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Update 2021 – 3

**TO: HOLDERS OF THE *ASSESSMENT MANUAL***

This update of the *Assessment Manual* contains amendments to the *Manual* implemented since update 2021 – 02.

The revised pages are amendments for:

- Items AP1-1-0 through AP8-349-1

A summary is attached and the amended pages are included as part of the package, effective **April 30, 2021**.

These amended pages and the complete manual are available at  
[http://www.worksafebc.com/regulation\\_and\\_policy/default.asp](http://www.worksafebc.com/regulation_and_policy/default.asp).

Ian Shaw  
Head of Law & Policy

Attachments

## **ASSESSMENT MANUAL**

### **SUMMARY OF AMENDMENTS – Update 2021 – 03**

AP1-1-0	Page 3	Housekeeping amendment
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AP3-118-1	Pages 1 to 2	Housekeeping amendment
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AP5-244-2	Pages 9 to 10	Housekeeping amendment
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AP5-245-1	Page 5	Housekeeping amendment
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AP5-246-1	Page 3	Housekeeping amendment
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AP5-247-4	Pages 5 to 7	Housekeeping amendment
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AP5-263-1	Pages 3 to 4	Housekeeping amendment
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AP5-265-1	Page 3	Housekeeping amendment
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AP8-349-1	Pages 3 to 4	Housekeeping amendment



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) of the *Act* 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 item 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.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	July 1, 2019
<b>AUTHORITY:</b>	Sections 319 and 339(2) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. July 1, 2019 – Amendments were made to emphasize the obligation of the Board to base its decisions on the merits and justice of the case and delete references to Board officers. March 3, 2003 – Item was developed to implement the <i>Workers Compensation Amendment Act (No. 2), 2002</i> (Bill 63 of 2002).
<b>APPLICATION:</b>	This policy applies to decisions on or after July 1, 2019.



**RE: Coverage under Act –  
Descriptions of Terms**

**ITEM: AP1-1-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Items AP1-1-2 to AP1-1-7 of this *Manual* deal with determining the status of persons under the compensation provisions of the *Workers Compensation Act*. This Item provides very general descriptions of the main terms used in those Items.

### **2. The Act**

Section 1, in part:

**“employer”** includes every person having in their service under a contract of hiring or apprenticeship, whether the contract is written or oral, express or implied, a person engaged in work in or about an industry;

...

**“firefighter”** means a member of a fire brigade, working with or without remuneration, who is assigned primarily to

- (a) fire suppression duties, whether or not those duties include the performance of ambulance or rescue services,
- (b) investigation duties respecting the cause, origin or circumstances of a fire, or
- (c) any combination of both fire suppression duties as described in paragraph (a) and fire investigation duties as described in paragraph (b);

...

**“worker”** includes the following:

- (a) a person who has entered into or works under a contract of service or apprenticeship, whether the contract is written or oral, express or implied, and whether by way of manual labour or otherwise;
- (b) a person who

- (i) is a learner who is not under a contract of service or apprenticeship, and
  - (ii) becomes subject to the hazards of an industry within the scope of the compensation provisions for the purpose of undergoing training or probationary work specified by the employer as a preliminary to employment;
- (c) a firefighter;
- (d) in respect of the industry of mining, a person
  - (i) while the person is actually engaged in taking or attending a course of training or instruction in mine rescue work under the direction or with the written approval of an employer in whose employment that person is employed as a worker in that industry,
  - (ii) while, with the knowledge and consent of an employer in that industry, either express or implied, the person is actually engaged in rescuing or protecting, or attempting to rescue or protect, life or property in the case of an explosion or accident that endangers either life or property in a mine, whether or not during the time that person is so engaged the person is entitled to receive wages from the employer, or from any employer, or is performing the work or service as a volunteer, or
  - (iii) while the person is engaged as a member of the inspection committee, appointed or elected by the workers in the mine, to inspect the mine on behalf of the workers;
- (e) an independent operator to whom the compensation provisions apply by the Board direction under section 4(2)(a) *[extending application: independent operator who is neither an employer nor a worker]*;
- (f) a person deemed by the Board to be a worker under section 6(2) *[extending application: vocational or training programs]*;

...



Section 4, in part:

- (1) The compensation provisions apply to
  - (a) all employers, in their capacity as employers, in British Columbia, and
  - (b) all workers in British Columbia,other than employers or workers exempted by order of the Board.
- (2) The Board may direct that the compensation provisions apply on the terms specified in the Board's direction to
  - (a) an independent operator who is neither an employer nor a worker as if the independent operator were a worker, or
  - (b) an employer as if the employer were a worker.

...

## **POLICY**

The following, very general, descriptions may assist in understanding the various categories of persons to whom this *Manual* refers. These descriptions must be read in the context of the *Act* and the *Manual*.

- *Employer* – An employer is a person or entity employing workers. The employer may be a sole proprietor, a partner in a partnership, a corporation, or another type of legal entity. “Employer” is defined under section 1 for purposes of the compensation provisions of the *Act*. An employer is an “independent firm”.
- *Worker* – A worker is an individual who performs work under a contract with an employer and has no business existence under the contract independent of the employer. “Worker” is defined under section 1 for purposes of the compensation provisions of the *Act*. A worker cannot be an “independent firm”.
- *Independent Operator* – “Independent operator” is not defined in the *Act*. The term is referred to in section 4(2) of the *Act* as being an individual “who is neither an employer nor a worker” and to whom the Board may direct that the compensation provisions of the *Act* apply as if the independent operator were a worker. An independent operator performs work under a contract, but has a business existence

independent of the person or entity for whom that work is performed. An independent operator is an “independent firm”.

- *Labour Contractor* – The Board has created the term “labour contractor” to assist it in determining whether an individual is an employer, worker or independent operator. A labour contractor who is a worker cannot be an “independent firm”. For more information about “labour contractors”, see Item AP1-1-7.
- *Firm* – A firm is any person or entity carrying on a business.
- *Independent Firm* – The Board has created the term “independent firm” to identify those persons who are either required by the *Act* to register with the Board as employers of workers, or from whom, as unincorporated employers or independent operators, the Board will accept a registration through the purchase of Personal Optional Protection for themselves. An independent firm performs work under a contract, but has a business existence under the contract independent of the person or entity for whom that work is performed. An independent firm may be an individual, a corporation or another type of legal entity. A worker cannot be an “independent firm”. For more information about “independent firms”, see Item AP1-1-3.
- *Independent Contractor* – An independent contractor is an independent firm.

*Principal* – A principal is a person who has the direct or indirect power or ability to control or influence the business operations of a corporation or similar entity, through the ownership of voting securities, by contract, or otherwise. An officer, director or shareholder active in the business operations of a corporation or similar entity is presumed to be a principal of that firm. However, the Board may find that such a person is not a principal where it is shown that the person does not possess direct or indirect power or ability to control or influence the firm's business operations.

This *Manual* also commonly uses the term “firm” to refer generally to persons engaged in business or work. Depending upon the context, this may refer to an “independent firm”, a “labour contractor” or some other category of persons.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com)

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<b>EFFECTIVE DATE:</b>	January 1, 2008
<b>AUTHORITY:</b>	Sections 1 and 4 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> ; Item AP1-1-4, <i>Coverage under Act – Employers</i> ; Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> ; Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP1-5/6/7-1, <i>Extending Application of the Act</i> ; Item AP1-8-1, <i>Fishing</i> ; Item AP8-336-1, <i>Coverage under Federal Statutes or Agreements Between the Provincial and Federal Governments, of the Assessment Manual</i> . Policy item #3.00, <i>Introduction – Workers and Employers Covered by the Act</i> ; Policy item #5.00, <i>Coverage of Workers</i> ; Policy item #6.00, <i>Definitions of “Worker” and “Employer”</i> ; Policy item #6.10, <i>Nature of Employment Relationship</i> ; Policy item #8.10, <i>Admission of Federal Government Employees</i> ; Policy item #68.90, <i>Principals – Composition of Earnings</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. December 1, 2019 – Housekeeping amendments to reflect the alphabetical order established by Bill 18 of 2019. May 16, 2019 – the <i>Workers Compensation Amendment Act, 2019</i> (Bill 18 of 2019) added the definition of “firefighter” to section 1 of the <i>Act</i> and amended the definition of “worker”. January 1, 2013 - Consequential changes related to the consolidation of the classification policies were made effective. September 16, 2009 – Board of Directors’ Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed. Additionally, Part 3 of the Board of Directors’ Resolution Number 2007/10/04-05, which added a description for the term “principal” related to the compensation of principals, was also repealed. March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term “principal” relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010. January 1, 2008 – Amendment regarding Compensation of Principals.

January 1, 2003 – New Policy. This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*.

Replaced in part Policy No. 20:10:30 and 20:30:20 of the *Assessment Policy Manual* and Decisions 26, 32, 138, 183 and 255 of volumes 1 - 6 of the *Workers’ Compensation Reporter*.

This policy is effective January 1, 2008.

**APPLICATION:**

**HISTORY:**

Policy item #8.10, *Admission of Federal Government Employees*, of the *Rehabilitation Services & Claims Manual*, Volume II.

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

September 16, 2009 – Board of Directors' Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed.

March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term “principal” relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010.

January 1, 2003 – Replaced in part Policy No. 20:10:30 and 20:30:20 of the *Assessment Policy Manual* and Decisions No. 26, 32, 138, 183 and 255 of volumes 1 - 6 of the *Workers' Compensation Reporter*.

**APPLICATION:**

This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.



whom they are contracting in significant respects. For example, they must seek out and bid for their own contracts, keep their own books and records, make income tax, unemployment insurance and Canada Pension Plan deductions. They also retain the right to hire and fire their own workers and exercise control over the work performed by their workers. These factors must be considered.

Some regard must also be paid to the structure and customs of the particular industry involved. Where an industry makes much use of the contracting out of work, this should be recognized as a factor in considering applications for registration as employers by parties to contracts in those industries.

### **(b) Specific guidelines**

Parties who would be considered independent firms include:

- (1) Any firm supplying labour and materials on which a profit or loss may result. Items such as nails and drywall tape are not considered materials for this purpose.
- (2) Any firm which has two or more pieces of revenue producing equipment. Hand tools and personal transportation vehicles or vehicles used to move equipment are not considered to be revenue producing equipment.
- (3) Service industry firms that enter into two or more contracts simultaneously.
- (4) Incorporated companies unless there are circumstances indicating that the principals of the corporation are workers rather than independent firms. If such circumstances exist, a full investigation will be made and the applicant's position determined in accordance with the policies in this *Manual*. Two common situations where corporations will not be considered independent firms are where:
  - (i) the corporation is a personal service corporation, (A personal service corporation for this purpose is one where no worker other than a principal active shareholder is employed, and if the firm was not incorporated, the principal active shareholder would clearly be a worker. If, without incorporation, the firm would be a labour contractor, it would not be considered a personal service corporation.); or
  - (ii) the corporation's sole function is to provide an inescapable phase of another firm's business undertaking, it is providing essentially labour only for one firm at a time, and there is a degree of common ownership between the two firms. In such cases, the corporation will be assessed through the operating company at the assessment

rate of the operating company. If the corporation is working for more than one firm, or there is not common ownership, the company will be considered a separate employer.

- (5) Society, cooperative, trade union or similar entity.
- (6) Manpower supply firms.

These guidelines will resolve the question whether a particular person or entity is an “independent firm” in most cases.

The Board, for the purposes of the *Act*, has the exclusive power under section 122 to determine status. The Board’s jurisdiction cannot be excluded by private agreement between two parties, whether the agreement does this expressly, or indirectly by labelling the parties as independent operators (who would therefore be independent firms). The Board makes its own judgment of their status, having regard to the terms of the contract and the operational routines of the relationship. However, decisions made by the Board are for workers’ compensation purposes only and have no binding authority under other statutes.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 1, 4, and 122 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-4, <i>Coverage under Act – Employers</i> ; Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> , of the <i>Assessment Manual</i> . Policy item #3.00, <i>Introduction – Workers and Employers Covered by the Act</i> ; Policy item #5.00, <i>Coverage of Workers</i> ; Policy item #6.00, <i>Definitions of “Worker” and “Employer”</i> ; Policy item #6.10, <i>Nature of Employment Relationship</i> ; Policy item #8.10, <i>Admission of Federal Government Employees</i> ; Policy item #47.10, <i>Actions by Employers</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective.



September 16, 2009 – Board of Directors' Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed.

March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term "principal" relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010.

March 3, 2003 – Consequential changes were subsequently made to the restatement of the *Act* in accordance with the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002).

January 1, 2003 – Replaced in part Policies No. 20:10:30, 20:30:20 and 20:30:30 of the *Assessment Policy Manual* and Decisions No. 32, 138, 183, 229, 255 and 335 of volumes 1 - 6 of the *Workers' Compensation Reporter*.

**APPLICATION:**

This Item results from the 2002 "editorial" consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.



Limited partners are neither considered workers nor employers as they do not participate in the business and are confined to providing investment. If they become active in the business they are regarded as general partners and would be subject to the provision of the *Act*.

**(e) Out-of-province corporations**

A firm which is not incorporated either in BC or federally in Canada, but claims to be incorporated in another jurisdiction will be treated the same as a firm legally incorporated in BC.

**(f) Small log suppliers**

Sawmills may purchase logs from small log suppliers such as farmers clearing their own land or other individuals who hold timber cutting licenses. Regardless of whether the sawmill or the supplier selects and pays the contractors who cut down and move the logs, the party who makes the contractual agreement with the contractor will be considered the contractor's employer. The employer will be directly responsible for assessments on non-registered contractors.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2015
<b>AUTHORITY:</b>	Sections 1 and 4 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> ; Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> ; Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP5-244-2, <i>Classification – Multiple</i> ; Item AP5-245-2, <i>Assessable Payroll</i> , with regard to principals of corporations; Item AP5-245-3, <i>Payroll – Out-of-Province Employers</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2017 – Housekeeping amendment.

January 1, 2015 – An amendment to part (c) deleting active officers of a society, trade union or similar entity.

January 1, 2014 – Amendments to remove redundant policy direction on property managers were made effective.

January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective.

September 16, 2009 – Board of Directors' Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed.

March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term "principal" relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010.

January 1, 2008 – Amendment regarding Compensation of Principals.

January 1, 2003 – This Item resulted from the 2002 "editorial" consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Replaced in part Policies No. 20:10:30, 20:30:20, 20:30:30, 20:30:50, 20:40:50, 20:50:10, 40:10:30 and 40:20:60 of the *Assessment Policy Manual* and Decisions No. 138, 229, 255 and 335 of volumes 1 - 6 of the *Workers' Compensation Reporter*.

This policy is effective January 1, 2015.

**APPLICATION:**

**(e) Forest firefighters**

The Provincial Government has authority to conscript members of the public to fight forest fires. In the event of an injury, the conscripted member of the public is considered a worker of the Provincial Government under the “Fire Suppression Vote”.

When logging companies receive “cutting rights”, they are required to fight fires which occur on those properties. If a worker of the logging company sustains an injury while fighting a fire prior to the Provincial Government assuming control of the fire, he or she will be considered a worker of the logging company. Once the Provincial Government assumes control of the fire, all individuals engaged in fighting the fire become the responsibility of the Provincial Government.

**(f) Lent employees**

In determining whether a worker of one employer has become the seconded or lent employee of another employer, the question to be decided in each case is whether there is an employment relationship between the employee and the other employer for the purposes of the *Act*. The normal tests for determining whether an employment relationship exists are applied with the necessary modifications.

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 1 and 4 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> ; Item AP1-1-4, <i>Coverage under Act – Employers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> ; Item AP1-5/6/7-1, <i>Extending Application of the Act</i> ; Item AP8-336-1, <i>Coverage under Federal Statutes or Agreements Between the Provincial and Federal Governments</i> ; Item AP5-245-2, <i>Assessable Payroll</i> , with regard to firefighters, of the <i>Assessment Manual</i> . Policy item #5.00, <i>Coverage of Workers</i> ;

**HISTORY:**

Policy item #6.20, *Voluntary and Other Workers Who Receive No Pay*;

Policy item #7.00, *Specific Inclusions in Definition of Worker*;

Policy item #7.10, *Coverage for Volunteer Firefighters*;

Policy item #67.32, *Volunteer Firefighters*, of the *Rehabilitation Services & Claims Manual*, Volume II.

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

May 16, 2019 – Bill 18 of 2019 amended the definition of firefighter in section 1 of the *Act*, removing the reference to ambulance driver or attendant.

January 1, 2017 – Housekeeping amendment.

September 16, 2009 – Board of Directors' Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed.

March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term "principal" relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010.

January 1, 2003 – Replaced in part Policies No. 20:10:30, 20:30:20, 20:40:30 and 40:20:50 of the *Assessment Policy Manual* and Decisions No. 229 and 241 of volumes 1 - 6 of the *Workers' Compensation Reporter*.

**APPLICATION:**

This Item results from the 2002 "editorial" consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

**RE: Coverage under Act –  
Independent Operators****ITEM: AP1-1-6**

## **BACKGROUND**

### **1. Explanatory Notes**

The term “independent operator” is not defined in the *Act*. The criteria for determining whether a person is an independent operator are those used to determine whether a contract creates an employment relationship or a relationship between independent firms.

### **2. The Act**

See Item AP1-1-1.

## **POLICY**

The term “independent operator” is referred to in section 4(2) of the *Act* as being an individual “who is neither an employer nor a worker” and to whom the Board may direct that the compensation provisions apply as if the independent operator were a worker. An independent operator performs work under a contract, but has a business existence independent of the person or entity for whom that work is performed. An independent operator is an “independent firm” for purposes of Item AP1-1-2.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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**EFFECTIVE DATE:**

January 1, 2003

**AUTHORITY:**Sections 1 and 4 of the *Act*.**CROSS REFERENCES:**

Item AP1-1-1, *Coverage under Act – Description of Terms*;  
Item AP1-1-2, *Coverage under Act – Types of Relationships*;  
Item AP1-1-3, *Coverage under Act – Distinguishing Between  
Employment Relationships and Relationships Between  
Independent Firms*;

Item AP1-1-4, *Coverage under Act – Employers*;  
Item AP1-1-5, *Coverage under Act – Workers*;  
Item AP1-1-7, *Coverage under Act – Labour Contractors*;  
Item AP1-4-3, *Personal Optional Protection*, of the *Assessment Manual*.

**HISTORY:**

April 6, 2020 – Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.  
September 16, 2009 – Board of Directors’ Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed.  
March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term “principal” relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010.

**APPLICATION:**

January 1, 2003 – New policy.  
This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*.



**RE: Coverage under Act –  
Labour Contractors****ITEM: AP1-1-7**

## **BACKGROUND**

### **1. Explanatory Notes**

For persons who are not covered by the normal criteria for “independent firms” set out in the POLICY in Item AP1-1-3, the Board uses a category called “labour contractors” in determining whether a person is a worker or independent firm under the *Act*. This policy sets out the guidelines for determining who is a labour contractor and the significance of that determination.

### **2. The Act**

See Item AP1-1-1.

## **POLICY**

Labour contractors may voluntarily choose to register as an employer (proprietorship or partnership) if they have workers or obtain Personal Optional Protection as an independent operator if they do not have workers. A labour contractor who takes one of these actions is an “independent firm” for purposes of Item AP1-1-3.

Labour contractors who choose not to register as an employer (if they have workers) or obtain Personal Optional Protection as an independent operator (if they do not have workers) are considered workers of the firm for whom they are contracting, and that firm is responsible for assessments. Any persons employed by the labour contractor to assist them are also considered workers of the firm with whom the labour contractor is contracting. A worker cannot be an “independent firm”.

If the labour contractor is registered, the proprietor or partner is not covered unless Personal Optional Protection is in effect.

Labour contractors include proprietors or partners who:

- have workers and supply labour only to one firm at a time;

- are not defined as workers, do not have workers, or do not supply major materials or major revenue-producing equipment but who contract a service to two or more firms on an ongoing simultaneous basis; or
- may or may not have workers but contract a service including one piece of major revenue-producing equipment to a firm or individual.

Persons who are normally labour contractors and who employ a worker are considered independent firms for any period of time that they are not contracting with another person or entity.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 1 and 4 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> ; Item AP1-1-4, <i>Coverage under Act – Employers</i> ; Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. February 1, 2011 – Housekeeping amendment in PRACTICE section. September 16, 2009 – Board of Directors' Resolution Number 2007/05/23-02, which approved policy amendments relating to workplace status determinations and which were delayed coming into effect until January 1, 2010, was repealed. March 19, 2008 – The January 1, 2009 effective dates of Board of Directors Resolutions 2007/05/23-02, 2007/10/04-04 and 2007/10/04-05, which approved amendments relating to workplace status determinations, a consequential policy change, and the addition of a description of the term "principal" relating to the compensation of principals respectively, were repealed and replaced with the date January 1, 2010. January 1, 2003 – Replaced Policies No. 20:10:30 and 20:30:20 of the <i>Assessment Policy Manual</i> .

**APPLICATION:**

This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.



An employer who qualifies as an “independent firm” and who does not meet all the above criteria for exemption must register with the Board and begin paying assessments when it first comes into BC.

Where an employer in BC hires a labour contractor (determined by the labour contractor’s activities in BC) from out-of-province to work in BC, the employer is responsible for the labour contractor’s coverage unless the labour contractor is registered with the BC Board. This policy applies regardless of the amount of time the labour contractor spends in BC, or the number of trips the labour contractor makes into BC.

- (4) Professional sports competitors or athletes are exempt. This exemption does not apply to non-competing workers of a sports team such as coaches, management, trainers or other support staff.
- (5) A personal financial holding company that complies with all of the following is exempt:
  - (i) it is incorporated;
  - (ii) the only workers are the shareholders of the company;
  - (iii) no activities are carried out by the company except the management of the shareholders’ own personal financial investments; which consist solely of:
    - investments in publicly traded stocks and bonds, mutual funds, or limited partnerships where the company has no say in day-to-day management of the partnership;
    - interest bearing financial instruments such as GICs, savings bonds, treasury bills or certificates for deposit; or
    - non-revenue producing land, buildings, or equipment where there is no development, construction, or direct rental activity; and
  - (iv) the company invests only its own assets and the assets of its shareholders.

If a limited company that is granted an exemption under this policy changes its business operations, the principals of the company must immediately notify the Board for a reconsideration of its exempted status.

## **PRACTICE**

Where an association, union or other group which represents an entire industry or group of workers, wishes to apply for exemption from coverage, it must write to the Policy, Regulation and Research Division requesting an exemption and providing reasons. The Policy, Regulation and Research Division will research the request and present the request along with their findings to the Board of Directors for consideration.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2016
<b>AUTHORITY:</b>	Section 4(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-3, <i>Coverage under Act – Independent Firms</i> ; Item AP1-1-4, <i>Coverage under Act – Labour Contractors</i> ; Item AP1-4-2, <i>Requesting a Variance from a General Exemption</i> ; Item AP5-245-3, <i>Payroll – Out-of-Province Employers and Operations</i> , of the <i>Assessment Manual</i> . Policy item #4.00, <i>Exemptions and Exclusions from Coverage</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2016 – Six-trip criterion were made applicable only to employers based in Canada. For clarity, exclusions from coverage under constitutional law were moved to section (a) and an explanatory narrative were made effective January 1, 2016. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. June 1, 2012 – Amendments were made to clarify the general exemption of an individual employed by the owner or occupier in or around a private residence. March 1, 2012 – Housekeeping change was made effective, in accordance with amendments to the <i>Act</i> . January 1, 2005 – Housekeeping change was made effective to reflect jurisdictional differences between Part 1 and Part 3 of the <i>Act</i> . January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced Policies No. 20:10:10, 20:10:20, 20:10:31, 20:30:40 and 20:40:30 of the <i>Assessment Policy Manual</i> and Decision No. 229 of volumes 1 - 6 of the <i>Workers’ Compensation Reporter</i> .
<b>APPLICATION:</b>	The amended policy applies to all decisions made on or after January 1, 2016.

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<b>EFFECTIVE DATE:</b>	June 1, 2012
<b>AUTHORITY:</b>	Section 4(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP5-244-2, <i>Classification – Assignment</i> ; Item AP5-245-2, <i>Assessable Payroll</i> with regard to administration/management payroll; Item AP5-245-4, <i>Payroll Estimates</i> , of the <i>Assessment Manual</i> . Decision of the former Governors No. 60 in Volume 10, Number 2 of the <i>Workers' Compensation Reporter</i> (April 1994) with regard to the exemption of coverage for spouses, available on the WorkSafeBC website at <a href="http://www.worksafebc.com">www.worksafebc.com</a> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2017 – Housekeeping amendment. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. June 1, 2012 – Amendments to clarify who can apply for voluntary coverage were made effective. July 20, 2011 – Housekeeping amendment in CROSS REFERENCE section. January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced in part Policies No. 20:10:20, 20:40:10 and 20:40:20 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	The amended policy applies to all decisions on or after June 1, 2012.





**HISTORY:**

Policy item #93.20, *Application for Compensation*;  
Policy item #93.23, *Adjudication Without an Application*;  
Policy item #94.15, *Penalties for Failure to Report*;  
Policy item #99.20, *Notification of Decisions*;  
Policy item #111.30, *Meaning of “Worker” and “Employer” Under Division 3 of Part 3 of the Act*, of the *Rehabilitation Services & Claims Manual*, Volume II.

January 1, 2021 – Housekeeping change made to cross-reference consequential to reformatting and renumbering policies in Chapter 6, *Permanent Disability Benefits*.

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

January 1, 2017 – Housekeeping amendment.

January 1, 2015 – The changes to part (c) of the policy section of this item and the minimum amount for which Personal Optional Protection may be obtained under part (c) of the policy, listed in Appendix “A”, were made effective.

January 1, 2015 – Consequential amendments were made effective.

January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective.

March 1, 2012 – Housekeeping change was made effective, in accordance with amendments to the *Act*.

October 1, 2009 – Housekeeping amendments.

November 1, 2006 – Correction to the website link.

January 1, 2004 – The changes to paragraphs (b) and (d) of the policy section of this item applied to all new Personal Optional Protection coverage registrants, all registrants who reapplied for coverage, and all existing accounts that were not in good standing, on or after January 1, 2004. The changes to paragraphs (e) and (f) of the policy section of this item applied to all existing Personal Optional Protection accounts, all new Personal Optional Protection coverage registrants, and all registrants who reapplied for coverage, on or after January 1, 2004.

January 1, 2003 – This Item resulted from an editorial consolidation of the former *Assessment Policy Manual*, which was effective on January 1, 2003. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policies No. 20:50:10 to 20:50:60 of the *Assessment Manual* and Decision No. 116 of volume 2 of the *Workers’ Compensation Reporter* were replaced, in part, by this Item.

**APPLICATION:** Applies to all Personal Optional Protection coverage in effect on or after January 1, 2015.



At the end of the production, the motion picture or television production firm is required to submit the actual payroll to the Board. Based on the reported payroll, the motion picture or television production firm may be required to pay an additional assessment, or may be entitled to a refund if there is an overpayment, in accordance with Item AP5-243-1.

**(f) Effective date of coverage**

A decision on whether extended coverage is granted will be made at the discretion of the Board.

Once approved, coverage is effective from the date the Board receives the required application or a subsequent requested date accepted by the Board.

**(g) Extent of coverage**

Once extended coverage commences, those subject to coverage are covered while engaged in employment activities related to the motion picture or television production.

Following approval for extended coverage, a motion picture or television production firm may contact the Board to request amendment to the start and/or end date of its extended coverage.

Coverage extended under this policy to employers does not affect their status as employers under the *Act*. All employers covered under extended coverage are still required to meet their obligations as employers under the *Act*.

**(h) Cancellation of extended coverage**

Once approved, extended coverage remains in effect until the earliest of:

- conclusion of the motion picture or television production;
- receipt of a request, in a manner prescribed by the Board, for termination of extended coverage by the motion picture or television production firm; or
- cancellation by the Board, with written notification where practicable.

The Board may cancel extended coverage when a motion picture or television production firm that was granted extended coverage fails to:

- comply with this Item and the terms and conditions of the extended coverage established by the Board;
- permit the Board to inspect a work site or premises or records; or

- comply with an order or direction issued by the Board under the *Act*.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2013
<b>AUTHORITY:</b>	Sections 1 and 4(2) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage under Act – Description of Terms</i> ; Item AP1-1-2, <i>Coverage under Act – Types of Relationships</i> ; Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> ; Item AP1-1-4, <i>Coverage under Act – Employers</i> ; Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-1-6, <i>Coverage under Act – Independent Operators</i> ; Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP1-5/6/7-1, <i>Extending Application of the Act</i> ; Item AP5-243-1, <i>Assessment Payments</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – New Item.
<b>APPLICATION:</b>	This item applies to all applications for extended coverage for motion picture or television productions made on or after January 1, 2013.

- (4) On admission under subsection 2(a),
- (a) the person or group of persons is deemed to be a worker or workers to whom the compensation provisions apply, and
  - (b) the Board may levy assessments on the applicable employer or program organizer by the formula the Board determines.

## **POLICY**

The general principles governing requests for a variance to a general exemption order also apply to requests under sections 5, 6 and 7.

### **(a) An undertaking in the public interest (section 5)**

In defining “public interest” for the purpose of section 5, the Board considers undertakings that affect a broad segment of the public rather than those whose activities centre around specific interest groups.

The persons involved in the project or program must apply in writing to the Board for coverage. If the Board feels that the undertaking is in the public interest, the matter may be referred to the Lieutenant Governor in Council to consider whether the individuals involved should be accepted as workers of the Crown in Right of British Columbia. If the Lieutenant Governor in Council agrees, the Board will fix the average earnings of those individuals. Alternatively, such individuals may be admitted as workers of a municipality or other organization where appropriate.

If a volunteer fire or ambulance brigade is operated by a society (including Indian Bands), coverage is not compulsory, but may be extended to the society on a voluntary basis.

### **(b) Vocational or training programs (section 6)**

No policy.

### **(c) Work study programs (section 7)**

Applications for coverage under section 7 will only be considered if:

- there is a period of training in a standard work place environment in the community as opposed to a workplace established specifically for the purpose of the group;
- the coverage is limited to injuries or diseases arising out of and in the course of the employment in that standard workplace; and

- the applicant accepts the Board's terms and conditions.

The employer or program organizer must make a written request for coverage to the Board. If the Board agrees, the employer or program organizer will be offered coverage under certain terms and conditions including an assessment formula.

## **PRACTICE**

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 5, 6, and 7 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-5, <i>Coverage under Act – Workers</i> ; Item AP1-4-2, <i>Requesting a Variance from a General Exemption</i> , of the <i>Assessment Manual</i> ; Policy item #8.00, <i>Admission of Workers, Employers, and Independent Operators</i> ; Policy item #67.31, <i>Volunteer Workers Admitted by the Board Under Section 5</i> ; Policy item #67.33, <i>Sisters in Catholic Institutions</i> ; Policy item #67.34, <i>Emergency Services Workers</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. November 1, 2006 – Editorial amendment to the PRACTICE section. January 1, 2003 – Replaced in part Policies No. 20:10:40 and 40:20:50 of the <i>Assessment Policy Manual</i> and Decisions No. 161 and 165 of volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> .
<b>APPLICATION:</b>	This Item results from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Under section 5(3) of the *Regulations*, assessments are limited to the maximum wage rate for each fisher. Therefore, if records are retained by the assessment payer to identify payments to individuals, deduction of excess earnings will be considered, regardless of whether the commercial fishing firm is incorporated. Excess earnings are only deducted where the earnings paid by one source exceed the maximum. Payments from two sources to the same person are not added for this purpose.

**(d) Registration of vessel owners**

As assessments are generally paid by “commercial buyers” or “commercial recipients” under section 5(1) of the *Regulations*, vessel owners do not normally have to register. Some exceptional situations are discussed below.

A commercial fisher who is engaged in the maintenance or minor repair of his or her own fishing vessel or equipment during the fishing season or on the off-season is covered under the *Regulations*, as these activities are considered incidental to the fishing operations. Similarly, any commercial fisher who is doing maintenance or minor repairs on a fishing vessel owned by another person is also covered under these regulations. However, if a commercial fisher or vessel owner hires a person who is not a commercial fisher to perform maintenance or minor repairs, the *Regulations* do not apply and the fisher or owner must register with the Board as the employer of the non-fisher.

If a commercial fisher is involved in the construction of that fisher’s own fishing vessel or is doing major repairs on the vessel (greater than 25% of replacement value), that fisher would not be covered unless Personal Optional Protection was obtained. However, if that fisher hires help to assist in the construction or major repair of the vessel, the fisher would be required to register as an employer.

Subject to Part (b) of this policy, a person engaged in transmitting payments to commercial fishers must also register with the Board and pay assessments on the payments transmitted. For the purposes of this policy, transmitting includes the activity of sending, transferring, forwarding, conveying or distributing funds to commercial fishers.

**(e) Payroll where there are multiple classifications**

Persons paying assessments may have more than one classification in the fishing industry: relating to fish processing or other operations on the one hand and fishing or fish buying on the other hand. Payroll must be allocated to the applicable classification. Payroll allocated to fish processing includes plant crews, truck drivers, warehouse workers and office staff. Payroll allocated to fishing or fish buying includes tendermen, campmen, net workers and any other acquiring personnel.

If a firm has assessable payroll in more than one classification in the fishing industry, then the administrative payroll (including active principals) that is common to the classifications must be pro-rated.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	April 1, 2006
<b>AUTHORITY:</b>	Section 8 of the Act; <i>Fishing Industry Regulations</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP5-244-2, <i>Classification – Assignment</i> ; Item AP5-246-1, <i>Maximum Wage</i> , of the <i>Assessment Manual</i> . Policy item #65.03, <i>Fishers</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. April 1, 2006 – Amended in 2005 to clarify assessed employers in the fishing industry and the manner in which assessment premiums may be calculated. December 31, 2003 – Housekeeping change. January 1, 2003 – Amendments made in 2003 resulted from the amendment to the <i>Fishing Industry Regulations</i> gazetted as B.C. Reg. 364/2000. Amended parts of the then Item AP1-4-1 of the <i>Assessment Manual</i> approved on November 16, 2002. Specifically, inserted a new Part (b) to add factors for determining persons who should pay assessments on out-of-province and direct fish sales. Also amended Part (d) to require persons engaged in transmitting payments to commercial fishers to register with the Board to pay assessments. This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced Policy No. 40:20:10 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This policy applies to all decisions made on or after April 1, 2006.



**RE: No Contribution from Workers****ITEM: AP3-118-1**

## **BACKGROUND**

### **1. Explanatory Notes**

The *Act* makes it an offence for employers to charge their workers with the cost of compensation coverage.

### **2. The Act**

Section 118:

- (1) An employer must not, either directly or indirectly,
  - (a) deduct from the wages of a worker of the employer any part of an amount that the employer is or may become liable to pay into the accident fund or otherwise under a compensation provision, or
  - (b) require or permit a worker of the employer to contribute in any manner toward indemnifying the employer against a liability that the employer has incurred or may incur under a compensation provision.
- (2) A person who contravenes subsection (1)
  - (a) commits an offence, and
  - (b) is liable to repay to a worker any amount
    - (i) deducted from the worker's wages in contravention of subsection (1)(a), or
    - (ii) that the worker has been required or permitted to contribute in contravention of subsection (1)(b).

## **POLICY**

None.

## **PRACTICE**

When the Board makes a decision concerning the status of a worker for the purpose of section 118, the decision is in writing and outlines the facts on which it is based. Copies are provided to both the worker and the employer. The decision also outlines rights of appeal.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Section 118 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> , of the <i>Assessment Manual</i> . Policy item #47.20, <i>Contributions from Workers to Employer</i> , Appendix 5 – <i>Maximum Fines for Committing Offences under the Act</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2003 – The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. The BACKGROUND and PRACTICE sections of this Item addressed, in part, Policy No. 20:10:30 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> .

**RE: Attachment of Compensation****ITEM: AP3-120-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 120 of the *Act* gives the Board the authority to attach compensation payments for any amount owed to the Board by the recipient.

### **2. The Act**

Section 120:

- (1) The following apply to an amount payable as compensation or by way of commutation of a periodic payment in respect of compensation:
  - (a) the amount is not capable of being assigned, charged or attached;
  - (b) the amount must not pass by operation of law except to a personal representative.
- (2) A claim must not be set off against an amount referred to in subsection (1), except for money
  - (a) advanced by way of financial or other social welfare assistance owing to the government, or
  - (b) owing to the accident fund.

## **POLICY**

If a proprietor or partner with Personal Optional Protection has sustained an injury or occupational disease in the course of the business and is entitled to wage-loss benefits or permanent disability benefits, and the business owes assessments to the Board, the Board may attach all or a portion of those benefits. This also applies to a director of a limited company who was personally responsible for the non-payment of assessments by the corporation.

Before compensation payments may be attached, the employer or affected individual must be given an opportunity to pay the outstanding amount. The amount of the compensation payment to be attached is determined after considering such factors as the marital status of the individual, the number of dependants and the amount of compensation available for attachment.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Section 120 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> , with respect to proprietors and partners; Item AP1-4-3, <i>Personal Optional Protection</i> , of the <i>Assessment Manual</i> . Policy item #48.40, <i>Overpayments/Money Owed to the Board</i> ; Policy item #48.48, <i>Unpaid Assessments</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2003 – Replaced Policy No.70:20:80 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

**RE: Reconsiderations, Reviews and Appeals –  
Reconsiderations of Decisions or Orders**

**ITEM: AP3-123-1**

## **BACKGROUND**

### **1. Explanatory Notes**

The *Act* provides the Board may reconsider previous decisions or orders. Subject to certain restrictions, the Board may reconsider a decision or order under the compensation provisions of the *Act* during the period of 75 days subsequent to the decision or order being made; after 75 days, the Board may only reconsider a decision or order that contains an obvious error or omission.

### **2. The Act**

Section 1, in part:

**“reconsider”** means to make a new decision in a matter previously decided such that the new decision confirms, varies or cancels the previous decision or order;

...

Section 123:

- (1) Subject to subsection (2), the Board may, on its own initiative, reconsider a decision or order made under a compensation provision by the Board or an officer or employee of the Board.
- (2) Subject to subsection (3), the Board may not reconsider a decision or order referred to in subsection (1) if any of the following apply:
  - (a) more than 75 days have elapsed since the decision or order was made;
  - (b) a request for review has been filed under section 270 [*making request for a review*] in respect of the decision or order;
  - (c) a notice of appeal has been filed under section 292 [*how to appeal*] in respect of the decision or order.

- (3) The Board may, on its own initiative, reconsider a decision or order after the 75 days referred to in subsection (2)(a) have elapsed, if the decision or order contains an obvious error or omission.

Section 244, in part:

- (2) The Board may do one or more of the following:
  - (a) establish new classes in addition to those referred to in subsection (1);
  - (b) divide classes into subclasses and divide subclasses into further subclasses;
  - (c) consolidate or rearrange any existing classes and subclasses;
  - (d) assign an employer, independent operator or industry to one or more classes or subclasses;
  - (e) withdraw any of the following from a class and transfer it to another class or subclass or form it into a separate class or subclass:
    - (i) an employer, independent operator or industry;
    - (ii) a part of the class;
    - (iii) a subclass or a part of a subclass;
  - (f) withdraw any of the following from a subclass and transfer it to another class or subclass or form it into a separate class or subclass:
    - (i) an employer, independent operator or industry;
    - (ii) a part of the subclass;
    - (iii) another subclass or part of another subclass.
- (3) If the Board exercises authority under subsection (2), it may make the adjustment and disposition of the funds, reserves and accounts of the classes and subclasses affected that the Board considers just and expedient.

Section 252:

- (1) The Board must notify each employer of the amount of each assessment due in respect of the employer's industry and the time when it is payable.

- (2) A notice under subsection (1) may be sent by mail to the employer, and is deemed to be given to the employer on the day the notice is mailed.

Section 344, in part:

- (1) A document that must be served on or sent to a person under this Act may be
- (a) personally served on the person,
  - (b) mailed to the person's last known address, or
  - (c) transmitted electronically, by fax or otherwise, to the address or number requested by the person.
- (2) If a document is mailed, the document is deemed to have been received 8 days after it was mailed.
- (3) If a document is transmitted electronically, the document is deemed to have been received when the person transmitting the document receives an electronic acknowledgement of the transmission.

...

## **POLICY**

### **(a) Definition of reconsideration**

A reconsideration occurs when the Board considers the matters addressed in a previous decision or order anew to determine whether the conclusions reached were valid. Where the reconsideration results in the previous decision or order being confirmed, varied or cancelled, it constitutes a redetermination of those matters.

Decisions or orders that are reconsidered under section 123, which are subject to the restrictions in that section, are decisions or orders on individual matters. Examples of such decisions or orders include:

- the modification of an employer's assessment rate through experience rating;
- determinations regarding whether an individual is a worker, employer, independent operator or labour contractor;
- the application of a penalty for failure to remit or report as required under the *Act*; and

- the charging of claims costs when an employer is in default and an injury or occupational disease occurs to one of its workers during the period of default.

Matters of general application, on the other hand, are not intended to be covered by section 123. Examples of such matters include:

- the allocation of income, compensation payments, outlays, expenses, assets, liabilities, surpluses or deficits to or from an account of a class or subclass, or to or from a reserve of the accident fund, with the exception of section 240(1)(b), (c) and (d), and section 249 decisions as they relate to a specific employer or independent operator; and
- the determination of an assessment rate for a class or subclass.

Section 244 of the *Act* establishes the Board's authority to make any changes to classes and subclasses that are considered necessary and appropriate as part of the management of the classification system. Changes in classification resulting from the exercise of this authority, or resulting from a firm's fraud or misrepresentation, do not constitute a reconsideration of a Board decision. Rather, the change constitutes a new decision pursuant to the exercise of the Board's normal classification authority under section 244(2). The restrictions, including the 75-day time limit, placed upon the Board's reconsideration authority under section 123 do not apply.

On a review or an appeal, the Review Division and the Workers' Compensation Appeal Tribunal ("WCAT") may make a decision that confirms, varies or cancels the decision under review or appeal. The Review Division and WCAT decisions are final and must be complied with by the Board.

Varying or canceling a decision may make invalid other decisions that are dependent upon or result from the decision under review or appeal. The reconsideration requirements under section 123 do not limit changes to previous decisions that are required in order to fully implement decisions of the Review Division or the WCAT.

### **(b) The purpose of section 123**

The Board's authority to reconsider previous decisions and orders is found in section 123 of the *Act*. The purpose of this section is to promote finality and certainty within the workers' compensation system, while still allowing the Board to remedy obvious errors and omissions.

Part 6 of the *Act* establishes a right to request a review by a review officer, where a party disagrees with a decision or order made at the initial decision-making level. It is this review, rather than the application of the Board's reconsideration authority, which is intended to be the dispute resolution mechanism for initial decisions and orders of Board officers.



The use of the words “on its own initiative” in section 123, and the availability of a review mechanism under Part 6 of the *Act*, indicate that the Board is not intended to set up a formal application for reconsideration process to resolve disputes that parties may have with decisions or orders.

Rather, the Board’s reconsideration authority is intended to provide a quality assurance mechanism by the Board. The Board is given a limited opportunity to vary or cancel, on its own initiative, any incorrect decisions or orders it may have made.

However, this does not preclude the Board from basing a reconsideration on information that may be brought forward by a worker, employer or other party to a decision or order, provided the grounds for reconsideration have been met.

### **(c) Advice to parties**

Parties to a decision or order will be advised at the time the decision or order is made of the right to request a review of the decision or order under section 268. The Board will take all reasonable steps to communicate a decision or order to a party. A party who requests the reconsideration of the decision or order will be reminded by the Board of the party’s right to request a review under section 268.

If the Board reconsiders a decision or order before the request for review is made, the Board will provide the parties to the decision or order with a reconsidered decision. The reconsidered decision, to confirm, vary or cancel the previous decision or order, gives rise to a new right to request a review under section 268.

### **(d) Restrictions on reconsideration**

The *Act* places a number of express restrictions on reconsidering previous decisions and orders. It is noted, in this respect, that “reconsider” means the making of a new decision or order and not merely the starting of the reconsideration process leading to the new decision or order.

- The Board may not reconsider a decision or order under section 123(1), more than 75 days after the decision or order was made. In accordance with section 344, where a decision or order has been sent by either registered or regular mail, the document is deemed to have been received 8 days after it was mailed. If the decision or order is sent electronically, the document is deemed to have been received on the date the Board receives electronic acknowledgement of receipt. One exception to section 344 applies to decisions or orders mailed to employers in accordance with section 252 regarding the amount of assessment due in respect of the employer’s industry and the time when it is payable. This notice is deemed to be given to the employer on the day the notice is mailed.

- The Board may not reconsider a decision or order under section 123(1) or section 123(3) if a request for a review has been filed by an employer or an independent operator in respect of that decision or order under section 270. A request for review filed under section 270 immediately terminates the authority of the Board to reconsider a previous decision or order (even if 75 days has not passed since the decision or order was made for reconsiderations under section 123(1)).
- The Board may not reconsider a decision or order under section 123(1) or section 123(3) if an appeal has been filed in respect of that decision or order to WCAT under section 292. The filing of an appeal under section 292 immediately terminates the authority of the Board to reconsider the decision or order (even if 75 days has not passed since the decision or order was made for reconsiderations under section 123(1)).

There are, in addition, a number of implicit restrictions on reconsidering previous decisions and orders. The Board is not authorized to reconsider appellate decisions or findings of the following bodies:

- the former Appeal Division;
- the former Commissioners, who existed prior to June 3, 1991;
- the boards of review and the Workers' Compensation Review Board; and
- the Board of Review, which existed prior to January 1, 1974.

Section 310 of the *Act* provides for WCAT to reconsider its own decisions and decisions of the former Appeal Division under certain limited conditions.

#### **(e) Grounds for reconsideration**

##### **(i) Reconsiderations within 75 days under section 123(1) of the *Act***

Subject to the restrictions set out above, the Board may reconsider a decision or order on its own initiative under section 123(1) where the Board is satisfied reconsideration is appropriate based on applicable law and policy, and the merits and justice of the case. In reconsidering a decision or order under section 123(1), the Board may reweigh the evidence and substitute its judgment for that of the initial decision-maker.

Examples of circumstances that may warrant reconsideration include, but are not limited to, the following:

- there is new evidence indicating that a prior decision or order was made in error;
- there has been a mistake of evidence, such as:
  - material evidence was initially overlooked, or

- facts were mistakenly taken as established which were not supported by any evidence or by any reasonable inference from the evidence;
- there has been a policy error such as:
  - applying an applicable policy incorrectly, or
  - not applying an applicable policy;
- there has been an error of law, such as a failure by the Board to follow the express terms of the *Act*; or
- one or more of the reasons for reducing or cancelling a penalty under the policy in Item AP5-261-1 are met.

(ii) Reconsiderations after 75 days under section 123(3) of the *Act*

Subject to the restrictions set out above, and after the 75-day period has elapsed since the decision or order was made, the Board may reconsider a decision or order on its own initiative under section 123(3) only where the decision or order contains an obvious error or obvious omission. This means there must be an obvious error or omission in the application of law and/or policy; or an obvious error or omission in relation to a mistake of evidence.

An “error” is a mistake or something that is wrong or incorrect; an “omission” is the failure to do something that is required by law or policy.

An obvious error or omission is easily and plainly identifiable with minimal investigation. An obvious error or omission does not arise where one simply disagrees with the decision-maker’s exercise of judgment or weighing of the evidence.

Section 123(3) applies to obvious errors and omissions in a decision or order made by the Board other than review officer decisions.

**(f) Authority of Board officers, Managers and Directors to reconsider**

(i) Reconsiderations within 75 days under section 123(1) of the *Act*

A Board officer, Manager or Director may only reconsider a decision or order where appropriate based on applicable law and policy, and the merits and justice of the case. A Board officer, Manager or Director may reweigh the evidence and substitute his or her own judgment for that of the initial decision-maker.

(ii) Reconsiderations after 75 days under section 123(3) of the *Act*

A Board officer, Manager or Director may only reconsider a decision or order where there is an obvious error or obvious omission.

(g) Correction of administrative errors

The correction of an administrative error such as a clerical, typographical or mathematical error or a slip or omission does not result in a reconsideration of a previous decision or order. The ability to correct these types of errors would not be considered a reconsideration of the original decision or order, as it would not change the intent of the original decision or order made by the Board officer.

This process for correcting administrative errors, however, cannot be applied to change previous decisions or orders.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	October 29, 2020
<b>AUTHORITY:</b>	Sections 1, 123, 244(2), 244(3), 252, and 344 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-261-1, <i>Penalties</i> ; Item AP3-124-1, <i>Reconsiderations, Reviews and Appeals – Fraud and Misrepresentation</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	October 29, 2020 – Amended to reflect amendments to reconsideration provision in the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020, including title change. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. November 8, 2011 – Policy changes to reflect the removal of the annual classification cycle were made effective. October 2010 – Housekeeping amendment. January 1, 2010 – Housekeeping amendment. November 1, 2007 – Changes were approved to former Items AP1-37-3 and AP1-96-1 to clarify the types of changes in a firm's classification that did not constitute a reconsideration under the then section 96(4) of the <i>Workers Compensation Act</i> . As a result, the 75-day time limit on reconsidering a decision set out in the <i>Act</i> did not apply to the specified types of classification decisions. January 1, 2005 – Changes to policy to clarify that the correction of administrative errors and the implementation of Review Division and Workers' Compensation Appeal Tribunal decisions do not constitute a reconsideration effective January 1, 2005 and applied to all decisions on or after that date. March 3, 2003 – Consequential changes were made in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i> (Bill 63 of 2002) and applied to all reconsiderations on or after March 3, 2003, including a new title. January 1, 2003 – This Item resulted from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the

policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Replaced Policy No. 10:40:00 of the *Assessment Policy Manual*.

Applies to all decisions made on or after October 29, 2020.

**APPLICATION:**



**RE: Reconsiderations, Reviews and Appeals –  
Fraud and Misrepresentation**

**ITEM: AP3-124-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 124 allows the Board to set aside any decision or order under the compensation provisions of the *Act* that has resulted from fraud or misrepresentation.

### **2. The Act**

Section 124:

The Board may at any time set aside a decision or order made under a compensation provision by the Board or an officer or employee of the Board if that decision or order resulted from fraud or misrepresentation of the facts or circumstances on which the decision or order was based.

## **POLICY**

In order for a decision or order to be set aside as a result of misrepresentation, there must be more than innocent misrepresentation.

The misrepresentation must have been made, or acquiesced in, by the employer, independent operator or other person with evidence to provide, knowing it to be wrong or with reckless disregard as to its accuracy, and the decision or order must have been made in reliance on the misrepresentation. Misrepresentation would include concealing information, as well as making a false statement.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

<b>EFFECTIVE DATE:</b>	March 3, 2003
<b>AUTHORITY:</b>	Section 124 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. October 2010 – Housekeeping amendment. March 3, 2003 – Changes were made in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 (Bill 63 of 2002).
<b>APPLICATION:</b>	To all decisions on or after March 3, 2003.



industrial activity and a reasonable expectation of similar cost rates. The Board determines the minimum size for industry groups.

**(d) Rate groups**

Assessment rates are calculated at the rate group level. The Board may place industry groups that are large enough into their own rate group. Otherwise, the Board will combine industry groups into rate groups on the basis of similarity of historical injury cost rates. Rate groups must meet a minimum size requirement as determined by the Board in order to be viable for statistical and insurance purposes.

Where the injury cost rate of the industry group differs from the average injury cost rate of its rate group by more than 20% for three consecutive years, the Board may move the industry group to a rate group that better reflects its actual injury cost rate.

**(e) Assessment Rates**

Each year, the total cost for a particular rate group is estimated. The total is divided by the estimated total assessable payroll for the group to produce the base assessment rate for the group for that year. Rate group data is used to create a classification unit's base assessment rate, which is then modified by the employer's own experience rating adjustment if applicable. The rate is expressed as a dollar amount per one hundred dollars of payroll.

As a result of section 240(1), the estimated total annual cost for each rate group is made up of different costs. This cost includes:

- the estimated current costs of all injuries which occur during the year;
- capitalized reserves sufficient to meet the future payments of compensation on those injuries;
- the rate group's contribution to other reserves described in section 240;
- the rate group's share of the Board's administrative costs; and
- an amount to amortize the rate group's account balance if appropriate.

The Board reviews the assessment rate for each rate group annually. The assessment rates may be adjusted more frequently, but this will be avoided where possible.

## **PRACTICE**

For detailed information on how assessment rates are set and the rates payable by each classification, readers should consult the WorkSafeBC website at <https://www.worksafebc.com/en/insurance/know-coverage-costs/industry-premium-rates>.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	October 1, 2007
<b>AUTHORITY:</b>	Sections 240 and 241 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Section 268(2)(h) of the <i>Act</i> . Item AP5-244-1, <i>Classification – Description of Terms</i> , with regard to classification units; Item AP5-247-1, <i>Experience Rating</i> , of the <i>Assessment Manual</i> . Policy item #113.00, <i>Introduction – Charging of Claim Costs</i> ; Policy item #113.20, <i>Occupational Diseases</i> ; Policy item #113.21, <i>Silicosis and Pneumoconiosis</i> ; Policy item #113.22, <i>Hearing-Loss Claims</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. October 1, 2007 – Updated to reflect the Board's authority to set assessment rates. March 3, 2003 – Consequential changes were subsequently made to the cross references in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 (Bill 63 of 2002). January 1, 2003 – This Item resulted from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.
<b>APPLICATION:</b>	Replaced Policy No. 30:30:00 of the <i>Assessment Policy Manual</i> . Applies on or after October 1, 2007.

rate as at January 1<sup>st</sup>. During the last 6 months of a year interest is calculated at the interest rate as at July 1<sup>st</sup>. Where an overpayment of assessment has resulted from a blatant Board error, interest will not accrue for a period greater than twenty years. For practical reasons, certain mathematical approximations may be used in the calculations.

**(e) Transfers between accounts**

Any request to transfer funds from one employer's account to another must be made in writing by the employer from whose account the funds will be transferred, unless the funds are being transferred as the result of a Board error.

## **PRACTICE**

The annual assessment threshold for the purpose of determining a firm's remittance schedule for the purpose of part (a) of this policy is set out in Appendix "A" to this *Manual*.

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2020
<b>AUTHORITY:</b>	Sections 124, 243, and 253(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-245-2, <i>Assessable Payroll</i> ; Item AP5-246-1, <i>Maximum Wage</i> ; Item AP5-264-1, <i>Collection of Assessments</i> ; Item AP5-261-1, <i>Penalties</i> ; Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> , of the <i>Assessment Manual</i> . Item P2-95-1, <i>Criteria for Imposing OHS Penalties</i> , with regard to penalties under the OHS provisions of the <i>Act</i> , of the <i>Prevention Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2020 – Changes made to move annual assessment threshold amount to Appendix "A" of this <i>Manual</i> were made effective. January 1, 2017 – Housekeeping amendment. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. February 1, 2011 – Housekeeping amendment in PRACTICE section. September 22, 2010 – On September 22, 2010, the Supreme Court of British Columbia released a decision in which it determined that the policy regarding the provision of interest on successful reviews or appeals is not a reasonable interpretation of section 259 of the <i>Workers Compensation Act</i> . In light of the Court decision, the Board of Directors of WorkSafeBC approved an amendment to the then Item AP1-39-2, <i>Assessment Payments</i> , in the <i>Assessment Manual</i> .

## ASSESSMENT MANUAL

March 3, 2003 – Consequential changes were subsequently made in accordance with the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002).

January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Replaced in part Policies No. 20:30:40, 40:30:10 to 40:30:30, 40:30:50, 40:30:60 and 40:70:10 to 40:70:40 of the *Assessment Policy Manual* and Decision No. 351 in volumes 1 - 6 of the *Workers’ Compensation Reporter*.

**APPLICATION:**

This policy applies to all decisions made on or after January 1, 2020.

For the purposes of section 244 of the *Act* and describing the Board's classification system, a sector is equivalent to a class.

## **1.2 Terms Describing a Firm's Business**

The following are terms used to describe a firm's business for the purpose of assigning a firm to one or more classification units.

### *Activity*

An activity is a process that combines inputs, technology, skills, and labour to create a product or service. Generally an activity is a task or a group of tasks, and an activity may be a part of another activity.

### *Business Undertaking*

A business undertaking is one or more activities carried out by a firm or enterprise's own workers, or by contracting with other firms, that produce a product or service for revenue. In circumstances where generating revenue is not the purpose of the activities, such as with a non-profit firm, a business undertaking will advance the firm or enterprise's goals.

A firm or enterprise's main business undertaking is the one that produces its usual and primary product or service, which is not for its own use.

### *Business Operations*

Business operations are all of a firm's activities, and may include one or more business undertaking.

## **1.3 Other Terms in Classification Policy**

The following are terms used to provide specific guidance in assigning a firm to one or more classification units.

### *Consulting Firm*

For the purpose of classifying firms, a consulting firm performs impartial services for unaffiliated clients on a contractual basis.

### *Affiliated*

Firms are affiliated where:

- one firm controls another firm, or both firms are controlled by the same person or group of persons, or

- the firms are controlled by family members, immediate, extended, or equivalent.

For the purposes of determining affiliation, control is the ability or power, actual or potential, direct or indirect through intermediaries, to direct or cause the direction of the management of a firm's business operations, through the ownership of voting securities, by contract, or by other means.

Where a firm has ceased to operate or exist, and its business undertakings are transferred to one or more successor firms, the Board determines affiliation based on the relationship between the firm that has ceased to operate or exist and each individual successor firm.

### *Enterprise*

An enterprise exists where two or more affiliated firms engage in a cooperative and coordinated relationship to produce a product or service, not for its own use.

## **PRACTICE**

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2013
<b>AUTHORITY:</b>	Sections 1, 244(1), 244(2), and 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-240/241-1, <i>Assessment Rates</i> ; Item AP5-244-2, <i>Classification – Assignment</i> ; Item AP5-244-3, <i>Classification – Changes</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Policy changes to consolidate the classification policies were made effective, including title change. November 8, 2011 – Policy changes to reflect the removal of the annual classification cycle were made effective. October 1, 2009 – Policy changes to reflect the adoption of an annual classification cycle were made effective. January 1, 2009 – Housekeeping amendment. October 1, 2007 – Updated to reflect the Board's authority to classify firms.

March 3, 2003 – Consequential changes were subsequently made in accordance with the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002).

January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Replaced in part Policies No. 30:10:00 and 30:20:10 of the *Assessment Policy Manual* and Decision No. 58 in volumes 1 - 6 of the *Workers’ Compensation Reporter*.

**APPLICATION:**

This policy applies to all decisions made on or after January 1, 2013.





#### **4. EFFECTIVE DATES**

The addition or deletion of a classification unit in accordance with this policy is a change in classification. For guidance concerning the effective date of a change in classification, see Item AP5-244-3.

#### **5. NOTIFICATION**

A firm must be informed when a classification unit has been added to or deleted from the firm's account.

### **PRACTICE**

Practice Directives provide more information regarding the criteria by which an employer may be assigned to more than one classification. For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

A list of classification units which have been designated as special hazard classification units can be found online at [www.worksafebc.com](http://www.worksafebc.com), under Rates/classifications.

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<b>EFFECTIVE DATE:</b>	January 1, 2013
<b>AUTHORITY:</b>	Sections 239, 244(2), and (3), and 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP1-8-1, <i>Fishing</i> ; Item AP1-244-1, <i>Classification – Descriptions of Terms</i> ; Item AP5-244-3, <i>Classification – Changes</i> , with respect to management/administrative payroll; Item AP5-245-2, <i>Assessable Payroll</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2017 – Housekeeping amendment. January 1, 2013 – Policy changes to consolidate the classification policies were made effective, including title change. January 1, 2010 – Housekeeping amendment. January 1, 2009 – Amended to clarify policy regarding the assignment of more than one classification unit when a firm that does not meet the multiple classification criteria, and the assignment of a single classification to firms operating in more than one industry. The 2009 amendments also removed the list of activities designated for special hazard classification and added a reference to the annual <i>Classification and Rate List</i> . January 1, 2004 – The policy changes with respect to Personal Optional Protection applied to all existing Personal Optional

Protection accounts, all new Personal Optional Protection coverage registrants, and all registrants who reapplied for coverage, on or after January 1, 2004. The policy changes with respect to effective dates of classification changes, applied to all new decisions on or after January 1, 2004.

March 3, 2003 – Consequential changes to this Item made as a result of the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002) were effective on March 3, 2003.

January 1, 2003 – This Item resulted from an editorial consolidation of the former *Assessment Policy Manual*.

The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policies No. 30:20:20, 30:20:21 and 30:20:30 in the former *Assessment Policy Manual* were replaced, in part, by this Item.

**APPLICATION:**

This policy applies to all decisions made on or after January 1, 2013.

**RE: Classification – Changes****ITEM: AP5-244-3**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy sets out the reasons for changing a firm's classification, the effective date of a change, and the impact of a change in classification on experience rating.

The Board may do one or more of the following with respect to all or part of the firm's business operation:

- (a) Change an existing classification unit;
- (b) Add a classification unit; or,
- (c) Delete a classification unit.

### **2. The Act**

See Items AP5-244-1, AP5-244-2 and AP5-247-1.

## **POLICY**

### **1. FIRM'S RESPONSIBILITY**

It is the duty of each firm to provide timely, complete and accurate information to the Board regarding changes in the firm or enterprise's business operations, and to act promptly on information requests and information provided by the Board.

### **2. CHANGE IN CLASSIFICATION**

The Board may change a firm's classification.

Set out below are possible reasons for a change in a firm's classification, with the associated effective date and the experience rating impact. However, if there has been fraud or misrepresentation, Section 2.4 of this Item will be used to determine the effective date and the experience rating impact.

Decisions in these cases do not constitute reconsiderations of existing classification decisions.

## **2.1 Classification Changes under Section 244(2)(f)**

The purpose of the classification system is to classify firms into groups that can be used to set fair and equitable rates. The Board undertakes periodic reviews of the classification system to ensure that this purpose is met and that the classification system does not unfairly differentiate between firms competing for the same business.

Section 244(2)(f) outlines the Board's authority to withdraw from a subclass:

- (i) an employer, independent operator or industry,
- (ii) a part of the subclass, or
- (iii) another subclass or part of another subclass,

and transfer it to another class or subclass or form it into a separate class or subclass.

Where a firm's classification changes as a result of the Board's exercise of this authority, the effective date is:

- the date the decision to change the firm's classification occurs, if the change will lead to a decrease in the base rate; or
- January 1<sup>st</sup> of the year following the date the decision to change the firm's classification occurs, if the change will lead to an increase in the base rate.

The general rule is that a firm's experience will transfer.

## **2.2 Change in Business Operations**

If the firm's business operations have changed, and the firm is now misclassified, the change will be effective on the later of the date of the change in business operations or January 1<sup>st</sup> of the year in which the decision to change the firm's classification occurs. If the date of the change in business operations cannot be determined, the change in classification will be effective on January 1<sup>st</sup> of the year in which the decision to change the firm's classification occurs.

However, if an injustice would otherwise result, the Board may make the classification change effective on a date determined by the Board where the firm:

- informed the Board of the change in its business operations without delay; and
- provided the Board with sufficient information of that change to make its decision.

If there has been a distinct change in the firm's business operations, the firm's experience will not transfer. If the change in business operations has occurred incrementally or the firm's business operations have evolved over time, a firm's experience may transfer.

### **2.3 Policy Changes Which Result in Changes to Classification Units**

The Board may make policy changes regarding classification units or the composition of classification units which may result in changes to a firm's classification.

A change to a firm's classification which occurs as a result of a policy change will be effective January 1<sup>st</sup> of the following year, unless otherwise specified by the Board.

The Board may transfer a firm's experience in this situation.

### **2.4 Fraud or Misrepresentation**

A classification change may be necessary due to a firm's fraud or misrepresentation. For the purposes of determining a firm or enterprise's classification, misrepresentation includes failure to provide timely, complete, and accurate information to the Board regarding the firm or enterprise's business operations or changes to the firm or enterprise's business operations, and a failure to act promptly on information requests or information provided by the Board.

If the need to change the classification is the result of fraud or misrepresentation, the effective date of the change will be determined by the Board based on the reason for the fraud or misrepresentation.

If the Board changes a firm's classification because of fraud or misrepresentation, the general rule is that a firm's experience will not transfer. However, the Board may transfer experience if the firm could benefit from a failure to transfer.

## **PRACTICE**

If a classification is being added to a firm's existing classification, the criteria for multiple classification must be met before the classification change policy is applied.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

<b>EFFECTIVE DATE:</b>	January 29, 2021
<b>AUTHORITY:</b>	Sections 1, 239, 244(2), and (3), and 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-244-1, <i>Classification – Descriptions of Terms</i> ; Item AP5-244-2, <i>Classification – Assignment</i> ; Item AP5-247-3, <i>Transfer of Experience Between Firms</i> ; Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> ; Item AP3-124-1, <i>Reconsiderations, Reviews and Appeals – Fraud and Misrepresentation</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	<p>January 29, 2021 – Policy changes to include an exception to the general rules for the effective date for classification changes due to a change in business operations.</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>January 1, 2013 – Policy changes to consolidate the classification policies were made effective.</p> <p>October 11, 2012 – Policy changes to change the effective date for classification changes under section 37(2)(f) were made effective and applied to all decisions, including appellate decisions, made on or after that date.</p> <p>November 8, 2011 – Policy changes to reflect the removal of the annual classification cycle were made effective and applied to all decisions, including appellate decisions, made on or after that date.</p> <p>October 1, 2009 – Policy changes to reflect the adoption of an annual classification cycle were made effective and applied to all decisions, made on or after that date.</p> <p>November 1, 2007 – Changes were approved to former Items AP1-37-3 and AP1-96-1 to clarify the types of changes in a firm's classification that did not constitute a reconsideration under the then section 96(4) of the <i>Workers Compensation Act</i>. As a result, the 75-day time limit on reconsidering a decision set out in the <i>Act</i> did not apply to the specified types of classification decisions.</p> <p>January 1, 2004 – Policy changes to provide three general reasons for classification changes, with corresponding effective dates and direction on the transfer of experience rating were made effective January 1, 2004 and applied to all new decisions on or after that date.</p> <p>March 3, 2003 – Consequential changes to this Item were made as a result of the <i>Workers Compensation Amendment Act (No. 2)</i>, 2002 (Bill 63 of 2002).</p> <p>January 1, 2003 – This Item resulted from an editorial consolidation of the former <i>Assessment Policy Manual</i>. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred. Policy No. 30:20:40 in the former <i>Assessment Policy Manual</i> was replaced by this Item.</p>

**APPLICATION:**

Applies to all decisions, including appellate decisions, made on or after January 29, 2021.





**CROSS REFERENCES:**

Item AP5-240/241-1, *Assessment Rates*, of the *Assessment Manual*.

**HISTORY:**

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

January 1, 2013 – Policy changes to consolidate the classification policies were made effective, including renumbering from the former AP1-37-5 and retitling.

July 14, 2009 – Notwithstanding the policy direction that was set out under the then item AP1-37-5, deposit accounts were permitted to be established for each of those non Canadian rights holding broadcasters set out in Appendix B of the Resolution who elected to pay premiums in this manner.

June 17, 2003 – Former item AP1-37-5 was amended to provide guidance on transfers of deposit account employers, or deposit account employer's operations, into the classification system.

January 1, 2003 – This Item resulted from the 2002 "editorial" consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Former AP1-37-4 replaced Policy No. 20:40:40 of the *Assessment Policy Manual*. Former AP1-37-5 replaced Policies No. 30:40:00 and 40:30:70 of the *Assessment Policy Manual*.

**APPLICATION:**

This policy applies to all decisions made on or after January 1, 2013.



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<b>EFFECTIVE DATE:</b>	June 1, 2012
<b>AUTHORITY:</b>	Section 245(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> , with respect to corporations, Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> ; Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP1-4-2, <i>Requesting a Variance from a General Exemption</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP1-5/6/7-1, <i>Extending Application of the Act</i> ; Item AP1-8-1, <i>Fishing</i> ; Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> ; Item AP5-247-3, <i>Transfer of Experience Between Firms</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. June 1, 2012 – Amendments were made effective to clarify eligibility for the registration of separate divisions. October 1, 2009 – Housekeeping amendments. January 1, 2007 – Changes extending the registration retroactivity limit to January 1 of three years prior to the current year applied to all decisions made on or after January 1, 2007 concerning the effective date of registration of employers. March 3, 2003 – Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 (Bill 63 of 2002). January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced in part Policies No. 20:20:00, 20:30:10, 20:30:20, 20:30:30, 20:30:31, 40:40:00, 40:60:00 and 70:30:00 of the <i>Assessment Policy Manual</i> and Decision No. 255 of volumes 1 - 6 of the <i>Workers’ Compensation Reporter</i> .
<b>APPLICATION:</b>	The amended policy applies to all decisions on or after June 1, 2012.



**HISTORY:**

Policy item #7.10, *Coverage for Volunteer Firefighters*; Policy item 67.32, *Volunteer Firefighters*, of the *Rehabilitation Services & Claims Manual*, Volume II.

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

May 16, 2019 – Bill 18 of 2019 amended the definition of firefighter in section 1 of the *Act*, removing the reference to firefighters serving a municipality, a regional district, or an improvement district.

January 1, 2017 – Updated to combine and clarify policy from former Items AP1-38-2 and AP1-38-3 on the calculation of assessable payroll; retitled.

October 23, 2014 – Part 2 of BOD Resolution Number 2013/12/11-01, made on December 11, 2013, was repealed.

April 1, 2013 – Updated to reflect the adoption of the Provincial Sales Tax and the Goods and Services Tax.

January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective.

October 2010 – Housekeeping amendment.

August 1, 2010 – Updated to reflect the adoption of the Harmonized Sales Tax.

April 1, 2005 – A clarification to the payroll amendment limitations in part (d) was made effective.

December 31, 2003 – A housekeeping change was made to the PRACTICE section of this policy, effective.

March 3, 2003 – Consequential changes to this item were made as a result of the *Workers Compensation Amendment Act (No. 2)*, 2002 (Bill 63 of 2002).

January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

Former AP1-38-2 replaced in part Policies No. 40:10:10, 40:10:30, 40:10:40 and 50:50:00 of the *Assessment Policy Manual*. Former AP1-38-3 replaced in part Policies No. 40:10:10, 40:10:11, 40:10:50, 40:10:60, 40:20:50 and 40:20:70 of the *Assessment Policy Manual*.

**APPLICATION:**

The amended policy applies to all decisions made on or after January 1, 2017.



$$\text{Assessable Payroll} = \frac{H1 \times M}{12 \times H2}$$

Where: H1 = actual block hours credited to flight crews for time worked over or in BC in hours.

M = current maximum assessable wage in BC.

H2 = the carrier's total flight crew block hours per month.

## **PRACTICE**

A copy of the Interjurisdictional Agreement on Workers' Compensation may be obtained on request from any Employer Service Representative in the Assessment Department.

For more information on interjurisdictional trucking, readers should consult the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 147 and 335 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-3, <i>Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firms</i> , with respect to principals of corporations; Item AP1-4-1, <i>Exemptions from Coverage</i> , with respect to exemptions for non-residents; Item AP5-246-1, <i>Maximum Wage</i> , of the <i>Assessment Manual</i> . Policy item #113.30, <i>Interjurisdictional Agreements</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2008 – Housekeeping change in PRACTICE section. April 1, 2005 – Housekeeping change made to formula in section (a). January 1, 2003 – Replaced Policies No. 40:20:20 and 40:20:40 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.





**RE: Payroll Estimates****ITEM: AP5-245-4**

## **BACKGROUND**

### **1. Explanatory Notes**

The *Act* allows the Board to estimate an employer's payroll when the employer has failed to provide required payroll information or has otherwise failed to comply with section 245(1), and to levy and collect an assessment on that estimate.

### **2. The Act**

Section 245, in part:

- (2) If an employer fails to comply with subsection (1),
  - (a) the employer must pay, as a penalty for the failure, the percentage of the assessment prescribed by Board regulation or determined by the Board, and
  - (b) the Board may make its own estimate of the payrolls and make its assessment and levy based on that estimate, in which case the employer is bound by the estimate, assessment and levy.

## **POLICY**

There are two main situations when an estimate may be made under section 245(2):

- the employer has failed to submit a payroll report or remittance form; or
- payroll records or other information which the employer has been specifically required to produce have not been produced.

In order to estimate the amount due, the Board may use the amount that the employer paid in the previous remittance period, or any other amount the Board considers appropriate.

Where the failure to provide records is for reason beyond the employer's control, such as a fire, the Board will, if practicable, consult with the employer as to a reasonable amount.

The employer will be advised of the estimated assessment, how to have the estimate amended and of rights of appeal.

When an employer whose payroll has been estimated later provides the required report, records or information, the estimate will normally be amended.

A payroll estimate does not relieve an employer from penalties that may be levied for not filing a report or paying an assessment. Penalty amounts calculated on payroll estimates generally will not be amended when an employer reports actual payroll.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	February 28, 2006
<b>AUTHORITY:</b>	Section 245(2) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-243-1, <i>Assessment Payments</i> ; Item AP5-261-1, <i>Penalties</i> ; Item AP8-347-1, <i>Audits</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. February 28, 2006 – Consequential change to reflect the then newly tiered penalty system. January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced Policy No. 50:60:10 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This policy applies to all decisions made on or after February 28, 2006.

and interests and is subject to all of the debts, liabilities and obligations of each amalgamating company, excess earnings will be transferred.

## **PRACTICE**

The maximum wage rate is set out in Appendix “A” to this *Manual*.

For any other relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 209, 227, and 246 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-8-1, <i>Fishing</i> ; Item AP5-245-2, <i>Assessable Payroll</i> ; Item AP5-245-3, <i>Payroll – Out-of-Province Employers and Operations</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2017 – Housekeeping amendment. January 1, 2003 – Replaced Policy No. 40:10:20 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.



**RE: Experience Rating****ITEM: AP5-247-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Experience rating is a means of adjusting individual employers' assessment rates to reflect their actual claims cost experience. Employers whose experience is better than their rate group average receive a discount. Employers whose experience is worse than their rate group average pay a surcharge.

The experience rating program attempts to promote positive safety attitudes and to provide equity through a system of recognition and accountability for claims costs. The goal is to encourage employers with high injury costs to reduce them, and to encourage employers with low injury costs to keep them low. The desired outcome is a reduction in the social and economic costs of work-related injuries and diseases.

### **2. The Act**

Section 247, in part:

- (1) The Board must establish subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class, as the Board considers just.
- (2) If the Board considers that a particular industry or plant is circumstanced or conducted such that the hazard or cost of compensation differs from the average of the class or subclass to which the industry or plant is assigned, the Board
  - (a) must establish a special rate, differential or assessment for that industry or plant to correspond with the relative hazard or cost of compensation of the industry or plant, and
  - (b) for the purpose referred to in paragraph (a), may also adopt a system of experience rating.

...

## **POLICY**

### **(a) The Experience Rating Plan**

The main features of the experience rating (“ER”) plan are:

- (1) The ER plan applies to all employers and independent operators in rated classification units.
- (2) The ER plan is prospective in application. ER adjustments are calculated on the basis of past claims costs and payroll and are applied to employers’ assessments. Thus, a firm’s experience is a measure of a firm’s performance relative to its rate group based on information derived by the Board from appropriate past claims costs and payroll.
- (3) ER adjustments are based solely on claims costs. The costs used are those directly associated with compensation claims. The cost used for fatal claims is the five-year moving Board-wide average rather than the actual cost of each claim.
- (4) The Board’s administrative costs are not included in the ER calculation.
- (5) The ER plan uses claims costs arising from claims commenced in the three calendar years prior to the year in which the calculation is made (the “ER Window”). This includes all costs of those claims up to and including June 30<sup>th</sup> of the year of calculation.
- (6) The costs included are subject to maximum limits for each claim as follows:
  - 100% of the first \$70,000;
  - 50% of the next \$50,000; and
  - 10% of all costs above \$120,000.
- (7) An employer’s cost to assessable payroll ratio is compared to the cost to assessable payroll ratio of the rate group to which the employer is assigned.
- (8) The payroll used is the total assessable payroll used to calculate employers’ assessments in the ER Window. This amount excludes earnings above the maximum wage, and includes Personal Optional Protection amounts.

- (9) In determining the cost to assessable payroll ratio in the ER Window, the most recent year is weighted at 50%, the prior year at 33.3%, and the most distant year at 16.7%.
- (10) The calculation involves combining an employer's cost experience in the ER window with its ER factor for the previous year. The ER factor reflects the fact that employers participate at different levels, based on the size of the employer's assessment before the ER adjustment. The higher an employer's base assessment, the higher its level of participation in the plan. A higher level of participation means an employer's ER adjustment is more responsive to its claims costs experience in the current ER window.
- (11) The minimum participation level is set at 10%.
- (12) The maximum ER discount is 50%. The maximum ER surcharge is 100%, except where an excess cost surcharge applies.
- (13) Employers enter the plan for the first time when they have had some payroll within the current ER window.
- (14) Where any part of an employer's payroll has been estimated, any resulting discount will not be applied. If a surcharge results, it will be applied. If an estimate is replaced by the actual payroll information, the experience rating will be recalculated.
- (15) The employer for experience rating purposes is the legal entity operating the business. If an employer operates divisions, whether they are separately registered with the Board or not, the employer's combined experience determines the rating for all the employer's business operations.
- (16) Employers registered voluntarily under sections 5 to 7 of the *Act* or by a variance from a general exemption order under section 4(1) of the *Act* are excluded from participating in the experience rating plan.
- (17) For simplicity, ER discounts or surcharges are generally expressed as percentage adjustments to employers' base assessment rates.

**(b) The Excess Cost Surcharge**

The excess cost surcharge is a component of the ER plan allowing the Board to more properly rate firms with ongoing high costs. A firm qualifies for an excess cost surcharge where:

- the firm is active and its average claim cost to payroll ratio, as calculated by the Board, is three or more times that of its rate group for three consecutive assessment years;
- the firm has a calculated ER surcharge adjustment of 90 percent or more; and,
- the firm has had 50 or more non-health care only claims in the five consecutive years ending with the most recent year in the ER window.

The Board will determine a required rate for a qualifying firm to enable calculation of the firm's excess cost surcharge. The required rate will be set annually based on the following:

- (1) In the first year a firm qualifies for an excess cost surcharge, the Board will determine the required rate using claims costs arising from claims commenced in a period of up to 15 calendar years prior to the year in which the calculation is made.
- (2) After the first year the required rate will be the lower of:
  - (i) a rate set as described in Section (1), above; or
  - (ii) a rate set using a weighting determined by the Board that blends a rate using:
    - claims costs arising from claims commenced in the five years prior to the year in which the calculation is made, and,
    - a rate set as described in Section (1), above, where the five-year rate is lower than the rate set as described in Section (1).
- (3) Since the required rate is set annually, subsequent changes in claim cost or payroll information will be reflected in the next year's required rate calculation.
- (4) The required rate is capped at 500 percent of a firm's yearly-established classification base assessment rate.

Once qualified for an excess cost surcharge, a firm is stepped toward the required rate over four years, and will be charged premiums at the required rate in the fifth and subsequent years. The progression toward the required rate functions as follows:



	(A) Starting Rate	(B) Yearly Calculated Required Rate	(C) ECS Calculation	(D) ECS Adjusted Net assessment rate Calculation For Year
<b>Year 1</b>	Firm's net assessment rate from the prior year as calculated under the ER plan	Required rate for Year 1	$\frac{(B) - (A)}{5}$	(A) + (C)
<b>Year 2</b>	Excess cost surcharge adjusted net assessment rate from prior year	Required rate for Year 2	$\frac{(B) - (A)}{4}$	(A) + (C)
<b>Year 3</b>	Excess cost surcharge adjusted net assessment rate from prior year	Required rate for Year 3	$\frac{(B) - (A)}{3}$	(A) + (C)
<b>Year 4</b>	Excess cost surcharge adjusted net assessment rate from prior year	Required rate for Year 4	$\frac{(B) - (A)}{2}$	(A) + (C)
<b>Year 5 (and subsequent years)</b>	Excess cost surcharge adjusted net assessment rate from prior year	Required rate for Year 5	$\frac{(B) - (A)}{1}$	(A) + (C) (equals the yearly calculated required rate)

Once qualified, a firm will be subject to an excess cost surcharge until, for two consecutive years:

- the firm's ER surcharge as calculated under the conventional ER plan is below 90 percent; or,
- the firm's claim cost to payroll ratio, as calculated by the Board within the ER window, is less than three times that of its rate group.

Policies concerning classification changes and experience rating transfers apply to firms subject to an excess cost surcharge. If a firm changes classifications, the Board determines the firm's qualification for, and/or the amount of, an excess cost surcharge within the new classification.

### **(c) Net Rate Transitioning for Classification Changes**

A firm qualifies for net rate transitioning where:

- the firm has had a change in classification for a reason other than a change in operations, fraud or misrepresentation;
- the firm is facing a net rate increase of more than 33.3% to the prior year's net rate as a result of the classification change; and

- the firm has met its reporting and payment requirements as set out in the *Act* and policy.

A qualified firm is transitioned toward its net rate as calculated under the ER plan, or “target rate”, over a period of up to three years. The progression towards the target rate functions as follows:

	(A) Target Rate	(B) Starting Rate	(C) Net Rate Transitioning Calculation	(D) Transitioned Net Rate
Year 1	Firm's target rate for Year 1	Firm's net rate from the prior year as calculated under the ER plan	$\frac{(A) - (B)}{3}$	<p>If (C) less than or equal to 33.3% increase in the starting rate, then firm pays (B) X 1.333</p> <p>If (C) more than 33.3% increase in the starting rate, then firm pays (C) + (B)</p>
Year 2	Firm's target rate for Year 2	Transitioned net rate from Year 1	$\frac{(A) - (B)}{2}$	<p>If (A) – (B) less than 33.3% increase in the starting rate, then firm pays (A)</p> <p>If (A) – (B) is equal to or greater than 33.3% increase in the starting rate, then:</p> <ul style="list-style-type: none"> <li>If (C) less than or equal to 33.3% increase in the starting rate, then firm pays (B) X 1.333</li> <li>If (C) more than 33.3% increase in the starting rate, then firm pays (C) + (B)</li> </ul>
Year 3	Firm's target rate for Year 3			

## **PRACTICE**

For further information on the experience rating system and any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives and other materials available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

<b>EFFECTIVE DATE:</b>	November 22, 2017
<b>AUTHORITY:</b>	Section 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-2, <i>Requesting a Variance from a General Exemption</i> ; Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP1-5/6/7-1, <i>Extending Application of the Act</i> , with respect to sections 5 to 7 of the <i>Act</i> ; Item AP5-244-3, <i>Classification – Changes</i> ; Item AP5-245-1, <i>Registration of Employers</i> ; Item AP5-245-4, <i>Payroll Estimates</i> ; Item AP5-246-1, <i>Maximum Wage</i> ; Item AP5-247-2, <i>Experience Rating Cost Inclusions/Exclusions</i> ; Item AP5-247-3, <i>Transfer of Experience Between Firms</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	<p>April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i>, R.S.B.C. 2019, c. 1.</p> <p>November 22, 2017 – Updated to no longer include the capitalized values of permanent disability awards in ER determinations. Firms' ER determinations for rate years before 2018, which had included these capitalized values, were not affected by the change.</p> <p>January 1, 2017 – 14 firms identified by WorkSafeBC as having experience deterioration in their 2017 experience rating, owing solely to the change in their industry's rate group membership, had their 2017 experience calculated in such a manner as to adjust their net premium rates to a level consistent with what was envisioned when the experience rating plan was implemented.</p> <p>January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective.</p> <p>October 11, 2012 – Updated to add Net Rate Transitioning.</p> <p>January 1, 2009 – Updated to add the Excess Cost Surcharge.</p> <p>January 1, 2008 – Employers identified by WorkSafeBC as having experienced a greater than 10% deterioration in their 2008 experience rating, owing solely to the change in the criteria for the minimum size of rate groups within the Employer Classification System, had their 2008 and 2009 experience rating calculated based on comparing the employer's cost to assessable payroll ratio to the cost to assessable payroll of a simulated rate group that replicated the employer's 2007 rate group.</p> <p>June 1, 2005 – Updated to define "experience".</p> <p>January 1, 2003 – This Item resulted from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i>. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the HISTORY were issued.</p> <p>Replaced Policies No. 30:50:10 and 30:50:41 of the <i>Assessment Policy Manual</i> and Decision No. 401 in Volumes 1 - 6 of the <i>Workers' Compensation Reporter</i>.</p>

**APPLICATION:**

The amended policy applies to rate determinations for the 2018 and later rate years.

**RE: Experience Rating Cost  
Inclusions/Exclusions****ITEM: AP5-247-2**

## **BACKGROUND**

See Item AP5-247-1.

## **POLICY**

As a general rule, all acceptable claims coded to a particular firm are counted for experience rating purposes. Whether the firm was at fault is not considered.

There are however, some types of claims costs that are excluded from consideration for experience rating purposes. These are detailed in policy item #115.30, *Experience Rating Cost Exclusions* of the *Rehabilitation Services & Claims Manual*, Volume II (RS&CM).

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	February 1, 2015
<b>AUTHORITY:</b>	Section 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-247-1, <i>Experience Rating</i> , of the <i>Assessment Manual</i> ; Item C3-14.10, <i>Serious and Wilful Misconduct</i> ; Item C3-16.00, <i>Pre-Existing Conditions or Diseases</i> ; Item C11-88.40, <i>Vocational Rehabilitation — Training-On-The Job</i> ; Item C11-88.50, <i>Vocational Rehabilitation — Formal Training</i> ; Policy item #113.10, <i>Investigation Costs</i> ; Policy item #113.20, <i>Occupational Diseases</i> ; Policy item #114.10, <i>Transfer of Costs from One Class to Another</i> ; Policy item #114.40, <i>Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability</i> ; Policy item #115.30, <i>Experience Rating Cost Exclusions</i> ; Policy item #115.31, <i>Injuries or Aggravations Occurring in the Course of Treatment, Surgery, and Board-related Appointments or Travel Thereto</i> ;

**HISTORY:**

Policy item #115.32, *Claims Involving a Permanent Disability and a Fatality*; in the *Rehabilitation Services & Claims Manual*, Volume II.

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

February 1, 2015 – Amended to redirect users to policy item #115.30 of the *Rehabilitation Services & Claims Manual*, Volume II.

February 1, 2011 – Housekeeping amendment in PRACTICE section.

July 1, 2010 – As a result of the re-write of Chapter 3 of the *Rehabilitation Services & Claims Manual*, Volume II there were consequential amendments to AP1-42-2 effective.

June 1, 2005 – CROSS REFERENCES section updated effective.

January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the HISTORY were issued.

Replaced in part Policy No. 30:50:52 of the *Assessment Policy Manual* and Decision No. 49 of Volumes 1 - 6 of the *Workers' Compensation Reporter*.

**APPLICATION:**

This policy applies to all decisions made on or after February 1, 2015.

### **3. EXPERIENCE TRANSFER GUIDELINES**

The following guidelines are used when considering whether experience should transfer between firms:

- a) Generally, experience will not transfer where all or part of a firm's business undertakings or assets move to another firm and the firms do not meet the description of affiliation. Experience may transfer where an original firm's business operations or a significant portion or aspect of an original firm's business operations move to an affiliated successor firm.

As an exception, experience may transfer between unaffiliated original and successor firms where both are publicly traded companies, and it is anticipated that the successor firm will continue the business operations unchanged by preserving the original business undertaking, management, staff, plant, equipment, location and customers/clients.

Where experience transfer is considered between firms, generally the classification of the business undertaking should remain the same. If the classification of the business undertaking changes, the provisions of Item AP5-244-3 are considered in conjunction with this policy.

- b) Generally, a firm's experience will remain with the firm if it undergoes a change in ownership through a share purchase or other means, as the same firm remains in operation.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	June 1, 2005
<b>AUTHORITY:</b>	Section 247 of the Act.
<b>CROSS REFERENCES:</b>	Item AP1-1-1, <i>Coverage Under Act – Descriptions of Terms</i> ; Item AP5-244-3, <i>Classification – Changes</i> ; Item AP5-247-1, <i>Experience Rating</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. January 1, 2009 – Housekeeping amendment. June 1, 2005 – Changes to the criteria by which experience transfers are adjudicated were made effective.

January 1, 2004 – This Item resulted from an editorial consolidation of the former *Assessment Policy Manual*, which was effective on January 1, 2003. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred.

March 3, 2003 – Consequential changes to this Item were made as a result of the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63 of 2002).

January 1, 2003 – This Item resulted from an editorial consolidation of the former *Assessment Policy Manual*. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that had occurred.

Policy No. 30:50:50 in the former *Assessment Policy Manual* was replaced by this Item.

**APPLICATION:**

The amended policy applies to all decisions made on or after June 1, 2005.



- repeat or frequent prevention orders;
- program orders issued under Part 3 of the *OHSR*;
- orders issued under section 50 of the *Act*;
- suppressed claims for compensation or suppressed claims costs;
- orders issued under section 73 of the *Act*;
- any incident resulting in the serious injury or death of a worker;
- the employer being convicted by a Court of a violation of the *Act* and/or *OHSR*; or
- the imposition of any administrative penalty.

Employers who are decertified are ineligible to certify again until the following calendar year.

#### **4. COR FINANCIAL INCENTIVE**

An employer with a valid COR is eligible to receive a financial incentive for each year they hold a COR and where none of the exceptions to COR financial incentive eligibility apply. Financial incentives are calculated using 10% of the employer's base assessment premiums for each classification unit included in the employer's COR.

The minimum annual financial incentive is the lesser of \$1,000 or 75 percent of the premiums paid by the employer for the financial incentive year being calculated.

If an employer has an outstanding balance for more than 30 days related to its account the financial incentive will be applied to the amount owed to the Board, and any balance paid to the employer.

##### **(a) Exceptions to COR financial incentive eligibility**

###### *Failure to report payroll*

The Board will notify the employer of the deadline to submit payroll for the purposes of the annual COR financial incentive. An employer will lose its financial incentive for an eligibility year if it fails to report payroll by this deadline.

###### *Convictions and administrative penalties*

An employer will not receive a financial incentive for any year in which a violation occurs that results in:

- the employer being convicted by a Court of a violation of the *Act* and/or *OHSR*; or
- the employer receiving an administrative penalty issued under section 95 of the *Act*.

The above exceptions are determined for each classification unit separately. This means an administrative penalty would only affect an employer's financial incentive eligibility for that one classification unit. In these circumstances, the employer's other certified classification unit(s) would be eligible for a financial incentive.

An employer may have the same classification unit in two or more of its divisional accounts. For these employers, those classification units will be considered together when determining financial incentive eligibility. This means an administrative penalty received in one classification unit will affect the financial incentive eligibility for that same classification unit in all of the employer's divisional accounts.

Where the Board is considering enforcement action against a certified employer, or where the Board is investigating a workplace incident involving the certified employer, the Board will not make a decision on the employer's financial incentive for the incident year.

An employer's eligibility for a financial incentive will not be determined until the applicable review and appeal periods expire or the applicable review and appeal process is completed.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2019
<b>AUTHORITY:</b>	Sections 14, 17, 107, 239, and 247 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item P2-95-1, <i>Penalties – Criteria for Imposing OHS Penalties</i> ; Item P2-17-3, <i>Certificate of Recognition Program</i> , of the <i>Prevention Manual</i> .
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2019 – Retitled; the revisions to the COR policy approved by BOD resolution 2018/11/22-01 on November 22, 2018 applied to all

**APPLICATION:**

decisions made on or after January 1, 2019, except for financial incentive decisions relating to a violation of the *Workers Compensation Act* or *Occupational Health and Safety Regulation* that occurred before January 1, 2019. The interim policies continued to apply to those financial incentive decisions relating to violations of the *Workers Compensation Act* or *Occupational Health and Safety Regulation* occurring before January 1, 2019.

November 22, 2017 – Interim policy was extended to December 31, 2018.

October 21, 2016 – Interim policy was extended to December 31, 2017.

February 15, 2016 – Interim policy was in effect until October 31, 2016.

This policy applies to all decisions made on or after January 1, 2019, except for financial incentive decisions relating to a violation of the *Workers Compensation Act* or *Occupational Health and Safety Regulation* that occurred before January 1, 2019.

The interim policies continue to apply as if unexpired in respect of a financial incentive decision relating to a violation of the *Workers Compensation Act* or *Occupational Health and Safety Regulation* that occurred before January 1, 2019.



<b>RE: Penalties Related to Notice of Assessment</b>	<b>ITEM: AP5-253-1</b>
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## **BACKGROUND**

### **1. Explanatory Notes**

See Item AP5-261-1.

### **2. The Act**

Section 253:

- (1) If the Board
  - (a) notifies an employer of assessment rates or percentages determined by the Board in respect of the industries in which the employer is engaged, and
  - (b) informs the employer of the manner in which the assessment is calculated and the date the assessment is payable,

the notice constitutes an assessment under this Part, and the employer must, within the time frame set out in the notice,

  - (c) make a return on the form provided or prescribed by the Board, and
  - (d) remit the amount of the assessment.
- (2) An employer who neglects or refuses to comply with subsection (1) is liable for the penalty prescribed by Board regulation or determined by the Board, and that penalty is enforceable as an assessment under this Part.

## **POLICY**

See the POLICY in Item AP5-261-1.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Section 253 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-261-1, <i>Penalties</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the HISTORY were issued. Replaced in part Policies No. 40:50:05 and 40:50:10 of the <i>Assessment Policy Manual</i> and Decision No. 351 of volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> .
<b>APPLICATION:</b>	This Item provides direction on penalties for failure to make a return or remit an assessment.

<b>EFFECTIVE DATE:</b>	June 1, 2010
<b>AUTHORITY:</b>	Section 258 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-245-2, <i>Assessable Payroll</i> ; Item AP5-264-1, <i>Collection of Assessments</i> ; Item AP5-265-1, <i>Statutory Lien</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	<p>October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020.</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>January 1, 2017 – Housekeeping amendment.</p> <p>February 1, 2011 – Housekeeping amendment in PRACTICE section.</p> <p>June 1, 2010 – Policy changes to remove reference to the minimum exemption amounts for contractors and homeowners made effective.</p> <p>May 1, 2007 – Amendments to clarify the purpose and function of the clearance system.</p> <p>January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i>. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.</p> <p>Replaced Policies No. 70:20:50 and 70:40:00 of the <i>Assessment Policy Manual</i>.</p>
<b>APPLICATION:</b>	Applies to all decisions made on or after June 1, 2010.





- (2) the penalty is charged after the cancellation date for an employer's account, except if it applies to a period before the cancellation date;
- (3) the penalty is charged after the bankruptcy or receivership date of the firm;
- (4) death or incapacitation of a family member, partner, proprietor, principal or accountant within the last period for which a remittance would normally be due;
- (5) loss, destruction or theft of payroll records within the last three months prior to the penalty imposition;
- (6) non-return of a remittance form where there was a "nil" amount owing, either because of a nil payroll for the period or because there was a sufficient credit in the account to cover the assessment payable for the period (this reason will only be accepted upon written declaration from the firm, its representative or a Board officer of the payroll figures from the beginning to the end of the period for which the penalty is imposed.);
- (7) issued cheques have failed to arrive (The supporting information should include the cheque ledger or a copy showing the cheque stubs immediately before and after so that it can be reasonably ascertained the Board cheque was issued within two weeks of the due date.);
- (8) where the balance owing consists of penalties only (all other outstanding amounts have been paid), and the balance is less than \$15.00 or a higher minimum that has been set by the Board since this policy was published; or
- (9) in exceptional cases, for any other reason that the Board determines is consistent with the *Act* and the purpose of this policy.

## **PRACTICE**

The percentage rate of penalty in effect under part (c) of this policy is set out in Appendix "A" to this *Manual*.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

<b>EFFECTIVE DATE:</b>	October 29, 2020
<b>AUTHORITY:</b>	Sections 245(2), 253(2) and 261(1) of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> ; Item AP5-263-1, <i>Charging Claim Costs to Employers</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	<p>October 29, 2020 – Amended to reflect amendments to reconsideration provision in the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020.</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>February 28, 2006 – Changes to adopt the then newly tiered penalty system.</p> <p>March 3, 2003 – Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i> (Bill 63 of 2002).</p> <p>January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i>. The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.</p> <p>Replaced Policies No. 40:50:05 to 40:50:30 of the <i>Assessment Policy Manual</i> and Decision No. 351 of volumes 1 - 6 of the <i>Workers’ Compensation Reporter</i>.</p>
<b>APPLICATION:</b>	Applies to all decisions made on or after October 29, 2020.

- (B) section 262(2) *[employer assessment in relation to injury not reported as required]*;
- (C) section 263 *[employer payment for compensation in relation to injuries during period of default]*.

## **POLICY**

The Board determines if any charges imposed under section 263(1) or 263(2) may be reduced or cancelled under section 263(4) of the *Act*. The Board does not charge claim costs to employers in the following circumstances:

- there has been a Board error;
- the employer contacted the Board prior to the injury with a view to registration, and the employer supplied the information required to proceed with registration within 30 days of the original contact;
- the employer is already registered as a different legal entity;
- the employer is a labour contractor who would be considered a worker if not registered;
- the costs associated with the claim are less than the minimum set by the Board;
- there is sufficient evidence that the employer mailed a registration form prior to the date of injury; or
- any other circumstances which the Board considers are consistent with the *Act* and the purpose of this charge.

Pursuant to section 123 of the *Act*, the Board may, on its own initiative, reconsider a charge imposed under section 263(1) or 263(2).

Where an employer disagrees with a decision of the Board regarding section 263(2) or a decision not to relieve that employer either in whole or in part from the liability, under section 263(4), Part 6 of the *Act* establishes a right to request a review of a decision, by a review officer.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	October 29, 2020
<b>AUTHORITY:</b>	Sections 123 and 263 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-1-7, <i>Coverage under Act – Labour Contractors</i> ; Item AP3-123-1, <i>Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions or Orders</i> ; Item AP5-245-1, <i>Registration of Employers</i> , of the <i>Assessment Manual</i> . Policy item #115.10, <i>Failure to Register as an Employer at the Time of Injury</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	October 29, 2020 – Amended to reflect amendments to reconsideration provision in the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. June 1, 2010 – Amendments concerning the circumstances where the Board does not charge claim costs to employers were made effective. March 3, 2003 – Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i> (Bill 63 of 2002). January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Replaced Policy No. 40:50:50 of the <i>Assessment Policy Manual</i> and Decision No. 111 of volumes 1 - 6 of the <i>Workers’ Compensation Reporter</i> .
<b>APPLICATION:</b>	Applies to all decisions made on or after October 29, 2020.

employer must have received the “final notice” and a certificate must have been filed with the registrar of the appropriate court.

**(e) Garnishing orders**

If a garnishing order is to be issued for the wages of a delinquent employer, the employer must

- have been uncooperative;
- have received written warning of the Board's intention to garnish wages; and
- have been given an opportunity to satisfy the account before such action is taken.

Consideration must also be given to the marital status and number of dependants of the delinquent employer. A garnishing order will not be issued if the available evidence indicates that the funds in question are otherwise attached.

**(f) Write offs**

If an account is cancelled and all attempts to collect the outstanding balance have been unsuccessful, the Board may “write off” the balance as uncollectable. When a balance is written off, it does not mean that the balance is eliminated, but that attempts to collect the balance have been suspended. Should the circumstances change in the future to allow further collection efforts, or should the employer revive the account with the Board, the balance is immediately reinstated.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 120, 258, 264, and 265 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP3-120-1, <i>Attachment of Compensation</i> ; Item AP5-258-1, <i>Contractor Liability</i> ; Item AP5-265-1, <i>Statutory Lien</i> , of the <i>Assessment Manual</i> . Policy item #34.40, <i>Pay Employer Claims</i> ; Policy item #48.40, <i>Overpayments/Money Owed to the Board</i> ; Policy item #48.48, <i>Unpaid Assessments</i> , of the <i>Rehabilitation Services &amp; Claims Manual</i> , Volume II.
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers</i>

**APPLICATION:**

*Compensation Amendment Act, 2020* (Bill 23 of 2020), in effect August 14, 2020.

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

January 1, 2003 – Replaced in part Policies No. 70:20:20 to 70:20:45, 70:20:70, 70:20:90 and 70:30:00 of the *Assessment Policy Manual*.

This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	May 1, 2007
<b>AUTHORITY:</b>	Section 265 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-264-1, <i>Collection of Assessments</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	October 21, 2020 – Housekeeping amendments to the <i>Act</i> portion of the Background section to reflect amendments to the <i>Act</i> by the <i>Workers Compensation Amendment Act, 2020</i> (Bill 23 of 2020), in effect August 14, 2020. April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. December 1, 2019 – Housekeeping changes reflecting consequential amendments made to the <i>Workers Compensation Act</i> by the <i>Temporary Foreign Worker Protection Act</i> , which came into effect October 1, 2019. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. May 1, 2007 – Amendments to clarify the purpose and function of the clearance system. January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.
<b>APPLICATION:</b>	Replaced Policy No. 70:20:60 of the <i>Assessment Policy Manual</i> . Applies to all clearance letter requests on and after May 1, 2007.





- entering into formal agreements and arrangements with other agencies and governments covered by section 335; and
- setting and revising policies under the *Act* (section 319).

The President/Chief Executive Officer (CEO) has the authority to exercise the remaining powers and responsibilities in the compensation provisions of the *Act* in relation to the payment of assessments. The President/CEO also has the authority to assign these powers and responsibilities to divisions, departments, categories of officers or individual officers of the Board. President/CEO assignments will state whether the assignee has the authority to further assign the power or responsibility or whether it must be exercised personally.

“Payment of assessments” for the purpose of this policy includes the registration and classification of employers or other persons, determining payroll, assessment rates and assessments owed by employers, auditing records, collecting amounts owing to the Board and all activities incidental to these functions.

The Board’s powers and responsibilities relating to the payment of assessments in the compensation provisions of the *Act* must be exercised in accordance with the policies of the Board of Directors.

## **PRACTICE**

For any other relevant PRACTICE information, readers should consult the Assessment Department’s Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Sections 122, 319, 320, 323, 332, and 340 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-1, <i>Exemptions from Coverage</i> ; Item AP5-244-1, <i>Classification – Description of Terms</i> ; Item AP5-240/241-1, <i>Assessment Rates</i> ; Item AP5-247-1, <i>Experience Rating</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. October 2010 – Housekeeping amendment. February 28, 2006 – Housekeeping change to remove statement in the Practice section on the President/CEO’s assignment of authority. March 3, 2003 – Consequential changes were subsequently made to the restatement of the <i>Act</i> in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 (Bill 63 of 2002). January 1, 2003 – Replaced Policies No. 10:20:00, 50:10:00 and 70:20:00 of the <i>Assessment Policy Manual</i> .

**APPLICATION:**

This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

**RE: Coverage under Federal Statutes or  
Agreements Between the Provincial and  
Federal Governments**

**ITEM: AP8-336-1**

## **BACKGROUND**

### **1. Explanatory Notes**

The *Act* authorizes the Board to exercise authority under federal statutes and federal-provincial agreements.

### **2. The Act**

Section 336:

The Board may exercise any power or duty conferred or imposed on it by or under a statute of Canada or an agreement between Canada and British Columbia.

## **POLICY**

The Board administers coverage for Provincial Emergency Program and Federal Government workers on behalf of the Provincial and Federal Governments, who are assessed on a cost plus administration basis.

Members of the Federal Police Force (RCMP) and Armed Forces are not covered by this Board but by the Federal Government directly.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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**EFFECTIVE DATE:**

January 1, 2003

**AUTHORITY:**

Section 336 of the *Act*.

**CROSS REFERENCES:**

Item AP1-1-1, *Coverage under Act – Description of Terms*;  
Item AP1-1-2, *Coverage under Act – Types of Relationships*;

Item AP1-1-3, *Coverage under Act – Distinguishing Between Employment Relationships and Relationships Between Independent Firm*;

Item AP1-1-4, *Coverage under Act – Employers*;

Item AP1-1-5, *Coverage under Act – Workers*;

Item AP1-1-6, *Coverage under Act – Independent Operators*;

Item AP1-1-7, *Coverage under Act – Labour Contractors*;

Item AP5-244-4, *Classification – Deposit Accounts*, of the *Assessment Manual*.

**HISTORY:**

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

July 2004 – Housekeeping amendment.

January 1, 2003 – Replaced in part Policy No. 20:10:30 of the *Assessment Policy Manual*.

**APPLICATION:**

This Item results from the 2002 “editorial” consolidation of all assessment policies into the *Assessment Manual*. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.

## **PRACTICE**

For any relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	April 1, 2005
<b>AUTHORITY:</b>	Sections 341, 346, and 347 of the <i>Act</i> .
<b>CROSS REFERENCES:</b>	Item AP5-245-2, <i>Assessable Payroll</i> ; Item 5-245-3, <i>Payroll – Out-of-Province Employers and Operations</i> ; Item 5-245-4, <i>Payroll Estimates</i> ; Item 5-246-1, <i>Maximum Wage</i> , of the <i>Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. January 1, 2013 – Consequential changes related to the consolidation of the classification policies were made effective. April 1, 2005 – Amendments concerning policy application in audits were made effective. March 3, 2003 – Consequential changes were subsequently made to the restatement of the <i>Act</i> in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 (Bill 63 of 2002). January 1, 2003 – This Item resulted from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continued the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.
<b>APPLICATION:</b>	Replaced Policy No. 50:40:00 of the <i>Assessment Policy Manual</i> . The amended policy applies to all decisions on or after April 1, 2005.



Requests for personal information regarding individuals that is not directly related to the business must be accompanied by written authorization of those individuals.

**(e) Disclosure to the public of information about a firm**

The classification and basic assessment rate for the classification of an employer or an independent operator will be made available to anyone upon request.

The Board will also generally disclose to any person the experience rated assessment rate of an individual firm, the total assessment charged to a firm, and the total claim costs charged to a firm for assessment purposes. However, the particular circumstances of the case may require all or part of this information to be withheld under the provisions of *FIPPA*.

**(f) Ombudsperson, Employers' Advisers, Workers' Advisers, Workers' Compensation Appeal Tribunal, MLAs**

The Board will release information about a firm to anyone having statutory authority to obtain the information such as the Ombudsperson, Employers' and Workers' Advisers, the Workers' Compensation Appeal Tribunal and MLAs.

**(g) Legal Actions**

Information will be provided to affected parties where required by law.

## **PRACTICE**

The Board's FIPP Office oversees the Board's organizational compliance with *FIPPA*. Generally, if disclosure is granted in the normal course of business, it need not be referred to the FIPP Office. The department that holds the information can usually decide whether information is of a type that can be released in the normal course of business. In any case where information cannot clearly be released under the normal course of business, the matter is referred to the FIPP Office.

Requests within the Assessment Department for disclosure of the experience rated assessment rate of an individual firm, the total assessment charged to a firm, and the total claims costs charged to a firm for assessment purposes must be directed to the Manager, Assessment Policy.

Under section 75 of *FIPPA*, a fee may be charged where more than three hours is required to locate and retrieve a record of which disclosure has been requested.

Disclosure in the context of legal actions is usually handled by the Board's Records Management Office.

If a requestor objects to the decision of the FIPP Office, they have a right to request a review to the Information and Privacy Commissioner under section 52 of *FIPPA*.

For any other relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WorkSafeBC website at [www.worksafebc.com](http://www.worksafebc.com).

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<b>EFFECTIVE DATE:</b>	January 1, 2003
<b>AUTHORITY:</b>	Section 349(1) of the Act; Sections 3(2), 21, 22(3), 33, 37, and 52 of the <i>Freedom of Information and Protection of Privacy Act</i> .
<b>CROSS REFERENCES:</b>	Item AP1-4-3, <i>Personal Optional Protection</i> ; Item AP5-240/241-1, <i>Assessment Rates</i> ; Item AP5-244-1, <i>Classification – Description of Terms</i> ; Item AP5-247-1, <i>Experience Rating</i> ; Item AP5-258-1, <i>Contractor Liability</i> ; Item AP5-265-1, <i>Statutory Lien of the Assessment Manual</i> .
<b>HISTORY:</b>	April 6, 2020 – Housekeeping changes consequential to implementing the <i>Workers Compensation Act</i> , R.S.B.C. 2019, c. 1. July 2004 – Housekeeping amendment. January 1, 2003 – Replaced Policy No. 10:20:10 of the <i>Assessment Policy Manual</i> .
<b>APPLICATION:</b>	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.