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Inviting your feedback on proposed regulatory changes



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Board of Directors approves policy amendments on determining workplace status

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December 2022 Virtual public hearing on proposed amendments to the Occupational Health and Safety Regulation

The Policy, Regulation and Research Department is holding a virtual public hearing on **Friday, December 16, 2022** on proposed amendments to Part 6, Hazardous Drugs.

The virtual public hearing will be streamed live in two sessions. The first session will take place from 11 a.m. to 1 p.m., and the second from 3 p.m. to 5 p.m. Details on how to view or participate in the public hearing are posted on worksafebc.com.

[View the proposed amendments and explanatory notes.](#)

Participating in the public hearing process

We welcome your feedback on the proposed amendments by written submission or by participation at the public hearing. Written submissions can be made online until **4:30 p.m. on Monday, December 19, 2022**, via worksafebc.com, or by email to ohsregfeedback@worksafebc.com.

You can also register to speak at the hearing by phone. To register, call 604.232.7744 or toll-free in B.C. at 1.866.614.7744. Each organization or individual will be permitted to make one presentation.

All feedback received will be presented to our Board of Directors for their consideration.

More information on how to provide feedback on the proposed amendments can be found on worksafebc.com.

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Workers Compensation Amendment Act (No.2), 2022 (Bill 41) receives Royal Assent

On October 31, 2022, the provincial government introduced amendments to the *Workers Compensation Act* through [Bill 41](#). Bill 41 received Royal Assent on November 24, 2022.

Three amendments became effective immediately upon Royal Assent:

- Restores indexing of workers' compensation benefits to the full rate of annual percentage changes in the Consumer Price Index (CPI). WorkSafeBC will have the discretion to approve annual indexation above 4%, if the percentage change in the CPI exceeds that amount.
- Allows WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss.
- Explicitly prohibits employers from suppressing workers' compensation claims, with enforcement through penalties under the occupational health and safety provisions.

Two amendments will come into effect on April 3, 2023:

- Allows workers or employers to request a review by independent health professionals at the Workers' Compensation Appeal Tribunal.
- Requires interest on delayed benefit payments resulting from a decision overturned by the Review Division or the Workers' Compensation Appeal Tribunal where 180 days have passed from the benefit start date.

One amendment will come into effect May 1, 2023:

- Establishes the authority for a Fair Practices Commissioner (FPC) with a reporting structure that will enhance independence from the rest of WorkSafeBC. The FPC position will be appointed by the Board of Directors.

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One amendment will come into force by regulation of the Lieutenant Governor in Council:

- Adds a legal duty for workers and employers to cooperate in the workers' early and safe return to work, along with an obligation for employers to return injured workers to work.

More details on the implementation of Bill 41 will be shared on worksafebc.com as they become available.

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Recent policy and regulatory amendments

At its July 13, 2022 meeting, the Board of Directors approved the following policy amendments:

Suitable occupation for loss of earnings assessment

- Amendments to Item C6-40.00, *Section 196 Permanent Partial Disability Benefits*, of the *Rehabilitation Services & Claims Manual*, Volume II (*RS&CM*), clarify the factors considered when determining a suitable occupation for loss of earnings assessments.

Industry group movement

- Amendments to Item AP5-240/241-1, *Assessment Rates*, of the *Assessment Manual*, on industry group movement now aligns policy with the current rate-setting model adopted on January 1, 2019, and ensures WorkSafeBC's timely ability to place and move industry groups into appropriate rate groups.

Worker mileage rate review

- Amendments to Item C10-83.00, *Transportation*, in Volume I and Volume II of the *RS&CM* aligns reimbursement rates for health-care-related travel with the Canada Revenue Agency maximum tax-exempt mileage allowance for British Columbia, and will be adjusted on January 1st of each year.

Signature requirements for applications and forms

- Policy items #93.25, *Signature on an Application for Compensation*, and #95.10, *Form of Reports*, of the *RS&CM*, are amended to confirm that Teleclaim and online applications will satisfy the requirement for a "signed" application for compensation, and electronic submission of prescribed medical reports will satisfy reporting requirements.

The above policy amendments came into effect September 1, 2022.

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Determining workplace status

- Amendments to Items AP1-1-1, AP1-1-2, AP1-1-3, AP1-1-4, AP1-1-5, AP1-1-6, AP1-1-7, and AP5-261-1 of the *Assessment Manual*, on determining workplace status align policy with the *Workers Compensation Act* and the common law, and reflect the changing nature of work in British Columbia.

The amended policies on workplace status come into effect January 1, 2023.

At its October 26, 2022 meeting, the Board of Directors approved the following policy and regulatory amendments:

Other Matters (alcoholism)

- Amendments to Item C4-32.00, *Other Matters*, of the *RS&CM*, to replace outdated terminology and reflect WorkSafeBC's commitment to using inclusive, neutral, and bias-free language.

Recovery Procedures for Overpayments

- Amendments to policy item #48.42, *Recovery Procedures for Overpayments*, in Volume I and Volume II of the *RS&CM* to remove the word "re-collection" to clarify the recovery of overpayments when the matter has been put before Review Division or the Workers' Compensation Appeal Tribunal.

The above policy amendments come into effect December 1, 2022.

2022 Occupational Health and Safety Regulation:

- Amendments to Parts 14 and 19 of the *Occupational Health and Safety Regulation* on Inconsistent Crane Misadventure and Zone-Limiting Devices in Tower Cranes, and consequential changes to the *Prevention Manual*.

The regulatory amendments come into effect March 1, 2023.

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2022 amendments to the Occupational Health and Safety Regulation

On October 26, 2022, WorkSafeBC's Board of Directors approved amendments on two regulatory items related to crane safety in the *Occupational Health and Safety Regulation (OHSR)*:

- Part 14, Cranes and Hoists – Inconsistent Crane Misadventure, and
- Part 14, Cranes and Hoists, and Part 19, Electrical Safety – Zone-Limiting Devices in Tower Cranes

The *OHSR* will now require a professional engineer to supervise the inspection of equipment and certify the equipment as safe for use when a crane is subject to a misadventure, or following contact with loads and structures. It will also ensure zone-limiting devices are installed in tower cranes, when practicable, to reduce the likelihood of collisions. A zone-limiting device controls a crane's working limits and restricts its operation in a zone by anticipating collisions through audible and visual cues. The device can override the crane operator's controls by automatically slowing or stopping a crane.

In addition, a consequential policy change will be made to Item R19.25-1, *Electrical Safety – Working Close to Energized High Voltage Equipment and Conductors*, of the *Prevention Manual*, to require a zone-limiting device to be installed on a tower crane, where practicable, to prevent its movement into the minimum approach distance.

These amendments will come into effect March 1, 2023.

View the Board of Directors' decision, along with explanatory notes, on [worksafebc.com](https://www.worksafebc.com).

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Determining workplace status

On July 13, 2022, WorkSafeBC's Board of Directors approved policy amendments on determining workplace status.

"Workplace status" refers to whether someone is an employer, worker, or independent operator. A person's status defines the rights and responsibilities the person has under the *Workers Compensation Act*, including compulsory coverage for workers, and obligations of employers to pay assessments into the accident fund. The *Workers Compensation Act* also creates obligations for workers, employers and others to take steps to prevent injuries, mental disorders, occupational diseases, and deaths.

The goals of the workplace status policy review were to align policy with the *Workers Compensation Act* and common law to allow for a more thorough inquiry of the work relationship by WorkSafeBC when determining workplace status, and to update the policies to ensure they reflect the changing nature of work in British Columbia.

Key changes in the policy include:

- Simplifying status categories by removing references to "labour contractor" and "independent firm." The policy now describes only three categories: employer, worker, and independent operator.
- Providing a framework that focuses on the *nature of the contract* between parties when determining workplace status. Under the policy, either the contract is one of service, in which case the individual is a worker under that contract, or the contract is not one of service, and the individual doing the work is not a worker under that contract. The policy outlines four factors to consider when determining whether there is a contract of service between parties: control; chance of profit and risk of loss; provision of major equipment; and business integration.

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- Updating guidance on determining who is an employer or a worker in specific situations, including guidance on proprietors, partners, corporations, volunteers, and practicums and internships.

The amendments apply to all decisions made on or after January 1, 2023.

View the Board of Directors' [decision](#).