DEVELOPMENT CONSULTATIVE COMMITTEE

<u>Chair:</u> Louise Logan	Director General, Policy Bureau, WCB
<u>1999 Members</u>	<u>Affiliation</u>
Blake Williams	Workers' Advisers Office, BC Ministry of Labour
Lynn Bueckert	BC Federation of Labour
Ray Bozzer	Employers' Advisers Office, BC Ministry of Labour
Glenn Hall	Gleneil Holdings Ltd.

The PDCC was created in 1994. It assists the Bureau in identifying appropriate target audiences and consultation strategies on policy issues. The Committee met 10 times in 1999.

Many issues were brought to the PDCC for discussion and advice in 1999, including:

- Advising on priorities for the Bureau's 1999 policy schedule/workplan;
- Compensation-related matters such as ARCON, E-file, compensation for funeral expenses, loss of earnings pensions past age 65, case management, claims avoidance and case manager authority;
- Hearing loss pensions and the workplan for the review of Activity-related Soft Tissue Disorders (ASTDs);
- Fish harvesting classification for assessments purposes and the Employer Services Strategy – classification, rate making, experience rating, employers' assessments remittances;
- Development of the strategy for on-going OHSR review;
- Prevention-related matters, including administrative penalty amounts under Bill 14—the *Workers Compensation (Occupational Health and Safety) Amendment Act, 1998 (Amendment Act)*, the prevention enforcement strategy; and
- Miscellaneous matters such as, the Board's new Research Secretariat, the naming of WCB-owned buildings, public access to unpublished Appeal Division decisions, and procedures for dealing with "old" Reporter decisions.

OCCUPATIONAL DISEASE ADVISORY COMMITTEE

<u>Chair:</u> Louise Logan	Director General, Policy Bureau, WCB
<u>1999 Members</u>	<u>Affiliation</u>
Larry Stoffman	United Food and Commercial Workers Union
John Weir	BC Federation of Labour
Lynn Bueckert**	BC Federation of Labour
Ian May	Council of Forest Industries
Grant McMillan	Council of Construction Associations
Sharon Saunders+	BC Nurses Union
Mike Arbogast+	Health Employers Association of BC

** In mid-1999, Lynn Bueckert replaced John Weir as the representative for the BC Federation of Labour

+ denotes alternate members

ODAC was established in 1998 to provide advice on policy issues relating to occupational diseases, particularly as these relate to Schedule B, the Board's presumptive schedule of occupational diseases. ODAC met four times in 1999.

ODAC members provided advice to the Bureau on several revisions to Schedule B, and other occupational disease issues, including:

- Schedule B Items 16 (Hand Arm Vibration Syndrome), 3A (Bilateral Diffuse Pleural Thickening), 5 (Firefighters and Heart Injury/Disease), 8 (Respiratory Irritation), 12 (Bursitis) and 13 (Tenosynovitis/Tendinitis);
- Issues related to firefighters and brain cancer;
- Schedule D (Non-Traumatic Hearing Loss); and
- Bladder cancer amongst aluminum smelter workers.

HEALTH AND SAFETY ADVISORY COMMITTEE

<u>Chair:</u> Louise Logan	Director General, Policy Bureau, WCB
<u>1999 Members</u>	<u>Affiliation</u>
Roberta Ellis	Vice-President, Prevention Division, WCB
Doug Alley	Business Council of BC
Mike Arbogast	Health Employers Association of BC
Werner Knittel	Alliance of Manufacturers and Exporters of Canada
Ian May	Council of Forest Industries
Grant McMillan	Council of Construction Associations
Andrew Wynn-Williams	BC Chamber of Commerce
Neil Menard	IWA Canada National Office
Ana Rahmat	Hospital Employees Union
Larry Stoffman	United Food and Commercial Workers Union
Dave Thompson	BC & Yukon Building and Construction Trades Council
Lynn Bueckert	BC Federation of Labour
Steve Hunt	United Steelworkers of America

HSAC was established in mid-1999 to assist the Bureau in its on-going review of the Board's *OHSR*. HSAC met three times in 1999.

The Committee provides advice to the Bureau on occupational health and safety requirements. Among the issues reviewed in 1999 were requirements related to abrasive blasting, working in confined spaces, fall restraints on garbage trucks operations, and the use of respirators for short duration work.

A total of 24 issues were brought before the Committee in 1999 and consensus was reached on 16. These will be presented to the Panel for approval for release to public hearings in 2000.

OTHER CONSULTATION

It is important to note that stakeholder consultation is not limited to these formal advisory committees. In fact, the Bureau regularly consults with employers, workers and others through the use of surveys, focus groups, teleconferences and meetings. Increasingly, the Bureau will rely on new information technology, such as on-line surveys and discussion groups to enhance and improve its consultation and communication with stakeholders.

INTERNAL CONSULTATION

To ensure that the respective interests and concerns of the various Board Divisions are considered in the policy development process, the Bureau also consults extensively within the organization. To facilitate this process, the Bureau's Director General is a member of the Priorities and Board Governance Committee (Priorities Committee), a sub-committee of the Panel. The Bureau acts as secretariat to the Priorities Committee, which met eight times in 1999. Members of the Priorities Committee are:

PRIORITIES COMMITTEE

<u>Chair:</u> Don Cott	Chair, Panel of Administrators, WCB
<u>1999 Members</u>	<u>Affiliation</u>
Eric Mitterndorfer	Member, Panel of Administrators, WCB
Ralph McGinn	President & CEO, WCB
Louise Logan	Director General, Policy Bureau, WCB

Issues discussed by the Priorities Committee in 1999, included:

- The Bureau's 1999 policy schedule
- Priorities for ongoing regulation review
- *Amendment Act* policy issues
- Brain and lung cancer in firefighters
- Impact of *For the Common Good. Final Report of the Royal Commission on Workers' Compensation in British Columbia, 1998 (Royal Commission Report)*.
- Tradespersons dispatched from union hiring halls
- Use of generic language in the policy manuals
- Principals' earnings and average earnings
- Loss of earnings pensions past age 65
- Creation of a WCB earthquake reserve
- Payment of employer's expenses for occupational safety and health and assessment appeals
- Activity-related Soft Tissue Disorders

In addition, the Director General regularly attends meetings of the Board's Senior Executive Committee.

5. STRATEGIC OBJECTIVES FOR 1999

The following strategic objectives were identified in the Bureau's 1999 Business Plan:

- facilitate a more cohesive and team-oriented atmosphere at the Bureau;
- provide professional development opportunities for staff to enhance their consultation skills and processes and improve relations with stakeholders;
- refine consultation protocols to ensure broad, issue-appropriate consultation;
- develop a more formalized policy planning process;
- support a process to analyze the financial/cost implications of policy options;
- develop a new format for the WCB policy manuals;
- maintain strong relations with policy staff in the Board's Divisions; and
- lead the Board's response to policy recommendations arising from the *Royal Commission*.

Steps taken to meet these objectives in 1999 included:

- extensive staff development (see Section 8 of this report);
- development of new information technologies to assist in improving consultation, research and dissemination of information;
- development of a standardized policy planning process;
- establishment of a permanent financial analysis resource in the Bureau and a permanent resource within the Board's Information Services Division (ISD) to support the Bureau's data needs;
- reorganization of Bureau support staff to facilitate and support the policy development process;
- finalization and implementation of a new format for the *Prevention Manual*;
- strengthening of the Bureau's relationship with the Board Divisions; and
- leading the Board's response to the policy recommendations in the *Royal Commission Report*.

6. HIGHLIGHTS OF 1999 PROJECTS

In consultation with stakeholders, the Bureau completed approximately thirty policy issues in 1999, including a number of contentious issues of long-standing concern. For example, the Bureau:

- Led the development of the Board's response to policy recommendations arising from the *Royal Commission Report*.
- Developed policies necessary to implement the *Amendment Act*, which came into force on October 1, 1999.
- Developed a process to carry out on-going regulation review of the *OHSR*. Between July and December 1999, over 24 proposed amendments to the *OHSR* were reviewed and consensus was reached on 16 of these amendments, which will be released to public hearings in 2000.
- Completed a thorough review of the Board's policies on determining amounts of administrative penalties, which are levied against employers for occupational health and safety violations.

The Bureau also completed significant work on the following:

- A project to develop a resource manual, which will provide Occupational Disease Services (ODS) adjudicators with current medical and scientific information about occupational diseases. Special consideration has been given to relevant human exposure information and associated health effects. Information presented in the resource manual will complement existing policies. To date, chapters on two occupational diseases have been completed. Development of additional sections are on-going. Pilot testing the partially completed resource manual with ODS adjudicators will begin in March 2000.
- A project on temporal application of policy changes to determine how a policy change would apply to past, ongoing and future situations. The Appeal Division had expressed concerns that existing policy did not address certain temporal application issues that arise in applying Board policy. Following legal research and internal discussions, the Bureau concluded that temporal application issues cannot be resolved through the development of further policy. Rather they must be addressed in the context of each policy project, and the temporal application of the change must be specified very clearly in each resolution. The Bureau has developed a "guidelines document" that sets out various factors to be considered in drafting resolutions. The document will be provided to the Panel in 2000.

Finally, in June 1999, the provincial government passed the *Regulatory Impact Statement Act*. This *Act* directs all ministries and public agencies, crown corporations and statutory agencies, including the WCB, to examine the potential economic impact of new policies and regulations prior to their implementation. This is done through the development of a Regulatory Impact Statement. Prior to the passing of the *Act*, the Bureau conducted a review of the Board's policy and regulatory development processes to ensure they met the requirements of the *Act*. The review concluded the Board is in compliance. Then, in August 1999, the Bureau submitted its first annual plan to the Business Task Force established by the Ministry of Finance pursuant to the *Act*. In December, at the request of the Business Task Force, the Bureau submitted its first quarterly update to its annual plan.

7. POLICIES APPROVED BY THE PANEL OF ADMINISTRATORS IN 1999

In addition to the above projects, the Bureau researched and advised the Panel on a number of policy issues in 1999. The following list identifies policies approved by the Panel throughout the year.

POLICY APPROVED: JANUARY 12, 1999

HOUSEKEEPING CHANGES TO POLICY DOCUMENTS

The Panel extended the authority of the Director General, to make "housekeeping" changes to policy documents. In addition to the authority previously granted, the Director General may now make changes of the following type:

- changes to titles of Board staff, sections, departments or divisions where the change only affects internal operations and does not impact worker or employer rights or responsibilities, and
- consequential changes that are clearly contemplated by decisions of the Panel.

The PDCC is to be provided with a copy of any changes prior to the change being made. Any objections raised by the Committee are to be included in the regular Bureau report to the Panel.

Throughout 1999, housekeeping changes were made by the Director General pursuant to this authority.

POLICIES APPROVED: FEBRUARY 19, 1999**FOSTER PARENTS**

The Board provides benefits to persons, who act as foster parents in maintaining the existing household of the dependent(s) of a deceased worker, where there is no dependent widow or widower. The Panel approved an amendment to the foster parent policy to allow benefits for non-custodial natural parents who take on this role. This policy change arose from a recommendation in the *Royal Commission's Report on Sections 2 and 3(a)* (October 1997).

This amendment became effective April 1, 1999.

SCHEDULE B AND CORRESPONDING POLICY AMENDMENTS:**Schedule B Item 3A - Bilateral Diffuse Pleural Thickening**

The Panel approved amendments to Schedule B and corresponding policy language to better reflect current scientific/medical knowledge and the system of occupational disease recognition in BC. The Panel also amended the "Description of Disease" to include unilateral thickening as well as benign pleural effusion (unilateral and bilateral). The requirement that the thickening be "5mm thick and extending over more than a quarter of the chest wall" was removed. Corresponding changes were made to the policy language for this Item in the *Rehabilitation Services and Claims Manual (RSCM) #29.47*.

Schedule B Item 8 - Respiratory Irritation

The Panel approved amendments to Schedule B and corresponding policy language to better reflect current scientific/medical knowledge. The Panel also amended the "Description of Disease" to provide a more detailed description of the acute respiratory conditions involved. Reference to "excessive exposure" in the "Description of Process or Industry" was replaced by "exposure to high concentration [to a number of substances] that have irritating or inflammatory properties". Corresponding changes were made to relevant policies in the *RSCM* (#29.10, #29.20, and #30.50). Additional policy language regarding claims for chronic respiratory diseases was also adopted (*RSCM* #29.10).

Schedule B Item 16 - Hand-arm Vibration Syndrome

The Panel approved amendments to Schedule B and corresponding policy language to better reflect current scientific/medical knowledge. The Panel also updated the "Description of Disease" to replace "Vascular disturbances of the extremities" with the more commonly used term, "Hand-arm vibration syndrome" (HAVS). The "Description of Process or Industry" was amended, including removal of the reference to "low temperatures".

Corresponding changes were made to *RSCM* #27.10, #27.13, and #115.30 and to the *Assessment Policy Manual (APM)* #30:50:52. In addition, the Policy on HAVS was expanded to include a discussion of the most important risk factors for this condition and examples of the types of tools that can cause it.

These amendments to Schedule B became effective May 6, 1999.

ADDITIONS TO THE LIST OF OCCUPATIONAL DISEASES RECOGNIZED BY REGULATION

The Panel approved the addition of “Hypothenar Hammer Syndrome” and “Vinyl Chloride Induced Raynaud’s Phenomenon” to the list of occupational diseases recognized by regulation. Policy #26.03 of the *RSCM* was amended to reflect this change. In addition, policy language for hypothenar hammer syndrome was approved (*RSCM* #27.14). The policy includes a description of the common causes of hypothenar hammer syndrome and the factors that are considered in determining whether the condition is work-related.

These amendments took effect May 6, 1999.

POLICY APPROVED: MARCH 19, 1999

EMPLOYER REMITTANCES

The Panel approved two changes to the employer remittance requirements. The Panel approved a change to the existing policy, so that employers who pay their assessments quarterly can also be required to submit their payroll reports quarterly. The Panel also approved a change which gives the Assessment Department the discretion to vary the remittance requirements for individual employers, in limited circumstances.

These amendments took effect May 1, 1999.

POLICY APPROVED: APRIL 13, 1999

PERMANENT FUNCTIONAL IMPAIRMENT EVALUATION

The Panel approved amendments to the *RSCM* authorizing External Service Providers to conduct permanent functional impairment evaluations. Thus, permanent functional impairment evaluations may be conducted by either a Disability Awards Medical Advisor or a Board authorized External Service Provider. The Rehabilitation & Compensation Services Division, has set protocols and procedures for these evaluations.

A Board officer determines whether the evaluation is referred to a Disability Awards Medical Advisor or an External Service Provider based on the nature of the injury and other relevant criteria as set out in the protocols.

These amendments took effect April 28, 1999.

POLICIES APPROVED: JUNE 15, 1999

PENSION BENEFITS FOR LOSS OF VISUAL ACUITY

The Panel approved amendments to policy Item #39.42 of the *RSCM*. The amendments incorporated the rationale for considering corrected vision in assessing visual acuity when determining compensation under Section 23(1) of the *Workers Compensation Act*.

Section 23(1) provides compensation based on the existence of a permanent partial "disability". The degree of disability is the extent to which the injury is presumed to impair the earning capacity of the average worker. In determining the degree of disability, measurement of the loss of visual acuity is usually based on the best vision obtainable after correction with corrective lenses. Effective application of corrective lenses should eliminate any impairment of earning capacity.

The amendments also recognized that certain occupations require perfect uncorrected vision as a condition of employment. In these circumstances, where the worker may suffer an actual loss of earnings, the policy states that a Section 23(3) loss of earnings pension may be more equitable.

The amendments came into effect on June 15, 1999.

PREPAID PERSONAL OPTIONAL PROTECTION

The Panel approved in principle a policy change that would require Personal Optional Protection (POP) registrants to prepay their assessments, including as terms and conditions that:

- One month minimum coverage be provided;
- Refunds be given for unused coverage for all but the first month and partial months;
- Automatic cancellation of coverage at the end of the prepaid period with no grace period for late payment;
- Notice of the date of termination of coverage will be contained in the documents provided to the independent operator or employer granting the coverage;

- No additional notice of the date of termination will be provided to independent operators or employers granted coverage of less than three (3) months;
- Independent operators or employers granted coverage for three (3) months or longer will receive one notice of the date of termination in addition to the notice in the documents granting coverage.

The Panel resolution was signed June 15, 1999 with a tentative implementation date of September 1, 2000.

E-FILE – MANUAL AMENDMENTS

The Panel approved changes to the Board's policies dealing with the treatment of unsolicited information, the treatment of irrelevant sensitive information and the treatment of pejorative comments on the claim file. These policies had assumed the existence of a paper claim file and required amendment to accommodate an electronic claim file (E-File) as well.

The new Board policy for the treatment of unsolicited information sets out only the principles for dealing with this type of information to ensure that the file contains accurate and relevant information.

Board policy on the treatment of irrelevant (sensitive personal) information now states that irrelevant information will be destroyed rather than returned to the sender. However, where the irrelevant information is an original document, it will be returned to the sender if it is in the possession of the Board and upon request by the worker or sender. The Board will also take steps to educate senders on the need to send only relevant information.

With respect to the treatment of pejorative comments on the claim file, the amended policy states that, in an electronic file environment, an annotation citing the comment, as pejorative will be placed on the record.

These amendments took effect June 15, 1999.

NON-TRAUMATIC HEARING LOSS PENSIONS

The Panel approved amendments to the *RSCM* to provide a new commencement date for a non-traumatic hearing loss pension where there is no loss of earnings (under Section 7(3) of the *Workers Compensation Act*).

RSCM policy Item #31.80, paragraph 4 was amended to provide that where compensation is being awarded under Section 7 of the *Act*, but not in respect of any loss of earnings or impairment of earning capacity, then, subject to Section 55, pension benefits shall be calculated to commence as of the earlier of either the date of application or the date of first medical evidence that is sufficiently valid and reliable for the Board to establish a pensionable degree of hearing loss under Schedule D of the *Act*.

Where the date of application is used as the commencement date, subsequent testing must support a pensionable degree of hearing loss as of the date of application.

These amendments took effect September 1, 1999

RECORDING PRINCIPALS' EARNINGS INFORMATION

The Panel approved amendments to policy Item #35.24 of the *RSCM* and Items 40:30:20 and 40:30:30 of the *APM*. The amendments are consequential to a business process change by the Assessment Department.

Previously, the Assessment Department, through the "Employer Payroll and Contract Labour Report" (Form 1810), collected information from principals of limited companies that included their individual earnings information. As a result of the Department's new computer system, the names of principals and their individual earnings information will no longer be collected. Form 1810 will continue to provide information regarding principals' total earnings. This will enable the Assessment Department to ascertain if the principals of a limited company have reported earnings.

This business process change is intended to reduce the amount of Board related paperwork and the complexity of reporting obligations for employers.

The amendments came into effect on June 15, 1999.

ACUTE RESPIRATORY REACTIONS TO SUBSTANCES WITH IRRITATING OR INFLAMMATORY PROPERTIES

Paragraph 4 of Item #29.10 of the *RSCM* - "Acute Respiratory Reactions to Substances with Irritating or Inflammatory Properties" was amended to clarify that a claim for reactive airways dysfunction syndrome (RADS) may be entitled to the presumption afforded by Item 6 of Schedule B (Asthma).

The amendments came into effect on June 15, 1999.

AUTHORITY TO DECIDE PREVENTION ORDER APPEALS

Policy 1.4.5 of the *Prevention Manual* provided for a right of appeal to the Director, Field Operations, with respect to the decision of a regional manager on orders issued by a Board officer. By resolution of April 23, 1998, this policy was extended to also cover appeals against the non-issuance of orders. To facilitate decision-making, the Panel authorized the Vice-President, Prevention Division, to assign in writing to any director or assistant director in that Division with relevant expertise the appeal functions granted to the Director, Field Operations, under the policy.

This change came into effect on June 15, 1999.

POLICY APPROVED: JULY 12, 1999

COMPENSATION BENEFITS AND INCARCERATION

Section 98(3) of the *Workers Compensation Act* provides the discretion to cancel, withhold or suspend the payment of compensation when a worker is confined to jail or prison. Policy Item #49.20 of the *RSCM* deals with the application of Section 98(3).

The Panel approved amendments to the policy to clarify that Section 98(3) applies where it is determined that a worker who is receiving benefits is subsequently incarcerated in any place used to confine persons in the course of the administration of the criminal justice system. The amendments provide definitions for the terms “cancel”, “suspend”, and “withhold”.

The amendments specifically address the exercise of discretion for the payment of vocational rehabilitation, health care, wage loss, and pension benefits during the period of incarceration. The amendments clarify the meaning of “confinement” and provide for ongoing entitlement to benefits once a worker is released on day parole and is no longer considered to be “confined” to jail or prison. The amendments also provide for the discretion to pay compensation to a trustee for the benefit of the worker depending on the reasonable needs of the worker while incarcerated.

The amendments took effect July 12, 1999.

POLICIES APPROVED: JULY 19, 1999

POLICIES TO IMPLEMENT THE AMENDMENT ACT (BILL 14)

The *Amendment Act* generally came into force on October 1, 1999. The occupational health and safety provisions of the *Workers Compensation Act* were replaced by a new "Part 3 – Occupational Health and Safety". The *Workplace Act* was also repealed.

The major areas covered by the new Part 3 are:

- Board mandate
- General duties
- Joint committees and worker representatives
- Prohibition against discriminatory action
- Enforcement and administrative penalties
- Reviews and appeals

The Panel approved policies to implement Part 3. In doing so, the Panel also approved a revised policy manual format that sets out more clearly each policy, the statutory authority for the policy and any Prevention Division practice flowing from the policy. The new policies are set out in a new *Prevention Manual* that incorporates the revised format.

The policies will undergo a general review in two years after the WCB has gained experience in administering Part 3. Individual policies may be reviewed sooner as appropriate.

ESTABLISHMENT OF A STRUCTURE TO OVERSEE RESEARCH

At its June 15, 1999 meeting, the Panel gave approval in principle to the establishment of a Research Secretariat to oversee the income stream from a \$30 million reserve that was set aside for research in 1998. The purpose of the Secretariat is to bring the necessary focus and governance to research and the related expenditures and to ensure accountable, continued scientific study as well as dissemination and application of research outcomes.

At its July 19, 1999 meeting, the Panel approved the structure of the Research Secretariat. The Secretariat will report to the Panel through the Panel Chair and will comprise a Director and a small complement of existing WCB staff. The Secretariat will review proposals, support the work of a Research Advisory Committee (composed of worker and employer representatives) and ensure strong links with the research community and other research organizations.

The operation of the Secretariat will be reviewed in 36 months to ensure that it is effective in bringing about the necessary focus, accountability and governance to research and the related expenditures.

POLICIES APPROVED: SEPTEMBER 21, 1999

EXTENSION OF “RECOMMENDED SCHEDULE OF SANCTIONS” IN PREVENTION POLICY 1.4.1 BEYOND OCTOBER 1, 1999.

The *Amendment Act* generally came into force on October 1, 1999. The new Part 3 provides for a system of administrative penalties that the Board may impose on employers for occupational health and safety violations.

The Bureau's work on a policy with respect to determining administrative penalty amounts under Part 3 continued past October 1, 1999. As an interim measure, the Panel decided that the “Recommended Schedule of Sanctions” formerly used to determine additional assessment amounts under the pre-October 1st *Act* would apply to administrative penalties imposed under the new Part 3 until a new policy on administrative penalty amounts became effective.

ASSESSMENT PENALTIES

The Panel approved changes to the penalty and interest provisions that apply when employers fail to provide their assessment payments or payroll information to the Board. The penalty rate under section 38(2), for failing to provide payroll information, was set at 8%; the penalty rate under section 40(2), for failure to make a return on the required form and remit the assessment payment, was increased to 8% but will be calculated on a reduced amount; the penalty rates under section 47(1) were set at 8% for failure to pay on time and 1% per month on outstanding (overdue) amounts, and the Vice President, Finance Division was given the authority to change the monthly rate to reflect changes in the Bank of Canada prime rate; the interest rate under section 49(1), for paying less than what is due, was decreased to 8%; the maximum penalty under section 40(2) of \$1500 was eliminated; and the committee established under section 47(2) was given the authority to reconsider its own decisions where there is significant new evidence or a clear mistake of evidence, law or policy in their previous decision.

NAMING WCB-OWNED BUILDINGS

The Panel decided that, as a matter of policy, the Board will not name the buildings it owns.

POLICIES APPROVED: OCTOBER 13, 1999**CHANGES TO THE ASSESSMENT SYSTEM**

The following is a summary of policy decisions on changes to the Assessment System that were finalized by the Panel in October 1999.

The Panel approved a new classification system. Employers and independent operators will now be grouped into classification units and rate groups (subclasses) based on new criteria. This is designed to reduce the cross-subsidization between different industries, which occurs under the current classification system. This should result in improved equity for employers and better application of incentive programs aimed at reducing injuries and the cost of injuries. Corresponding changes have been made to Sections 36 and 37 of the *Workers Compensation Act*.

Elimination of Subclass Account Balances

As part of the resolution, the Panel approved provisions for eliminating the current subclass account balances when the Board moves to the new classification system. Deficits will be written-off and surpluses will be credited back to the employers in those subclasses over a period of up to five years.

Experience Rating

The Panel also approved a new experience rating plan, which applies to all employers and independent operators. Again, the primary goals are to improve equity for employers and create greater financial incentives for reducing claims and claim costs. To promote these goals, the new plan increases the maximum experience rating merit and demerit from 33 1/3% to 50% for discounts (merits) and 100% for surcharges (demerits). This will make employers more individually responsible for their compensation costs. The new plan also introduces other changes, such as a participation factor, which limits how much a firm's assessment rate can change each year in response to changes in its cost experience, and per claim limits, which limit the impact of high cost claims on experience rating. The Panel's resolution also requires the Board to develop and implement proposals to address claims avoidance activities and to provide rate modification programs that consider factors other than claims costs.

A related Panel resolution entitles employers who have not had claims in 1996, 1997, and 1998 to receive the greater of the discount under the new experience rating plan or the existing experience rating plan until such time as a wage loss claim occurs or the discount under the new plan is equal to or better than the discount under the old plan, whichever comes first. When a wage loss claim occurs, the experience rating adjustment will be calculated under the new plan, commencing when the injury falls within the experience rating window.

Transition Plan

The Panel approved a transition plan for the new assessment system. A number of employers will see significant changes in their assessment rates when the new assessment and experience rating systems are implemented January 1, 2000, and the transition plan provides that any rate increases greater than 40% will be phased in over several years.

In determining assessment rates every year, the Board must collect sufficient funds to establish capitalized reserves sufficient to meet all future payments of compensation on injuries occurring in the current year. The Board can use various actuarial methods to estimate the amount of these reserves. One of these methods is the establishment of "average actuarial abstracts", which might appear to establish reserves on a per claim basis. The Panel passed a resolution which says none of the information produced for the purpose of calculating the reserves, including any figures calculated as average actuarial abstracts, will be considered relevant to or used in any way in the adjudication of individual claims.

As of January 1, 2000, the Board will have new classification and experience rating systems, affecting all assessment rates, except for deposit classes. The Finance Division is now able to calculate the new base assessment rates for the year 2000, but it is not able to calculate the experience rated adjustments until mid-year 2000. The Panel passed a resolution to allow the Board to set provisional assessment rates for employers for the first and second quarters of 2000 and advise them of those rates in the fall of 1999, and then calculate the final net (experience-rated) assessment rates for 2000 in mid-2000 and advise employers of those rates at that time. The total annual remittance for all firms for the year 2000 will be based on their final net assessment rate.

These changes to the Board's assessment system became effective January 1, 2000.

FUNERAL EXPENSES

The Panel approved amendments to the Board's policy on funeral expenses as provided in policy Item #53.00 of the *RSCM*.

The Board's authority to pay for funeral expenses is provided by Section 17 of the *Workers Compensation Act*. This section was recently amended when Section 30 of the *Labour Statutes Amendment Act* came into force November 5, 1999. The amendment replaces the current fixed payments for funeral expenses with a general authority for these amounts to be determined by Board policy.

In response to concerns regarding the inadequacy of the previous fixed payments, the Board has increased the amount available for funeral expenses, including incidentals, to \$6,476.47, and the amount available for transportation of the body to \$1,023.23. These amounts will continue to receive consumer price index adjustments every six months.

This increase in expense levels is consistent with the amounts recommended by the *Royal Commission Report*.

The amendments came into effect on November 5, 1999.

REVENUE SERVICES POLICY AMENDMENTS

The Panel passed a resolution making changes to policies concerning the audit and collection of accounts. The purpose of these amendments is to clarify the policies, reflect internal changes in responsibilities, reflect changes to other legislation, and to provide additional flexibility to the Board in its audit and collection functions. The policies affected include the responsibility of B.C. Contractors who hire out-of-province labour contractors to work in B.C., the inclusion of casual workers' earnings in assessable payroll, deductions for excess earnings from contractor's earnings, determining assessable payroll for active principals of corporations, equipment allowances for contractors, the role of the audit section, the cancellation of accounts, write-offs, bankruptcies, and payment proposals.

The amendments came into effect on October 13, 1999.

EMPLOYER REMITTANCE REQUIREMENTS – AMENDMENT TO RESOLUTION

In February 1999, the Panel passed a resolution that required all employers who pay their assessments quarterly to also submit their payroll information quarterly. Subsequently the Assessment Department advised that it was not necessary nor administratively feasible to require all these employers to submit their payroll reports quarterly. Thus, the Panel amended the resolution to say employers may be required to provide their payroll information with their quarterly payments.

POLICIES APPROVED: DECEMBER 17, 1999**SCHEDULE B ITEM 12 (“BURSITIS”) AND ITEM 13 (“TENOSYNOVITIS/TENDINITIS”)**

The Panel approved revised language for Schedule B Items 12 and 13 as well as related policy changes. The revised policy Items are #27.10, 27.11, 27.12, 27.20, and Appendix 2 of the *RSCM*.

The changes are based on the findings of two comprehensive scientific reports that deal with work-related soft tissue disorders. The changes were discussed with members of the ODAC before they were presented to the Panel.

The changes are meant to:

- better reflect current scientific knowledge by more precisely describing the anatomical structures and employment conditions typically associated with tendinitis/tenosynovitis and bursitis (with emphasis on the most relevant risk factors);
- provide more information and guidance to adjudicators in assessing occupational versus non-occupational exposure to relevant risk factors; and
- facilitate consistent decision-making based on current scientific knowledge.

These amendments to Schedule B will become effective March 29, 2000.

CHANGES TO THE ASSESSMENT POLICY MANUAL REGARDING CLASSIFICATION AND RATE MAKING

The Panel approved changes to the *APM* which:

1. reflect the new classification system approved by the Panel in Resolution #990824-01, and
1. clarify how the base rate for a rate group is established.

The amendments will come into effect on January 1, 2000.

8. PROFESSIONAL DEVELOPMENT

Bureau staff are encouraged to take advantage of professional development opportunities through, for example, attending conferences, meetings and training seminars/workshops. Also, "providing professional development opportunities for staff" was identified as one of the Bureau's strategic objectives for 1999. The following represents key professional development activities Bureau staff participated in during 1999:

CONFERENCES/MEETINGS

- The 4th International Congress on Medical-Legal Aspects of Work Injuries, held in Toronto, Ontario, June 6 to 9, attended by Louise Logan and three Policy Directors.
- Congress of the Association of Workers Compensation Boards of Canada, held in Yellowknife, NWT, July 6-9, 1999. Louise Logan attended the Congress.
- The 2nd Occupational Hygiene Conference held in Vancouver, September 22-23. Anya Keefe, Policy Analyst, was a co-organizer of the scientific program. Several Bureau Analysts and Directors attended the conference.
- The annual WCB College, presented by the Canadian Association of Workers' Compensation Boards of Canada, held in St. John's, Newfoundland, September 25 to October 1, 1999. Policy Analysts Joy Weismiller and David Young represented the Bureau at the college.
- Conference on "Human Rights: Disability Issues", presented by the Continuing Legal Education Society of BC, held in Vancouver in November 1999. The topics covered included the *American Disability Act*, the *Human Rights Code versus Workers Compensation Act*, labour arbitration versus *Human Rights Code*, disability under the Canadian system, duty to accommodate, and disability discrimination and the justification defence. Susan Nickerson-Graham, Policy Director attended the Conference.

TRAINING SEMINARS/WORKSHOPS

- Workshop on "Processing and Interpreting Survey Data", offered by Statistics Canada and held in Vancouver, February 11, 1999, attended by the Policy Analysts.

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- A full day “Strategic Consultation Workshop” for Bureau staff intended to facilitate development of an overall consultation strategy. The discussion that took place during the workshop was also helpful in developing the Bureau’s operating principles. The workshop was facilitated by Ann Svendsen and Kathy Scalzo of CoreRelation Consulting and was held at the Bureau on March 3, 1999.
 - Seminar on “Assertive Communications for Women” held in Vancouver on May 7, 1999, attended by the female Researchers and Policy Analysts.
 - Workshop on the Government of British Columbia’s Regulatory Impact Statement, provided by the Ministry of Finance and Corporate Relations, attended by all Directors, Analysts and Managers in September 1999.
 - Training session on media issues for Directors offered by WCB Communications Department and held on October 6th, 1999.
 - Course on “The Creative Leader: Mobilize Creative Synergies Within the Organization”, held in Vancouver and offered by the University of British Columbia’s Centre for Management Development, October 21-22, 1999, attended by Tom Kemsley, Policy Director.