

RE: Scope of Manual**ITEM: C1-1.00**

BACKGROUND

1. Explanatory Notes

This policy provides an overview of the history and scope of the *Rehabilitation Services & Claims Manual*.

2. The Act

Section 229:

- (1) In this section:

“**former Act**” means the *Workers Compensation Act*, R.S.B.C. 1996, c. 492;

“**transition date**” means June 30, 2002, being the date on which this section came into force.

- (2) This section applies to an injury that occurred before the transition date.
- (3) Subject to subsections (4) to (8), the former Act, as it read immediately before the transition date, applies to an injury that occurred before the transition date.
- (4) Subject to subsections (5) to (8), if a worker’s permanent disability first occurs on or after the transition date as a result of an injury that occurred before the transition date, this Act applies to the permanent disability.
- (5) For the purposes of subsection (4), sections 194 to 196 [*compensation for permanent disability*] of this Act apply as if
- (a) all references, other than references in section 196(3)(b)(i) [*permanent partial disability: exception to general rules*], to “90%” were read as “75%”,
 - (b) all references, other than references in section 196(3)(b)(i), to “average net earnings” were read as references to “average earnings determined under the former Act immediately before the transition date”, and

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- (c) section 196(3)(b)(i) read as follows:
- (i) the average earnings that the worker is earning after the injury, as determined under the former Act immediately before the transition date.
- (6) Section 202 [*deductions in relation to Canada Pension Plan disability benefit*] does not apply in the circumstances described in subsection (4) of this section.
- (7) Section 334 [*annual adjustment of periodic payment amounts*] applies to compensation paid to a worker on or after December 31, 2003, being the date on which section 228(5) came into force, irrespective of the date the worker was injured.
- (8) If a worker has, on or after the transition date, a recurrence of a disability that results from an injury that occurred before the transition date, the Board must determine compensation for the recurrence based on this Act.

POLICY

A. INTRODUCTION

In 2002, the *Workers Compensation Act* underwent significant legislative amendment. This resulted in the restructuring of the *Rehabilitation Services & Claims Manual* into two volumes – Volume I and Volume II. This policy sets out an overview of the legislative changes and explains how readers of this *Manual* can determine which volume is applicable to their particular circumstances.

B. LEGISLATIVE AMENDMENTS

i. *Workers Compensation Amendment Act, 2002* (“*Amendment Act, 2002*”)

The *Amendment Act, 2002* is also referred to as “Bill 49”. It primarily amended the *Act*:

- effective June 30, 2002 in relation to compensation for injured workers (including the calculation of average net earnings, duration of wage-loss benefits, integration of CPP disability benefits, indexing of compensation benefits, worker obligations to provide information, mental stress and permanent disability benefits); and
- effective January 2, 2003 in relation to the establishment of a new board of directors as the governing body of the Workers’ Compensation Board.

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ii. ***Workers Compensation Amendment Act (No. 2), 2002*** **(“Amendment Act (No. 2), 2002”)**

The *Amendment Act (No. 2), 2002* is also referred to as “Bill 63”. It primarily amended the *Act* effective March 3, 2003 in relation to a new review/appeal structure and to the Board’s authority to reopen matters previously decided or to reconsider previous decisions.

iii. ***Skills Development and Labour Statutes Amendments Act, 2003*** **(“Amendment Act, 2003”)**

The *Amendment Act, 2003* is also referred to as “Bill 37”. It primarily amended the *Act*:

- effective June 30, 2002 in relation to compensation payable as the result of the death of a worker (including the age of dependent children, the definition and integration of federal benefits and the calculation of benefits for childless spouses, for separated spouses and for dependants following the death of more than one worker); and
- effective December 31, 2003 in relation to the indexing of benefits payable as the result of the death of a worker, a psychologist’s diagnosis of a worker’s mental stress condition and lay advocates who provide assistance in workers’ compensation matters.

C. **SCOPE OF VOLUME I AND VOLUME II OF THIS MANUAL**

The *Rehabilitation Services & Claims Manual* was restructured into two volumes to facilitate the implementation of the new compensation policies resulting from the *Amendment Act, 2002*. The new policies were incorporated into Volume II, and the policies in place immediately prior to June 30, 2002 became Volume I. (For policies in effect prior to the Volume I policies, readers are referred to the Board’s archives.)

Volume I and Volume II apply to different categories of injured workers and surviving dependants. Whether the compensation for an injured worker is to be determined under the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as it read immediately before June 30, 2002, and administered under the corresponding policies under Volume I, depends on the transitional rules set out in section 229 of the *Act*. These are explained in Section D of this Item below. It is the responsibility of decision-makers to determine whether Volume I or Volume II applies to each case before them. In terms of compensation for the surviving dependants of a deceased worker, the policies in Volume II apply where the worker’s death occurred on or after June 30, 2002.

Due to the fact that Volume I covers a finite group of injured workers and surviving dependants, its relevance to the workers’ compensation system will gradually decrease over time. It is anticipated that there will be very few future amendments to the policies

in Volume I. Any major amendments will be listed, for convenience, in the Addendum to Chapter 1 in Volume I.

Volume II is used to administer claims for injuries and deaths occurring on or after June 30, 2002. Its relevance to the workers' compensation system will therefore continue over time. Volume II policies will be subject to amendment from time to time, in the same manner as policies in other policy manuals. Amendments to policies in Volume II will be archived in the Board's records and documented publicly.

D. SCOPE OF VOLUMES I AND II IN RELATION TO COMPENSATION FOR INJURED WORKERS

i. General

Subject to subsequent amendments, Volume I sets out the law and policies that were in effect immediately prior to June 30, 2002 in relation to compensation for injured workers. For convenience, the law and policies in effect immediately prior to that date, as amended, will be called the "former provisions".

Volume II sets out the law and policies in effect on or after June 30, 2002, as they may be amended from time to time, in relation to compensation for injured workers. For convenience, the law and policy on or after that date, including any subsequent amendments, will be called the "current provisions".

Unless otherwise stated, in Volume II of this *Manual* the "Act" refers to the *Workers Compensation Act*, R.S.B.C. 2019, c. 1, which includes amendments made on or after June 30, 2002. The *Interpretation Act*, R.S.B.C. 1996, c. 238, applies to the Act, unless a contrary intention appears in either the *Interpretation Act* or the Act.

ii. Amendment Act, 2002 (Bill 49) Transitional Provisions

The following rules apply to determining whether the former provisions (Volume I) or the current provisions (Volume II) apply in a particular case. These rules are based on the transitional rules in section 229 of the Act.

1. The current provisions apply to an injury that occurs on or after June 30, 2002.
2. Except as noted in rules 3, 4, and 5, the former provisions apply to an injury that occurred before June 30, 2002.
3. Subject to rule 4 respecting recurrences, 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 permanent disability benefits with two modifications:

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- (i) 75% of average earnings (former provisions) is used for calculating the amount of compensation 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 rule, for an injury that occurred before June 30, 2002, if the first indication of permanent disability also occurs before June 30, 2002, permanent disability benefits will be adjudicated under the former provisions. If the first indication of permanent disability is on or after June 30, 2002, the permanent disability benefits will be adjudicated under the current provisions, using the modified formula described in (i) and (ii) above. The determination of when permanent disability first occurs will be based on available medical evidence.

An example of when this rule applies is if 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 benefits 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 applies only to a recurrence of a disability on or after June 30, 2002. It does not apply to permanent changes in the nature and degree of a worker's permanent disability. Where a worker was entitled to permanent disability benefits before June 30, 2002 in respect of a compensable injury or disease, the former provisions apply to any changes in the nature and degree of the worker's permanent disability after that date.

For the purposes of this policy, a recurrence includes any claim that is re-opened for an additional period of temporary disability, regardless of whether the worker had been entitled to permanent disability benefits before June 30, 2002. However, where the worker was entitled to a permanent disability award before June 30, 2002, the former provisions apply to any changes in the nature and degree of the worker's permanent disability following an additional period of temporary disability.

The following are examples of a recurrence:

- A worker totally recovers from a temporary disability resulting in the termination of wage-loss benefits. Subsequently, there is a recurrence of the disability and the claim is re-opened for compensation.

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- A worker is in receipt of permanent partial disability benefits and the disability subsequently worsens so that the worker is temporarily totally disabled. The claim is re-opened to provide compensation for a new period of temporary disability. The additional period of temporary disability is a recurrence to which the current provisions apply. However, a subsequent change in the nature and degree of the worker's permanent disability is adjudicated under the former provisions.
5. Regardless of the date of injury, the current provisions on indexing apply to compensation paid for an injured worker on or after June 30, 2002. Indexing of retroactive permanent disability benefits payable before June 30, 2002 will be based on the former provisions.

E. STATUTE REVISION 2019

In 2019, pursuant to the *Statute Revision Act*, R.S.B.C. 1996, c. 440, the *Workers Compensation Act*, R.S.B.C. 2019, c. 1 was revised and ordered to come into effect on April 6, 2020. As a result of the revision, necessary consequential changes were made to Volume II:

- minor language clarifications, to mirror the Legislature's intent;
- mirroring the rewritten provisions' clarity, consistency, and gender-neutral style; and
- reflecting all the revised section numbers, and reorganization of parts, divisions, and sections.

The *Statute Revision Act* does not authorize legislative counsel to make substantive changes to the law. As such, a revision does not operate as new law but has effect and must be interpreted as a consolidation of the law contained in the *Act* and provisions replaced by the revision.

EFFECTIVE DATE:	Section D is effective August 1, 2006. Section E is effective April 6, 2020.
AUTHORITY:	Section 229 of the <i>Act</i> . Section 8 of the <i>Statute Revision Act</i> .
HISTORY:	December 1, 2025 – This policy resulted from the consolidation of former policy items #1.00, #1.01, #1.02, #1.03, and #1.04, consequential to reformatting and renumbering policies in Chapter 1, <i>Scope of Volume II of this Manual</i> . April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. Former policy item #1.04 created to explain consequential revisions to Volumes I and II of the <i>Rehabilitation Services & Claims Manual</i> required to implement the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1.

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August 1, 2006 – Former policy item #1.03 amended to clarify that then section 35.1(8) of the then *Act* does not apply to permanent changes in the nature and degree of a worker's permanent disability, and that for the purposes of this policy, a recurrence includes any claim that is reopened for an additional period of temporary disability, regardless of whether the worker had been entitled to permanent disability benefits before June 30, 2002.

December 31, 2003 – Amended to reflect consequential changes to the *Act* resulting from the *Skills Development and Labour Statutes Amendment Act, 2003* (Bill 37 of 2003).

June 17, 2003 – Reorganized the format and added content to address the scope of Volumes I and II of the *Manual*.

October 16, 2002 – Former policy item #1.03 amended to clarify meaning of "recurrence" for the purposes of then section 35.1(8) of the *Act*.

APPLICATION:

Section D applies to all decisions, including appellate decisions, made on or after October 16, 2002.

Section E applies to all decisions, including appellate decisions, made on or after April 6, 2020.

RE: Compensation under the Act**ITEM: C1-1.10**

BACKGROUND

1. Explanatory Notes

This policy provides an overview of the types of compensation provided and the persons covered under the *Act*, along with references to associated chapters of this *Manual*.

2. The Act

None.

POLICY

A. 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*. (See Chapter 2.) If 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. (See Chapter 8.)

B. CONDITIONS UNDER WHICH COMPENSATION IS PAYABLE

Not all injuries or diseases are compensable. The *Act* prescribes the type of injuries (see Chapter 3) and diseases (see Chapter 4) and the circumstances in which they are compensable. (See Chapters 3 and 4.) Thus, for example, in the case of injuries, compensation is limited to personal injuries arising out of and in the course of a worker’s employment.

C. 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 (see Chapter 5);
2. payments to a worker where the employer has failed to comply with the obligations under the duty to maintain employment (see Chapter 5);

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3. payments to compensate permanent disability that results from a worker's injury, for actual or estimated permanent loss of earnings (see Chapter 6);
4. compensation to dependants for loss of support by a deceased worker (see Chapter 8);
5. health care benefits (see Chapter 10); and
6. vocational rehabilitation assistance (see Chapter 11).

D. CHARGING OF CLAIMS COSTS

The costs of compensation are normally charged to the employer rate group to which the worker's employer belongs. The costs may also affect the employer's experience rating. There are special provisions which relieve the rate group and/or the employer in certain situations. (See Chapter 17.)

EFFECTIVE DATE:

Section C is effective January 1, 2024.

HISTORY:

December 1, 2025 – This policy resulted from the consolidation of former policy items #1.10, #1.20, #1.30, and #1.40, consequential to reformatting and renumbering policies in Chapter 1, *Scope of Volume II of this Manual*.

January 1, 2024 – Policy changes made consequential to implementing Division 3.1 of the *Workers Compensation Amendment Act (No. 2), 2022* (Bill 41).

April 6, 2020 – Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.

APPLICATION:

Section C applies to all decisions made on or after January 1, 2024.

RE: Workers' Compensation Board**ITEM: C1-2.00**

BACKGROUND

1. Explanatory Notes

This policy provides an overview of the jurisdiction of the Board, the responsibilities of the board of directors, and the application of the *Act* and policies to the adjudication of claims.

2. The Act

Section 1, in part:

...

“Board” means the Workers' Compensation Board continued under section 316 [*Workers' Compensation Board and its board of directors*];

...

Section 122(1):

Subject to sections 288 and 289 [*appeals to appeal tribunal*], the Board has exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact and law arising or required to be determined under the compensation provisions, and the action or decision of the Board on them is final and conclusive and is not open to question or review in any court.

Section 316:

- (1) The Workers' Compensation Board is continued as a corporation.
- (2) The board of directors of the Workers' Compensation Board consists of
 - (a) 9 voting directors appointed by the Lieutenant Governor in Council in accordance with section 317, and
 - (b) the president appointed by the board of directors under section 323, who is a non-voting director.

Section 319:

The board of directors must set and revise as necessary the policies of the board of directors, including policies respecting occupational health and safety, compensation, rehabilitation and assessment.

Section 320:

- (1) The board of directors must set and supervise the direction of the Board.
- (2) Without restricting subsection (1), the board of directors is responsible for the following:
 - (a) subject to this Act, selecting the president and determining the president's functions;
 - (b) approving the operating and capital budgets of the Board;
 - (c) establishing policies and accounting systems to ensure adequate funding of the accident fund;
 - (d) approving major programs and expenditures of the Board;
 - (e) approving the investment of funds of the Board in accordance with the requirements imposed under this Act;
 - (f) planning for the future of the Board;
 - (g) subject to this Act, enacting bylaws and passing resolutions
 - (i) for the conduct of the business of the Board, and
 - (ii) for the functions of the board of directors,including enacting bylaws respecting the manner in which the policies of the board of directors are to be published.
- (3) The board of directors may establish committees and give directions to those committees.
- (4) The board of directors may authorize the Board to acquire and dispose of land.

Section 339(2):

The Board must make its decision based on the merits and justice of the case, but in doing this the Board must apply the policies of the board of directors that are applicable in that case.

POLICY

A. WORKERS' COMPENSATION BOARD

Section 316 of the *Act* provides that the Workers' Compensation Board is a corporation continued under the *Act* to administer the provisions of the *Act*. Section 1 defines the word "Board" as the Workers' Compensation Board. The use of the word "Board" throughout this *Manual* means the Workers' Compensation Board.

Section 319 provides that the board of directors must set and revise as necessary the policies of the board of directors, including policies respecting occupational health and safety, compensation, rehabilitation and assessment.

Section 320 provides that the board of directors must set and supervise the direction of the Board.

B. JURISDICTION OVER CLAIMS ADJUDICATION

Section 122(1) of the *Act* provides that the Board has exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact and law arising or required to be determined under the compensation provisions of the *Act*, and the action or decision of the Board on them is final and conclusive and is not open to question or review in any court. Thus, the Board has sole jurisdiction over the adjudication of claims for compensation under the *Act*.

C. APPLICATION OF THE ACT AND POLICIES

In making decisions, the Board must take into consideration:

1. the relevant provision or provisions of the *Act*;
2. the relevant policy or policies in this *Manual*; and
3. all facts and circumstances relevant to the case.

By considering the relevant provisions of the *Act*, the relevant policies, and the relevant facts and circumstances, the Board ensures that:

1. similar cases are adjudicated in a similar manner;

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2. each participant in the system is treated fairly; and
3. the decision-making process is consistent and reliable.

Section 339(2) of the *Act* requires the Board to make all its decisions based on the merits and justice of the case. In making decisions, the Board must take into account all relevant facts and circumstances relating to the case before it, including the worker's individual circumstances. This is required, among other reasons, in order to comply with section 339(2). In doing so, the Board must consider the relevant provisions of the *Act*. If there are specific directions in the *Act* that are relevant to those facts and circumstances, the Board is legally bound to follow them.

Section 339(2) also requires the Board to apply the policies of the board of directors that are applicable to the case before it. The policies reflect the obligations and discretion delegated to the Board under the *Act*. Each policy creates a framework that assists and directs the Board in its decision-making role when certain facts and circumstances come before it. If such facts and circumstances arise and there is an applicable policy, the policy must be applied. Where the *Act* and policy provide for Board discretion, the Board is also required to exercise the discretion based upon the merits and justice of the case, in accordance with the *Act* and applicable policy.

All substantive and associated practice components in the policies in this *Manual* are applicable under section 339(2) and must be applied in decision-making. The term "associated practice components" for this purpose refers to the steps outlined in the policies that must be taken to determine the substance of decisions. Without these steps being taken, the substantive decision required by the *Act* and policies could not be made.

References to business processes that appear in policies are only applicable under section 339(2) in decision-making to the extent that they are necessary to comply with the rules of natural justice and procedural fairness. The term "business processes" for this purpose refers to the manner in which the Board conducts its operations. These business processes are not intrinsic to the substantive decisions required by the *Act* and the policies.

If a policy requires the Board to notify an employer, worker, or other workplace party before making a decision or taking an action, the Board is required to notify the party if practicable. "If practicable" for this purpose means that the Board will take all reasonable steps to notify, or communicate with, the party.

This policy is not intended to comment on the application of practice directives, guidelines and other documents issued under the authority of the President/Chief Executive Officer of the Board. The application of those documents is a matter for the President/Chief Executive Officer to address.

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EFFECTIVE DATE:	Sections A and B are effective February 11, 2003. Section C is effective July 1, 2019.
AUTHORITY:	Sections 1, 122, 316, 319, 320, and 339 of the <i>Act</i> .
HISTORY:	December 1, 2025 – This policy resulted from the consolidation of former policy items #2.00, #2.10, and #2.20, consequential to reformatting and renumbering policies in Chapter 1, <i>Scope of Volume II of this Manual</i> . April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. July 1, 2019 – Amended to emphasize the obligation of the Board to base its decisions upon the merits and justice of the case. June 1, 2009 – Deleted references to Board officers. March 3, 2003 – Amended to reflect the obligation of the Board in decision-making to apply a policy of the board of directors that is applicable to the case before it. February 11, 2003 – Deleted references to the Appeal Division and the former Governors.
APPLICATION:	Section C applies to decisions made on or after July 1, 2019.

