

2019/11/20-02

WORKERS' COMPENSATION BOARD

RESOLUTION OF THE BOARD OF DIRECTORS

**RE: Statutory Revision of the *Workers Compensation Act* –
Consequential Amendments to Part 1 Board Regulations**

WHEREAS:

Pursuant to section 1 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492 ("*Act*"), the Workers' Compensation Board ("WorkSafeBC") may by regulation designate or recognize a disease as an occupational disease;

AND WHEREAS:

Pursuant to section 4 of the *Act*, the Lieutenant Governor in Council ("LGIC") may make regulations applicable to the fishing industry;

AND WHEREAS:

Pursuant to section 24 of the *Act*, WorkSafeBC may by regulation determine the claims for compensation to which section 24 of the *Act* applies;

AND WHEREAS:

Pursuant to section 54(6) of the *Act*, WorkSafeBC may by regulation define a reportable injury and the commencement of an employer's reporting obligations;

AND WHEREAS:

WorkSafeBC has made the *Occupational Disease Recognition Regulation*, B.C. Reg. 71/99 pursuant to section 1 of the *Act*, the *Review of Old Permanent Disability Awards Regulation*, B.C. Reg. 177/2013 pursuant to section 24 of the *Act*, and the *Reports of Injuries Regulations*, B.C. Reg. 713/74 pursuant to section 54(6) of the *Act*;

AND WHEREAS:

The LGIC has made the *Fishing Industry Regulations*, B.C. Reg. 674/76 pursuant to section 4 of the *Act*;

AND WHEREAS:

Pursuant to section 15 of the *Fishing Industry Regulations*, the LGIC has prescribed to WorkSafeBC the power to add to and amend the *Fishing Industry Regulations*, and to exercise all the powers conferred by section 4 of the *Act*;

AND WHEREAS:

Pursuant to the *Statute Revision Act*, the British Columbia Office of Legislative Counsel has made editorial changes to the language and renumbered the part, division, and section numbers of the *Act*, which will come into force on April 6, 2020;

AND WHEREAS:

To reflect the statutory revisions to the *Act*, WorkSafeBC has developed consequential amendments to the regulations under section 1, 4, 24, and 54(6) (collectively, "Part 1 Regulation Amendments");

AND WHEREAS:

Pursuant to section 76 of the *Act*, a regulation of WorkSafeBC under Part 1 of the *Act* must specify the date on which it is to come into force, which date must be at least 90 days after its deposit under the *Regulations Act*;

AND WHEREAS:

Pursuant to the Provincial Government's *Regulatory Reform Policy*, WorkSafeBC has demonstrated that a regulatory impact assessment does not need to be completed for the proposed regulatory amendments;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. The Part 1 Regulation Amendments as set out in the attached Appendix A are approved; and

2. The Part 1 Regulation Amendments are effective April 6, 2020;

I, Ralph McGinn, hereby certify for and on behalf of the Board of Directors of WorkSafeBC that the above resolutions were duly passed at a meeting of the Board of Directors held in Richmond, British Columbia, on November 20, 2019.

RALPH MCGINN, P. ENG
Chair, Board of Directors
Workers' Compensation Board

APPENDIX A

1 Section 1 of the Fishing Industry Regulations, B.C. Reg. 674/76, is amended

(a) in the definition of “commercial fisher”

(i) in paragraph (f) by striking out “Part 1” and substituting “the compensation provisions of the Act”, and

(ii) by striking out “paragraph (e) of this section,” and substituting “paragraph (e) of this definition,”

(b) by repealing the definition of “Part 1”, and

(c) in the definition of “reportable injury” by striking out “section 54 of Part 1, and regulations made thereunder.” and substituting “section 150 [employer obligation to report] of the Act, and regulations made under that provision.”

2 Section 2 is repealed and the following substituted:

Compensation provisions of the Act apply to commercial fishers

2 (1) Subject to these regulations and to any other regulations or decisions made under the compensation provisions of the Act, all compensation provisions of the Act relating to workers apply to commercial fishers.

(2) For the purposes of the compensation provisions of the Act, a commercial fisher’s employment is that person’s occupation as a commercial fisher.

3 Section 3 is amended

(a) by striking out “the terms of Part 1 and regulations and decisions made thereunder,” and substituting “the compensation provisions of the Act and regulations and decisions made under those provisions,” and

(b) by striking out “compensation benefits” in both places and substituting “compensation”.

4 Section 4 is amended by striking out “Section 8 of Part 1” and substituting “Section 147 [injuries happening outside British Columbia] of the Act”.

5 Section 5 is amended

(a) in subsection (1) (c) by striking out “the provisions of Part 1” and substituting “the compensation provisions of the Act”, and

(b) in subsection (3) by striking out “section 33 of Part 1” and substituting “section 209 [annual determination of maximum wage rate for average earnings] of the Act”.

6 Section 10 is amended

(a) in subsection (1) by striking out “sections 53, 54 and 96.2 to 96.4 of the Act” and substituting “section 149 [worker notice of injury], section 150 [employer obligation to report], section 262 [employer assessment in relation to injury not reported as required] and Part 6 [Review of Board Decisions] of the Act”,

APPENDIX A

- (b) in subsection (2) by striking out “sections 53 and 54 of Part 1” and substituting “sections 149, 150 and 262 of the Act”,*
 - (c) in subsection (3) by striking out “sections 96.2 to 96.4” and substituting “Part 6”,*
 - (d) in subsection (3.1) by striking out “Sections 96.2 to 96.4 of the Act apply” and substituting “Part 6 of the Act applies”,*
 - (e) in subsection (3.2) by striking out “sections 96.2 to 96.4 of the Act apply” and substituting “Part 6 of the Act applies”, and*
 - (f) in subsection (4) by striking out “section 53 of Part 1” and substituting “section 149 of the Act” and by striking out “industrial disease” in both places and substituting “occupational disease”.*
- 7 Section 12 is amended**
- (a) by striking out “any provision of Part 1 or any regulation made thereunder” and substituting “a compensation provision of the Act, or a regulation under a compensation provision of the Act,”, and*
 - (b) by striking out “is liable to pay and shall pay” and substituting “must pay”.*
- 8 Section 13 is amended**
- (a) by striking out “section 21 (3) of Part 1,” and substituting “section 159 [employer authority and obligations in relation to health care] of the Act,”, and*
 - (b) by striking out “shall be paid” and substituting “must be paid”.*
- 9 Section 14 is amended**
- (a) by striking out “section 10 of Part 1:” and substituting “Division 3 [Legal Effect of Workers’ Compensation System] of Part 3 of the Act:”,*
 - (b) in the definition of “employer” by striking out “, and any person included in section 8”, and*
 - (c) in the definition of “employment” by striking out “section 10 of Part 1” and substituting “that Division of the Act”.*
- 10 Section 15 is amended by striking out “section 4 of Part 1” and substituting “section 8 [application to fishing industry] of the Act”.**
- 11 Section 16 is repealed.**
- 12 Section 1 of the Occupational Disease Recognition Regulation, B.C. Reg. 71/99, is amended**
- (a) by striking out “section 1 of the Workers Compensation Act,” and substituting “section 138 (2) of the Workers Compensation Act,”, and*
 - (b) by striking out the following:*

APPENDIX A

Bursitis (other than the forms of bursitis mentioned in Item 12 of Schedule B of the Act)
Tendinopathy (other than the forms of tendinopathy mentioned in Item 13 of Schedule B of the Act), including Epicondylopathy (lateral and medial) and Stenosing Tenovaginitis (Trigger Finger)

and substituting the following:

Bursitis (other than the forms of bursitis mentioned in Item 13 of Schedule 1 of that Act)
Tendinopathy (other than the forms of tendinopathy mentioned in Item 14 of Schedule 1 of that Act), including Epicondylopathy (lateral and medial) and Stenosing Tenovaginitis (Trigger Finger).

- 13 ***Sections 1, 2 (h) and 3 of the Reports of Injuries Regulations, B.C. Reg. 713/74, are amended by striking out “board” wherever it appears and substituting “Board”.***
- 14 ***Section 2 is amended***
- (a) ***by striking out “in the course of employment under Part 1 of the Workers Compensation Act,” and substituting “in the course of a worker’s employment to which the compensation provisions of the Workers Compensation Act apply,”***
- (b) ***in paragraph (d) by striking out “that he intends” and substituting “an intention”, and***
- (c) ***in paragraph (f) by striking out “that he is” and substituting “to be” and by striking out “his usual” and substituting “the worker’s usual”.***
- 15 ***Section 4 is repealed.***
- 16 ***The title of the Review of Old Permanent Disability Awards Regulation, B.C. Reg. 177/2013, is repealed and the following substituted:***

RECONSIDERATION OF PRESCRIBED COMPENSATION CLAIMS REGULATION

- 17 ***Section 2 is repealed and following substituted:***

Reconsidering benefits

- 2 Section 203 [*reconsideration of prescribed compensation claims*] of the Act applies to the following claims:
- (a) the worker continues to have a compensable disability sustained more than 10 years before the worker’s application under section 203 (2) of the Act or section 24 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as applicable, and permanent disability compensation was determined by the Board based on a percentage of total disability of 12% or greater for that compensable disability;
- (b) the worker continues to have a compensable disability sustained more than 10 years before the worker’s application under section 203 (2) of the Act or section 24 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as applicable, and permanent disability compensation was determined by the Board for an injury involving the spinal column;

APPENDIX A

- (c) the worker continues to have a compensable disability sustained more than 10 years before the worker's application under section 203 (2) of the Act or section 24 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as applicable, and permanent disability compensation was determined by the Board on or after October 1, 1977 for an injury to a part of the body other than the spinal column;
- (d) the worker
 - (i) continues to have one compensable disability with a percentage of total disability of 5% or greater sustained more than 10 years before the worker's application under section 203 (2) of the Act, or section 24 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as applicable, and
 - (ii) also continues to have one or more compensable disabilities sustained at any time before the worker's application under section 203 (2) of the Act or section 24 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, as applicable, which, when combined with the compensable disability referred to in subparagraph (i), brings the worker's total permanent disability compensation determined by the Board to a percentage of total disability of 12% or greater for the combined compensable disabilities.

18 *Section 3 is amended by striking out “under the Act” and substituting “under the Act, the Workers Compensation Act, R.S.B.C. 1996, c. 492, or both”.*