

2023/01/25-01**WORKERS' COMPENSATION BOARD
(WorkSafeBC)****RESOLUTION OF THE BOARD OF DIRECTORS****RE: Amending Schedule 2, Non-Traumatic Hearing Loss
of the *Workers Compensation Act*****WHEREAS:**

Sections 145 and 198 of the *Workers Compensation Act*, R.S.B.C. 2019, c. 1 (*Act*) set out the circumstances in which a worker is entitled to compensation for hearing loss of non-traumatic origin and the compensation to be calculated where there is no loss of earnings resulting from that hearing loss;

AND WHEREAS:

Schedule 2, *Non-Traumatic Hearing Loss*, of the *Act* sets out the ranges of hearing loss, percentages of disability, and methods and frequencies to be used to measure non-traumatic hearing loss in a worker when determining compensation entitlement under sections 145 and 198 of the *Act*;

AND WHEREAS:

Pursuant to section 145(3) of the *Act*, WorkSafeBC may, by regulation, amend Schedule 2 in respect of the following:

- a) the ranges of hearing loss;
- b) the percentages of disability, including the maximum percentages of total disability;
- c) the methods or frequencies to be used to measure hearing loss;

AND WHEREAS:

Pursuant to section 319 of the *Act*, 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;

AND WHEREAS:

The Policy, Regulation and Research Department (PRRD) has proposed amendments to Schedule 2 of the *Act*, and to policy Item C4-31.00, *Hearing Loss*, and Appendix 3 of the *Rehabilitation Services & Claims Manual*, Volume II (*RS&CM*);

AND WHEREAS:

The PRRD has undertaken stakeholder consultation on the proposed amendments and has advised the Board of Directors on the results of the consultation;

AND WHEREAS:

Pursuant to section 238 of the *Act*, a regulation amending Schedule 2 must specify the date on which the regulation comes 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*, the Board of Directors has evaluated the proposed regulatory amendments according to the established regulatory criteria;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Effective May 15, 2023, Schedule 2 is amended as set out in Appendix 1 attached to this resolution.
2. The amendments to Item C4-31.00, *Hearing Loss* and to section XIV of Appendix 3 of the *RS&CM*, as set out in Appendix 2 attached to this resolution, are approved, and apply to all decisions made on or after May 15, 2023.
3. This resolution is effective May 15, 2023.
4. This resolution constitutes a policy decision of the Board of Directors.

I, Jeff Parr, 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 hosted in British Columbia on January 25, 2023.

Original signed by Jeff Parr

JEFF PARR

Chair, Board of Directors

Workers' Compensation Board

APPENDIX 1

PROVINCE OF BRITISH COLUMBIA

REGULATION OF THE WORKERS' COMPENSATION BOARD

Workers Compensation Act

The Workers' Compensation Board orders that, effective May 15, 2023, the *Workers Compensation Act*, R.S.B.C. 2019, c. 1, is amended as set out in the attached Appendix.

APPENDIX 1

APPENDIX

1 *Section 2 of Schedule 2 of the Workers Compensation Act, R.S.B.C. 2019, c. 1, is amended*

- (a) *In subsection (1) (a) by striking out “500, 1 000 and 2 000 Hertz, in turn, by pure-tone air-conduction audiometry” and substituting “1 000, 2 000, 3 000, and 4 000 Hertz, in turn, by pure-tone air- or bone-conduction audiometry”, and*
(b) *In subsection (2) by striking out “column 1 of item 10” and substituting “column 1 of item 11”.*

2 *Section 3 of Schedule 2 is amended*

- (a) *In paragraph (b) by striking out “3%” and substituting “6%”, and*
(b) *In paragraph (c) by striking out “15%” and substituting “36%”.*

3 *The table in Schedule 2 is repealed and the following substituted:*

Table

Item	Column 1 Range of Hearing Loss (decibels)	Column 1 Percentage of Disability for Ear Most Affected	Column 1 Percentage of Disability for Ear Least Affected
1	0-34	0	0
2	35-39	0.3	1.5
3	40-44	1.0	5.0
4	45-49	1.7	8.5
5	50-54	2.3	11.5
6	55-59	3.0	15.0
7	60-64	3.7	18.5
8	65-69	4.3	21.5
9	70-74	5.0	25.0
10	75-79	5.7	28.5
11	80 or more	6.0	30.0

RE: Hearing Loss

ITEM: C4-31.00

BACKGROUND

1. Explanatory Notes

This policy provides guidance in adjudicating non-traumatic hearing loss.

2. The Act

Section 145:

- (1) A worker is entitled to compensation under this Part if
 - (a) the worker has a hearing loss of non-traumatic origin that arose out of and in the course of employment to which the compensation provisions apply, and
 - (b) the hearing loss
 - (i) was sustained by exposure to causes of hearing loss in British Columbia, and
 - (ii) is a greater loss than the minimum set out in Schedule 2 [*Non-Traumatic Hearing Loss*] of this Act.
- (2) An application for compensation under this section must be accompanied or supported by a specialist's report and audiogram or by other evidence of hearing loss that the Board prescribes.
- (3) The Board may, by regulation, amend Schedule 2 in respect of the following:
 - (a) the ranges of hearing loss;
 - (b) the percentages of disability, including the maximum percentage of total disability;
 - (c) the methods or frequencies to be used to measure hearing loss.

Section 195:

- (1) Subject to section 196, if a permanent partial disability results from a worker's injury, the Board must
 - (a) estimate the impairment of the worker's earning capacity from the nature and degree of the injury, and
 - (b) pay the worker compensation that is a periodic payment of an amount that equals 90% of the Board's estimate of the worker's loss of average net earnings resulting from the impairment.
- (2) The minimum compensation to be paid under this section must be calculated in accordance with section 191(2) [*compensation for temporary total disability*] but to the extent only of the permanent partial disability.
- (3) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent partial disability cases.

Section 196:

- (1) This section applies in relation to a permanent partial disability if an amount required under section 195 is less than an amount required under this section.
- (2) *Repealed.*
- (3) The Board must pay the worker compensation that is a periodic payment of an amount that equals 90% of the difference between
 - (a) the average net earnings of the worker before the injury, and
 - (b) whichever of the following amounts the Board considers better represents the worker's loss of earnings:
 - (i) the average net earnings that the worker is earning after the injury;
 - (ii) the average net earnings that the Board estimates the worker is capable of earning in a suitable occupation after the injury.

Section 198:

- (1) This section applies in relation to compensation payable to a worker under section 145 [*non-traumatic hearing loss*].
 - (1.1) If there is no loss of earnings resulting from the worker's hearing loss, the compensation payable to the worker is the amount determined under subsection (2) or (3).
 - (2) If the worker's hearing loss amounts to a complete loss of hearing, measured in the manner described in Schedule 2 [*Non-Traumatic Hearing Loss*] of this Act, the compensation is the amount calculated as if for a disability equivalent to the maximum percentage of total disability specified in that Schedule.
 - (3) If the worker's hearing loss does not amount to a complete loss of hearing, measured in the manner described in Schedule 2 of this Act, the compensation
 - (a) must be less than the amount of compensation determined under subsection (2) of this section, and
 - (b) unless otherwise ordered by the Board, is the amount calculated as if for a disability equivalent to the percentage of total disability determined in accordance with Schedule 2.
- (4) If a loss of earnings results from the hearing loss, the worker is entitled to compensation for a total or partial disability as otherwise provided under this Division.
- (5) Compensation paid for a worker's hearing loss under subsection (4) must not be less than the amount determined under subsection (2) or (3).

Section 201:

- (1) Subject to subsection (2), periodic payment of compensation under this Division may be paid to an injured worker only as follows:
 - (a) if the worker is under 63 years of age on the date of the injury, until the later of the following:
 - (i) the date the worker reaches 65 years of age;

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- (ii) if the Board is satisfied the worker would retire after reaching 65 years of age, the date the worker would retire, as determined by the Board;
- (b) if the worker is 63 years of age or older on the date of the injury, until the later of the following:
 - (i) 2 years after the date of the injury;
 - (ii) if the Board is satisfied that the worker would retire after the date referred to in subparagraph (i), the date the worker would retire, as determined by the Board.
- (2) As a restriction on subsection (1), the Board may not make a periodic payment to a worker under this Division if the worker ceases to have the disability for which the periodic payment is to be made.
- (3) A determination made under subsection (1) (a) (ii) as to a date on which a worker would retire after reaching age 65 may be made after a worker has reached age 63, and the Board may, when making the determination, consider the worker's circumstances at the time of that determination.

Section 226:

Compensation is not payable to a worker under section 145 [*non-traumatic hearing loss*]

- (a) in respect of a period before September 1, 1975, or
- (b) if the worker's exposure to causes of hearing loss in British Columbia ended before that date.

Section 250(2):

If compensation is paid under section 145 [*non-traumatic hearing loss*] in relation to a worker's hearing loss caused by exposure to causes of hearing loss in 2 or more classes or subclasses of industry in British Columbia, the Board may apportion the cost of compensation among the funds provided by those classes or subclasses on the basis of the duration or severity of the exposure in each.

Schedule 1, Item 12:

See Appendix 2

Schedule 2:

SCHEDULE 2

Non-Traumatic Hearing Loss

Interpretation of table

- 1 In the table in this Schedule,
 - (a) a range of decibels set out in column 1 reflects hearing loss measured in accordance with section 2 of this Schedule,
 - (b) a percentage of disability set out in column 2 opposite a range of decibels set out in column 1 is the percentage of disability for the ear most affected by the hearing loss, and
 - (c) a percentage of disability set out in column 3 opposite a range of decibels set out in column 1 is the percentage of disability for the ear least affected by the hearing loss.

Measuring hearing loss

- 2 (1) Loss of hearing is measured
 - (a) by calculating the average of the threshold of hearing in each ear measured at the frequencies of 500, 1 000 and 2 000 ~~1 000, 2 000, 3 000 and 4 000~~ Hertz, in turn, by pure-tone air- ~~or bone-~~ conduction audiometry, and
 - (b) using an audiometer calibrated by a facility that meets the requirements established by the Board.
- (2) For the purposes of section 198 (2) of this Act, a loss of hearing in the range of decibels set out in column 1 of item ~~40~~ **11** of the table in this Schedule constitutes a complete loss of hearing.

Percentage of total disability

- 3 For the purposes of section 198 of this Act,
 - (a) the percentage of total disability is the sum of the percentage of disability for the ear most affected by the hearing loss and the

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percentage of disability for the ear least affected by the hearing loss,

- (b) the maximum percentage of total disability for a complete loss of hearing in one ear and no loss of hearing in the other ear is 36%, and
- (c) the maximum percentage of total disability for a complete loss of hearing in both ears is 45.36%.

TABLE

Item	Column 1 Range of Hearing Loss (decibels)	Column 2 Percentage of Disability for Ear Most Affected	Column 3 Percentage of Disability for Ear Least Affected
1	0-27 0-34	0	0
2	28-32 35-39	0.3	1.2 1.5
3	33-37 40-44	0.5 1.0	2.0 5.0
4	38-42 45-49	0.7 1.7	2.8 8.5
5	43-47 50-54	1.0 2.3	4.0 11.5
6	48-52 55-59	1.3 3.0	5.2 15.0
7	53-57 60-64	1.7 3.7	6.8 18.5
8	58-62 65-69	2.1 4.3	8.4 21.5
9	63-67 70-74	2.6 5.0	10.4 25.0
10	68 or more 75-79	3.0 5.7	12.0 28.5

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11	80 or more	6.0	30.0
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POLICY

A. GENERAL

There are two bases on which compensation can be paid for hearing loss:

- (a) If the hearing loss is traumatic and work-related, compensation is paid as with any other injury under section 134(1) and, if a permanent disability results, permanent disability benefits under section 195 may be paid in accordance with the scale provided for in Appendix 3, the *Permanent Disability Evaluation Schedule* (for hearing loss that is secondary to an injury see Item C3-22.00).
- (b) If the hearing loss has developed gradually over time as a result of exposure to occupational noise, it is treated as an occupational disease. As set out in section 226 of the *Act*, claims for workers whose exposure to causes of hearing loss in British Columbia ended before September 1, 1975 are adjudicated under section 136 of the *Act*. In all other cases, section 145 of the *Act* applies. If the provisions of section 136 of the *Act* apply to the claim, the worker may be entitled to health care benefits in the form of hearing aids even if they were not disabled from earning full wages at the work at which they were employed (see Item C4-25.30).

Section 145 provides that a worker is entitled to compensation if “the worker has a hearing loss of non-traumatic origin that arose out of and in the course of employment . . .,” and the hearing loss “is a greater loss than the minimum set out in Schedule 2” of the *Act*.

Item 12 of Schedule 1 lists “Neurosensory hearing loss” as an occupational disease. Medical research indicates that it is only hearing loss of a neurosensory nature which is caused by exposure to noise over time (although this type of hearing loss may also result from other causes unrelated to exposure to noise). As a result, the Board’s responsibility is limited to compensating workers for occupationally-induced neurosensory hearing loss. This is further emphasized in section 145 of the *Act* which requires that the hearing loss be of non-traumatic origin and that it arise out of and in the course of employment.

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In situations where a hearing loss is partly due to causes other than occupational noise exposure, the total hearing impairment is initially measured using pure tone air conduction pursuant to Schedule 2. Having done this, in order to comply with the *Act*, other measures, such as bone conduction tests, are carried out to assess the portion of the total loss which is neurosensory and the portion which is due to other causes.

Having made this determination, the factual evidence on the claim is then assessed to determine whether all, or only part of, the neurosensory loss is due to occupational exposure to causes of hearing loss in British Columbia as required by the *Act*. The hearing loss is due to exposure to occupational noise in British Columbia if the worker's employment in British Columbia was of causative significance in the worker's hearing loss. Causative significance means more than a trivial or insignificant aspect.

The resulting portion of the worker's total impairment is then assessed for permanent disability benefits under section 198 of the *Act*. When there is no loss of earnings resulting from the hearing loss, disability benefits under section 198 must be made with reference to the percentage ranges listed in Schedule 2.

Tinnitus is a symptom that is commonly associated with noise-induced hearing loss. Tinnitus is not a personal injury or occupational disease in and of itself. Tinnitus may be compensable where it is:

- a compensable consequence of an accepted claim for noise-induced hearing loss (see Item C3-22.00); and
- confirmed based on evaluation by a qualified person, such as an audiologist.

The Board assesses any permanent disability from tinnitus using a Board-approved subjective reporting scale that has been validated in the evidence-based literature, such as the Tinnitus Handicap Inventory. The Board uses the worker's score on the scale to assess the worker's disability under section 195 of the *Act* with reference to the following table:

Score (%)	Disability (%)
0	0
1 – 20	1
21 – 40	2
41 – 60	3

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61 – 80	4
81 – 100	5

B. DATE OF COMMENCEMENT OF SECTION 145

Section 145 expressly applies only to hearing loss of non-traumatic origin which can only mean loss of hearing over some period of time as a cumulative effect. Therefore, “ended” as used in section 226 means the end once and for all of a course of exposure to causes of hearing loss. Exposure is not ended as long as the worker continues to undergo exposure arising out of and in the course of the worker’s employment in British Columbia, no matter how intermittent or how far apart periods of exposure might be. Only retirement or other cessation from employment in industries which expose the worker to causes of hearing loss qualify as “ended”. Subsequent exposure for any period of time in bona fide employment allows for consideration of compensation under section 145.

Only exposure to noise in industries under the compensation provisions of the *Act* after September 1, 1975 should be considered to determine whether or not a worker qualifies for compensation under section 145.

If a worker’s exposure to causes of hearing loss ended prior to September 1, 1975, no compensation is payable under section 145 whatever may be the reasons for the ending of the worker’s exposure. No exception can be made if, for instance, the end came about because a previous compensable injury forced the worker to leave the worker’s employment. A worker whose exposure ceased prior to September 1, 1975 may be entitled to health care (hearing aids) under section 136 of the *Act*.

C. AMOUNT AND DURATION OF NOISE EXPOSURE REQUIRED BY SECTION 145

A claim is acceptable where, as a minimum, evidence is provided of continuous work exposure in British Columbia for two years or more at eight hours per day at 85 dBA or more, and the Board determines the worker’s hearing loss is due to exposure to occupational noise. The Board considers it reasonable to set the 85 dBA minimum standard for compensation purposes and then to allow a restricted measure of discretion for the acceptance of claims where the evidence is abundantly clear **supports a finding** that the worker is extraordinarily susceptible and has been affected by exposure to noise at a lesser level.

The Board does not accept evidence of the wearing of individual hearing protection as a bar to compensation. However, in the case of ~~soundproof booths~~ **noise-reducing**

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enclosures, where evidence shows that the booth **enclosure** was used regularly, ~~was sealed and was generally effective, it may be difficult to accept that the work environment in question contributed to the hearing loss demonstrated.~~

Where the exposure to occupational noise in British Columbia is less than 5% of the overall exposure experienced by the worker, the claim is disallowed. Such a minimal degree of exposure is insufficient to warrant acceptance of the claim. Where the exposure to occupational noise in British Columbia is 90% or greater of the total exposure, a claim is allowed for the total hearing loss suffered by the worker. For percentages between 5 and 90, the claim is allowed for only that percentage of the hearing loss which is attributable to occupational noise in British Columbia, and the Board will accept responsibility for all health care benefit costs related to the total hearing loss including the provision of hearing aids.

~~It has been suggested that after 10 years of exposure further hearing loss is negligible. Generally speaking, the evidence is that the first 10 years has a significant effect at higher frequencies. However, where lower frequencies are concerned (up to 2,000 hz.) hearing loss continues after that time and may, in fact, accelerate in those later years.~~
Occupational noise-induced hearing loss occurs first and predominantly at 3 000 to 6 000 Hertz, and typically increases most rapidly in the first 10 to 15 years of exposure. After the first 10 to 15 years, the contribution of continued occupational noise exposure to a worker's hearing loss decelerates progressively to a clinically negligible rate of change. Generally, it is not expected that hearing loss will continue to worsen as a result of occupational noise exposure after approximately 15 years of such exposure. Occupational noise-induced audiometric hearing loss does not progress once hazardous occupational noise exposure has ceased. ~~Therefore, s~~Since the disability assessment under Schedule 2 of the Act relies on frequencies of 500, 1,000 and 2,000 hz: **1 000, 2 000, 3 000 and 4 000 Hertz**, no adjustments for duration of exposure are made.

D. APPLICATION FOR COMPENSATION UNDER SECTION 145

Section 145(2) provides that "An application for compensation under this section must be accompanied or supported by a specialist's report and audiogram or by other evidence of hearing loss that the Board prescribes".

Where a worker has already applied for compensation for hearing loss under section 136, a separate application under section 145 may sometimes be required. However, it will not be insisted upon if it serves no useful purpose. Therefore, no separate application need be made where all the evidence necessary to make a reasonable decision is available without it.

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The original application need not be accompanied by a report and audiogram by a physician outside the Board. The Board will obtain the necessary medical evidence.

E. AMOUNT OF COMPENSATION UNDER SECTION 198

No wage-loss benefits are paid to workers who have non-traumatic hearing loss.

Workers who develop non-traumatic noise induced hearing loss are, subject to the time periods referred to in section 201(1) of the *Act*, assessed for permanent disability benefits under section 198 of the *Act*.

Hearing loss permanent disability benefits are determined on the basis of audiometric tests **testing** conducted **evaluated or conducted** **at** by the Audiology Unit of the Board **Audiologist Advisor** or on the basis of prior audiometric tests conducted closer in time to when the worker was last exposed to hazardous occupational noise if in the Board's opinion the results of such earlier tests best represent the true measure of the worker's hearing loss which is due to exposure to occupational noise.

Section 145(3) of the *Act* provides:

The Board may, by regulation, amend Schedule 2 in respect of the following:

- (a) the ranges of hearing loss;
- (b) the percentages of disability, including the maximum percentage of total disability;
- (c) the methods or frequencies to be used to measure hearing loss.

If the worker's hearing loss amounts to a complete loss of hearing, measured in the manner described in Schedule 2 of the *Act*, and there is no loss of earnings resulting from the hearing loss, section 198(2) provides that compensation is the amount calculated as if for a disability equivalent to the maximum percentage of total disability specified in that Schedule.

If the worker's hearing loss does not amount to complete loss of hearing, and there is no loss of earnings resulting from the hearing loss, section 198(3) provides that compensation must be less than the amount of compensation determined under section 198(2), and, unless otherwise ordered by the Board, is the amount calculated as if for a disability equivalent to the percentage of total disability determined in accordance with Schedule 2.

In assessing permanent disability benefits under section 198, there is no automatic allowance for presbycusis. In some cases, however, the existence of presbycusis may be relevant in deciding whether the worker has a hearing loss due to the worker's

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employment. The age adaptability factor is not applied to non-traumatic hearing loss compensation made under section 198.

Where a worker has an established history of exposure to noise at work, and where there are other non-occupational causes or components in the worker's hearing loss, and where this non-occupational component cannot be accurately measured using audiometric tests, then ~~"Robinson's Tables"~~ **the ISO 1999:2013: Acoustics — Estimation of noise-induced hearing loss Standard (ISO Standard), as amended from time to time**, will apply. ~~"Robinson's Tables"~~ **The ISO Standard** will only be applied where there is some evidence of non-occupational causes or components in the worker's hearing loss (for example, some underlying disease) and will not be applied when the measured hearing loss is greater than expected and there is only a speculative possibility without evidential support that this additional loss is attributable to non-occupational factors.

~~"Robinson's Tables" were statistically formulated to calculate the expected hearing loss following a given exposure to noise. In applying these tables, the cumulative period of noise exposure is calculated. A factor for aging is then added. For permanent disability purposes, the resulting calculation is then compared on "Robinson's Tables" to the worst 10% of the population (i.e., at the same levels and extent of noise exposure, 90% of individuals will have better hearing than the worker).~~

In some cases, it will be found that a worker already has conductive hearing loss in one ear, unrelated to their work, which might well have afforded some protection against work-related noise-induced hearing loss in that ear. The normal practice in this situation would be to allocate the higher measure in Schedule 2 (the "ear least affected" column) to the other ear which has the purely noise-induced hearing loss.

A difficulty occurs where the worker is not employed at the time when the worker's disability commenced. If there are no current earnings on which to base the permanent disability benefits, the Board should generally refer back to the employments in which the worker was most recently engaged and base the amount on the worker's previous earnings thus discovered.

Based on the principles set out in section 201 of the *Act*, if the worker is retired and under the age of 63 years as of the commencement of the non-traumatic hearing loss permanent disability benefits, periodic payments are made until the date the worker reaches 65 years of age. If the worker is retired and is 63 years of age or older as of the commencement of the non-traumatic hearing loss benefits, periodic payments are made for two years following such date. See Item C6-41.00.

F. CALCULATING COMPENSATION FOR NON-TRAUMATIC HEARING LOSS

Compensation under section 198 of the *Act* is not payable simply because a worker changes employment in order to preclude the development of hearing loss. As with any other occupational disease, there must be functional impairment from the disease before there can be compensation. In other words, compensation is payable for a disability that has been incurred, not for the prevention of one that might occur.

If a noise-induced hearing loss has been incurred, and a worker then changes employment to a lower paid but quieter job, that may trigger consideration by the Board of a permanent disability assessment notwithstanding that it may seem reasonable that with hearing protection, the worker may have stayed at the former employment. There is no obligation to stay in the employment with hearing protection rather than take lower paying work and claim compensation. The drop in earnings may be the triggering device that renders the worker eligible for compensation, but it may not be part of the formula for calculating the amount.

The duration of entitlement to permanent disability periodic payments is established under section 201(1) of the *Act* and discussed in Item C6-41.00.

G. REOPENINGS OF SECTION 198 PERMANENT DISABILITY COMPENSATION DECISIONS

Where the hearing loss is retested for a worker in receipt of permanent disability benefits under section 198 on or after June 30, 2002 and there is a significant change in the worker's hearing, the following applies:

1. If the retest records a deterioration in the worker's hearing and the new findings warrant an increase under Schedule 2 of the *Act*, the permanent disability decision is reopened and the amount is increased.
2. If the retest shows an improvement in the worker's hearing of a degree greater than 10 decibels, the worker's permanent disability decision is reopened. Where this occurs, two further considerations would apply.
 - (a) If the worker has been paid the permanent disability benefits in the form of a lump-sum payment, the worker is advised in writing that the worker's hearing has improved to the point where such a payment would no longer appear justified or appropriate. However, in those cases, no attempt is made by the Board to seek a refund.
 - (b) If the worker's permanent disability benefits are being paid in the form of a monthly periodic payment, the payments are reduced or

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terminated, whichever is applicable, and the worker is informed in writing of the reasons and of the right to request a review of the decision by the Review Division.

If the retest suggests there is an improved level of hearing than that upon which the original permanent disability benefit amount was set, but the improvement is within a range up to and including 10 decibels, the permanent disability decision is not reopened.

A worker who has ceased to have entitlement to permanent disability benefits in accordance with the provisions of section 201(1) of the *Act* (see Item C6-41.00) will not be retested by the Board.

H. COMPENSATION FOR NON-TRAUMATIC HEARING LOSS UNDER SECTION 136

A worker will only be entitled to compensation for non-traumatic hearing loss under section 136(1) if the worker's exposure to causes of hearing loss ended prior to September 1, 1975.

Item 12 of Schedule 1 lists "Neurosensory hearing loss" as an occupational disease. The process or industry described in column 2 opposite to it is "Where there is prolonged exposure to excessive noise levels".

Sections 151 and 152 of the *Act* set out the time limits within which an application for compensation must be filed.

If a worker's exposure to causes of hearing loss ended prior to January 1, 1974, the one-year time period to file an application for compensation does not begin to run until the worker becomes disabled from earning full wages within the meaning of section 136(1). If a case exists where a worker's exposure to causes of hearing loss ended prior to January 1, 1974, and no disablement within the meaning of section 136(1) has yet occurred, health care benefits can always be provided, whether or not an application for compensation has been received from the worker and regardless of the length of time which has elapsed since the worker's exposure ended. Once the disablement from earning full wages occurs, the worker then has one year to submit an application for compensation (if the worker has not already done so) or proof of disablement. If no application for compensation or proof of disablement has been received by the end of this period, the worker's claim becomes completely barred even though the worker may previously have received compensation in the form of health care. If the worker submits proof of disablement, but no application for compensation, by the end of this period only compensation in the form of health care is payable.

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I. COMMENCEMENT OF PERMANENT DISABILITY PERIODIC PAYMENTS UNDER SECTIONS 136 AND 145

The following applies to claims for hearing loss of non-traumatic origin.

1. If compensation is being paid under section 136, then, subject to sections 151 and 152, permanent disability benefits are calculated to commence as of the date on which the worker first became disabled from earning full wages at the work at which the worker was employed.
2. If compensation is being paid under section 198(4) in respect of a loss of earnings that results from the worker's hearing loss, then, subject to sections 151 and 152, permanent disability benefits are calculated to commence as of the date when the worker first experiences such loss of earnings, or as of September 1, 1975, whichever is the later.
3. If compensation is being paid under section 198(2) or (3) where there is no loss of earnings or impairment of earning capacity, then, subject to sections 151 and 152, permanent disability 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 compensable degree of hearing loss under Schedule 2 of the *Act*. If the date of application is used as the commencement date, subsequent testing must support a compensable degree of hearing loss as of the date of application. Section 226 provides that in no case will compensation for non-traumatic hearing loss commence prior to September 1, 1975.

EFFECTIVE DATE:	January 1, 2021 May 15, 2023
AUTHORITY:	Sections 145, 195, 196, 198, and 226 of the <i>Act</i> .
CROSS REFERENCES:	Item C3-22.00, <i>Compensable Consequences</i> ; Item C4-25.30, <i>Disabled from Earning Full Wages at Work</i> ; Item C6-41.00, <i>Duration of Permanent Disability Periodic Payments</i> ; Appendix 3, <i>Permanent Disability Evaluation Schedule</i> , of the <i>Rehabilitation Services & Claims Manual</i> , Volume II.
HISTORY:	May 15, 2023 – Policy amended to reflect amendments to Schedule 2 of the Act. Additional policy changes made to reflect the current scientific and medical literature on estimating occupational noise-induced hearing loss, and how noise-induced hearing loss progresses over time. November 24, 2022 – Housekeeping changes consequential to implementing the <i>Workers Compensation Amendment Act (No. 2), 2022</i> (Bill 41).

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January 1, 2021 – Policy changes made consequential to implementing the permanent partial disability benefits provisions of the *Workers Compensation Amendment Act, 2020* (Bill 23).

October 21, 2020 – Amended to reflect amendment to health care provisions of the *Act* by the *Workers Compensation Amendment Act, 2020* (Bill 23 of 2020), in effect August 14, 2020.

April 6, 2020 – This policy resulted from the consolidation of former policy items #31.00, #31.10, #31.20, #31.30, #31.40, #31.50, #31.60, #31.70, and #31.80, consequential to the implementation of the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. Former policy item #31.70 was substantively amended as it had been based on section 55(4) of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, which was deemed spent.

February 1, 2020 – Former policy items #31.00, #31.20 and #31.40 were amended to provide guidance on the legal issues of evidence and causation.

June 1, 2012 – Former policy item #31.00 was amended to provide that permanent disability compensation for tinnitus is available where tinnitus is a compensable consequence of noise-induced hearing loss, in the range of 0% to 5% of total disability when assessed under the loss of function method.

June 1, 2009 – Former policy item #31.40 was amended to delete references to Board officers.

December 1, 2004 – Former policy item #31.20 was amended to update and clarify policy and to remove an ambiguity regarding the jurisdictional requirement for the minimum occupational noise exposure duration threshold.

August 1, 2003, Former policy item #31.40 was amended to change disability rating for complete loss of hearing in one ear with no loss in the other; revisions also made to the frequencies at which hearing loss is to be measured.

March 3, 2003 – Former policy item #31.30 was consequentially amended to implement the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002) by deleting references to appeal and reconsideration. Former policy item #31.60 was similarly consequentially amended regarding references to reopening, review, and the Review Division.

July 16, 2002 – Former policy item #31.40 amended to add reference to duration of permanent disability periodic payments, then section 23.1 of the *Act*, and policy item #41.00.

APPLICATION:

~~Applies to all decisions, including appellate decisions, made on or after January 1, 2021~~ **Applies to all decisions made on or after May 15, 2023.**

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**XIV. Non-Traumatic Hearing Loss
(Schedule 2/Section 145 of the Act)**

Percentage

Complete hearing loss in one ear with no loss in the other.....36
 Complete hearing loss in both ears1536

Item	Column 1 Range of Hearing Loss (decibels)	Column 2 Percentage of-Disability for Ear Most Affected	Column 3 Percentage of Disability for Ear Least Affected
1	0-27 0-34	0	0
2	28-32 35-39	0.3	1.21.5
3	33-37 40-44	0.51.0	2.05.0
4	38-42 45-49	0.71.7	2.88.5
5	43-47 50-54	1.02.3	4.011.5
6	48-52 55-59	1.33.0	5.215.0
7	53-57 60-64	1.73.7	6.818.5
8	58-62 65-69	2.14.3	8.421.5
9	63-67 70-74	2.65.0	10.425.0
10	68 or more 75-79	3.05.7	12.028.5
11	80 or more	6.0	30.0

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The hearing loss in decibels in the Column 1 is the arithmetic average of thresholds of hearing measured in each ear in turn by pure-tone, air- or bone-conduction audiometry at frequencies of 500, 1,000 and 2,000 Hz. **1 000, 2 000, 3 000 and 4 000 Hertz.**

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EFFECTIVE DATE:	February 1, 2022 February 1, 2022 May 15, 2023
AUTHORITY:	Sections 195(1) and 195(3) of the Act
CROSS REFERENCES:	Item C6-39.00, <i>Section 195 Permanent Partial Disability Benefits</i> , of the <i>Rehabilitation Services & Claims Manual</i> , Volume II.
HISTORY:	<p>May 15, 2023 – Non-Traumatic hearing loss section amended to reflect amendments to Schedule 2 of the Act.</p> <p>November 24, 2022 – Housekeeping changes to non-traumatic hearing loss section consequential to implementing the <i>Workers Compensation Amendment Act (No. 2), 2022</i> (Bill 41).</p> <p>February 1, 2022 – Revised current ratings for photophobia; and added criteria to the three categories of photophobia.</p> <p>January 1, 2021 – Housekeeping changes made to cross-references consequential to reformatting and renumbering policies in Chapter 6, <i>Permanent Disability Benefits</i>.</p> <p>September 1, 2020 – Policy amended to correct a cross-referencing error.</p> <p>April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i>, R.S.B.C. 2019, c. 1.</p> <p>December 1, 2019 – Set the rating for comminuted calcaneal fractures at 7%; clarified ratings for nerve root and peripheral nervous system conditions affecting part of the nerve's distribution; and made minor editorial changes.</p> <p>January 1, 2019 – Updated Vision and Loss of Strength. Revised a typographical error in Vestibular Disorders.</p> <p>May 1, 2017 – Added obturator nerve to section VIII. Peripheral Nervous System Conditions. Changed the percentages of disability for permanent tracheostomy, significant tracheal obstruction and minor tracheal obstruction; changed the range of motion rating threshold for the spine and limbs; and made minor consequential amendments including typographical errors and edits for clarification.</p> <p>January 1, 2015 – consolidated and incorporated policy items #31.90, #39.11, #39.12, #39.13, #39.20, #39.21, #39.30, #39.31, #39.32, #39.40, #39.41, #39.42, #39.43, and #39.44 of the <i>Rehabilitation Services & Claims Manual</i>, Vol II., and portions of the <i>Additional Factors Outline</i>.</p> <p>January 1, 2007 – policy changes to add item 81 Asthma and item 82 Contact Dermatitis to the Permanent Disability Evaluation Schedule.</p> <p>August 1, 2003 – substantial changes to the Permanent Disability Evaluation Schedule including changes to the percentage(s) of disability for partial amputation of the digits, spine and pronation/supination. Housekeeping changes.</p> <p>July 16, 2002 – housekeeping changes.</p>
APPLICATION:	Applies to all decisions made on or after February 1, 2022 May 15, 2023 .