RE: Personal Injury	ITEM: C3-12.00

BACKGROUND

1. Explanatory Notes

This policy defines "personal injury", distinguishing it from occupational disease.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

Compensation is paid where a personal injury or death arising out of and in the course of a worker's employment is caused to the worker.

A. Definition of Personal Injury

"Personal injury" is defined as any physiological change resulting from some cause. It may result from a specific incident or a series of incidents occurring over a period of time.

Personal injury is not confined to injuries which are readily and objectively verifiable by their outward signs, e.g., breaks in the skin, swelling, discolouration, deformity, etc. It includes, for example:

- strains and sprains;
- damage to dental crowns and fixed bridgework, as they are regarded as parts of the anatomy, rather than as artificial appliances or dentures. For this reason, such claims are adjudicated under section 134(1) rather than under section 161(1);
- psychological impairment. Conditions of this type may be a compensable consequence of an accepted personal injury or occupational disease (see Item C3-22.30); and

- aggravations of a pre-existing non-compensable disease that are attributable to a specific event or trauma, or to a series of specific events or traumas (see Section C. of Item C4-25.20).

Apart from personal injury, the Board is authorized:

(1) by section 135, to compensate a worker for a mental disorder that does not result from an injury for which the worker is otherwise entitled to compensation, (see Items C3-24.00 and C3-24.10);

(2) by section 136, to compensate a worker for an occupational disease, (see Chapter 4); and

(3) by section 161(1), to replace or repair workers' artificial appliances, eyeglasses, dentures and hearing aids damaged or broken at work. (See Item C3-23.00).

B. Non-Occurrence of a Specific Incident

As noted above, it is not a bar to compensation if an injury results from a series of incidents occurring over a period of time rather than from a specific incident. It is also not a bar to compensation if an injury results from work activities to which the worker is accustomed and has previously performed without injury. The Board should examine the details of how the work activity was performed. To be compensable as an injury the evidence must warrant a conclusion that there was something in the employment that had causative significance in producing the injury. A speculative possibility that this might be so is not enough.

This does not mean that the presence or absence of a specific incident is never relevant in the decision of a claim for compensation. The etiology of a disabling condition is always relevant, and the presence or absence of a specific incident may have some evidentiary value in establishing whether it was employment-related. As well, there are some disabilities that are classified as resulting from an "injury" if they result from a specific incident, but are classified as resulting from a "disease" if they result from a series of incidents occurring over a period of time. The absence of a specific incident may mean that the worker has a disease rather than a personal injury.

C. Distinction Between an Injury and Disease

It is important to distinguish between an injury and a disease, because the *Act* creates different criteria to be met before compensation is provided for each. Compensation for occupational disease is discussed in Chapter 4.

The following are examples of personal injuries:

1. Wounds.
2. Fractures.
3. Concussions.
4. Physiological changes caused by explosion.
5. Sprains and strains.
6. Damaged cartilage or ligaments.
7. Dislocation of the bones at a joint.
8. Burns caused by a single incident of a chemical spilled on the skin.

The following are examples of diseases:

1. A disability caused by the gradual absorption of a chemical through the skin, by inhalation, or otherwise.

2. Cancer.

3. Respiratory disease such as asbestosis.

4. Contagious disease such as tuberculosis.

The following are examples of physiological changes that can be classified as either an injury or a disease, depending on the circumstances:

1. Infections. An infection incidental to a compensable injury is treated as part of the injury, otherwise it is classified as a disease.

2. Hearing loss. Hearing loss that results from an explosion is classified as an injury. Hearing loss that results from exposure to noise over a period of time or by infection is classified as a disease.

3. Disablement from Vibrations

   a) Instant disablement of a worker that results from vibrations of a traumatic nature, such as an explosion, is classified as an injury.

   b) Instant disablement of a worker, for example some sudden breakdown in the worker's system, that results from exposure to vibrations over a period of time, is classified as an injury.

   c) A gradual deterioration in a worker's condition that results from exposure to vibrations over a period of time is classified as a disease.

4. Heart Conditions

a) Physiological changes of the heart attributed to a specific event or cause, or to a series of specific events or causes are classified as injuries.

b) Physiological changes of the heart involving a gradual onset and not attributed to a specific event or cause, or to a series of specific events or causes, are classified as diseases.

EFFECTIVE DATE:	February 15, 2021
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-22.30, *Compensable Consequences – Psychological Impairment*; Item C3-23.00, *Replacement and Repair of Personal Possessions – Section 161(1)*; Item C3-24.00, *Section 135 – Mental Disorders*; Item C3-24.10, *Section 135(2) – Mental Disorder Presumption*; Chapter 4, *Occupational Disease*; Item C4-25.10, *Has a Designated or Recognized Occupational Disease*, of the *Rehabilitation Services & Claims Manual*, Volume II. Schedule 1 of the *Act.*
HISTORY:	February 15, 2021 − Policy amended to provide guidance on injuries caused by overexertion during accustomed work. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy resulted from the consolidation of former policy items #12.00, #13.00, #13.10, #13.12, #13.20, and #14.20 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	Applies to all decisions made on or after February 15, 2021, respecting claims for injuries occurring on or after July 1, 2010.

RE: Entitlement for Federal Government Employees **ITEM: C3-12.10**

BACKGROUND

1. Explanatory Notes

This policy outlines the test for entitlement to compensation for personal injury or death of federal government employees working in British Columbia.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 336:

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

3. Government Employees Compensation Act

Section 3:

(1) This Act does not apply to any person who is a member of the regular force of the Canadian Forces or of the Royal Canadian Mounted Police.

(2) This Act applies in respect of an accident occurring or a disease contracted within or outside Canada.

Section 4, in part:

(1) Subject to this Act, compensation shall be paid to

(a) an employee who

(i) is caused personal injury by an accident arising out of and in the course of his employment, or

(ii) is disabled by reason of an industrial disease due to the nature of the employment; and

(b) the dependants of an employee whose death results from such an accident or industrial disease.

(2) The employee or the dependants referred to in subsection (1) are, notwithstanding the nature or class of the employment, entitled to receive compensation at the same rate and under the same conditions as are provided under the law of the province where the employee is usually employed respecting compensation for workmen and the dependants of deceased workmen, employed by persons other than Her Majesty, who

(a) are caused personal injuries in that province by accidents arising out of and in the course of their employment; or

(b) are disabled in that province by reason of industrial diseases due to the nature of their employment.

(3) Compensation under subsection (1) shall be determined by

(a) the same board, officers or authority as is or are established by the law of the province for determining compensation for workmen and dependants of deceased workmen employed by persons other than Her Majesty; or

(b) such other board, officers or authority, or such court, as the Governor in Council may direct.

...

Section 5:

(1) Where an employee is usually employed in Yukon or the Northwest Territories, the employee shall for the purposes of this Act be deemed to be usually employed in the Province of Alberta.

(2) Where an employee is usually employed in Nunavut, the employee shall for the purposes of this Act be deemed to be usually employed in the Province of Alberta.

Section 6:

> Where an employee, other than a person locally engaged outside Canada, is usually employed outside Canada, the employee shall for the purposes of this Act be deemed to be usually employed in the Province of Ontario.

POLICY

Compensation for personal injury or death arising out of and in the course of the employment of federal government employees is addressed in the *Government Employees Compensation Act* ("*GECA*").

The employees covered by the *GECA* are also discussed in Item C2-5.00.

The phrase "by an accident" in section 4(1) of the *GECA* does not require that there be a clearly ascertainable incident or series of incidents which caused the injury. Injuries that arise gradually over time or "by process" are not excluded by this subsection. The injury itself can be the "accident" for the purpose of section 4 of the *GECA*. Thus, the test for entitlement of federal employees in British Columbia under section 4(1) of the *GECA* is, in effect, the same as the test for entitlement for other workers in British Columbia under section 134(1) of the British Columbia *Act*.

Section 4(2) of the *GECA* provides that notwithstanding the nature or class of their employment, federal government employees, or their dependants, are entitled to receive compensation at the same rate and under the same conditions as are provided under the law of the province where the employee is usually employed. A federal government employee will be considered to be "usually employed" in British Columbia where appointed or engaged to work in British Columbia. In accordance with the *GECA*, federal government employees considered to be "usually employed" somewhere other than in British Columbia will not be covered by the British Columbia *Act*.

Section 3(2) of the *GECA* provides that the *GECA* applies to an accident occurring or a disease contracted within or outside Canada.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C2-5.00, *Admission of Workers, Employers, and Independent Operators*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	December 1, 2025 − Housekeeping change to update internal cross-reference, consequential to reformatting and renumbering Chapter 2, *Workers and Employers Covered by the Act*.

April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.
July 1, 2010 − The interpretation that the test for entitlement under section 4(1) of the *GECA* is equivalent to the test for entitlement under section 134(1) of the *Act* is based on Appeal Division Decision No. 92-0743.

APPLICATION: This item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Commencement and Termination of the Employment Relationship **ITEM: C3-12.20**

BACKGROUND

1. Explanatory Notes

This policy provides guidance as to when the employment relationship commences and terminates for the purposes of determining whether a personal injury or death arises out of and in the course of a worker's employment.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

The commencement and termination of an employment relationship for compensation purposes is not limited to the commencement or termination of a contract of service. A decision is made whether, having regard to the substance of the matter, an employment relationship had commenced or terminated for compensation purposes.

A person offering services to an employer will often be told to come back at a certain time in the future when work might be available. A person may also be promised a specific job but the commencement date may be specified some weeks or months ahead. Such persons would not normally become workers under the *Act* until they actually returned to the employer's premises at the future date for the commencement of work.

The fact that a worker has not commenced productive work is not a bar to compensation. For example, if an injury takes place while entering the employer's premises on the way to the first day of work, coverage may be extended before the necessary hiring formalities are complete or productive work commences.

Similarly, an employment relationship does not automatically terminate for compensation purposes when a contract of service is terminated by notice.

Workers may be eligible for compensation coverage for a reasonable period while winding up their affairs and leaving the employer's premises.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-19.00, *Work-Related Travel* (Section B. Journeys to a Remote Worksite), of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaced policy items #17A.10 and #17A.20, of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Infectious Agent or Disease Exposures **ITEM: C3-12.30**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation following exposure to an infectious agent or disease.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

A worker may be entitled to compensation in respect of an infectious agent or disease exposure where the exposure:

(a) occurs as a compensable consequence of a personal injury (e.g., where a rabid dog bites a veterinarian, breaking the veterinarian's skin, the exposure to rabies is a compensable consequence of the broken skin);

(b) has caused the onset of an occupational disease; or

(c) is accepted as compensable itself, in the absence of an objectively identifiable physical trauma, before conclusive evidence of the worker's infectious status is available (e.g., where exposure to an infectious disease with a long incubation period, such as HIV/AIDS or Hepatitis B, occurs as a result of infected bodily fluid splashing onto a worker's mucous membrane or non-intact skin).

An exposure, as described in (c) above, may be accepted as compensable itself, where the following four conditions are satisfied:

(i) there is objective evidence that the worker was exposed, or was very likely to have been exposed, to an infectious agent or disease;

(ii) the exposure arises out of and in the course of the worker's employment;

(iii) there is a moderate to high risk that, based on the mechanism and amount of exposure that occurred, the exposure will result in the worker developing a disease with health consequences that are so serious it may be life-threatening; and

(iv) the effects of the exposure can be significantly mitigated or prevented by the immediate provision of post-exposure prophylaxis ("PEP").

Medical evidence is required to assess the degree of risk and necessity of PEP on a case-by-case basis.

For example, a compensable exposure may result where a patient's blood splashes into the eyes of an attending nurse. If there is objective evidence that the nurse was exposed to an infectious disease such as HIV (e.g., if the patient is known to be HIV-positive), and if a physician concludes there is a moderate to high risk the nurse will develop HIV, a potentially life-threatening disease which cannot be immediately detected following exposure, and if PEP will mitigate or prevent the onset of HIV, the exposure can be accepted as compensable.

If a worker has an adverse reaction to PEP or develops a disease following a compensable exposure, entitlement in respect of the resultant injury, increased disablement, disease or death is adjudicated in accordance with Board policies on compensable consequences of employment-related injuries.

No compensation is payable to a worker who withdraws from work or changes employment because of concern that exposure to the conditions at work may cause an injury or disease which does not yet exist.

Wage-loss benefits are not payable to a worker who remains off work or who changes employment to prevent a reoccurrence of a personal injury or occupational disease that has resolved, or to prevent an aggravation, activation, or acceleration of a personal injury or occupational disease which has stabilized or plateaued. However, vocational rehabilitation assistance may be provided to a worker in this situation. Where the worker is left with a permanent impairment, the worker may be entitled to permanent disability benefits.

EFFECTIVE DATE: October 1, 2007
AUTHORITY: Section 134(1) of the *Act*.
CROSS REFERENCES: Item C3-16.10, *Pre-Existing Conditions – Specific Injuries*;
Item C3-22.00, *Compensable Consequences*;
Item C4-25.00, *Occupational Disease*;

Item C5-34.00, *Duration of Wage-Loss Benefits*;
Item C11-88.80, *Vocational Rehabilitation – Preventative Rehabilitation*, of the *Rehabilitation Services & Claims Manual*, Volume II.

HISTORY:

October 21, 2020 − Housekeeping amendments to the Cross-References to update policy title.
April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.
This policy replaced former policy item #13.40 effective January 1, 2009 by putting it into the new policy format.
Policy item #13.40 was created and brought into effect on October 1, 2007 to replace former policy item #32.60 of the *Rehabilitation Services & Claims Manual*, Volume II.

APPLICATION:

To all infectious agent or disease exposures occurring on or after October 1, 2007.

RE: Arising Out of and In the Course of a Worker's Employment **ITEM: C3-14.00**

BACKGROUND

1. Explanatory Notes

This is the principal policy of this Chapter and sets out the decision-making principles for determining a worker's entitlement to compensation for personal injury or death under the *Act*.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 339(3):

> If the Board is making a decision respecting the compensation or rehabilitation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the Board must resolve that issue in a manner that favours the worker.

POLICY

The test for determining if a worker's personal injury or death is compensable, is whether it arises out of and in the course of the worker's employment. The two components of this test of employment connection are discussed below.

In applying the test of employment connection, it is important to note that employment is a broader concept than work and includes more than just productive work activity. An injury or death that occurs outside a worker's productive work activities may still arise out of and in the course of the worker's employment.

A. Meaning of "Arising Out of a Worker's Employment"

"Arising out of a worker's employment" generally refers to the cause of the injury or death. In considering causation, the focus is on whether the worker's employment was of causative significance in the occurrence of the injury or death.

Both employment and non-employment factors may contribute to the injury or death. The employment factors need not be the sole cause. However, in order for the injury or death to be compensable, the employment has to be of causative significance, which means more than a trivial or insignificant aspect of the injury or death.

B. Meaning of "In the Course of a Worker's Employment"

"In the course of a worker's employment" generally refers to whether the injury or death happened at a time and place and during an activity consistent with, and reasonably incidental to, the obligations and expectations of the worker's employment. Time and place are not strictly limited to the normal hours of work or the employer's premises.

C. Evidence

The Board considers both medical and non-medical evidence to determine whether a worker's injury or death arises out of and in the course of the worker's employment.

For decisions respecting the compensation or rehabilitation of a worker, the standard of proof under section 339(3) of the *Act*, is "at least as likely as not." If the evidence supporting different findings on an issue is evenly weighted, the issue is resolved in a manner that favours the worker.

This standard of proof is different than medical or scientific standards of certainty. Therefore, the presence or absence of expert evidence supporting or opposing a causal link is relevant and will generally be given weight by the Board, but it is not determinative of causation; causation can be inferred from other evidence. In every case, the Board decides whether the evidence supports a finding of causation based on a weighing of the evidence.

i. Medical

When reviewing medical evidence, the Board considers whether:

- there is a physiological association between the injury or death and the employment activity, including whether the activity was of sufficient degree and/or duration to be of causative significance in the injury or death;

- there is a temporal relationship between the work activity and the injury or death; and

- any non-work related medical conditions were a factor in the resulting injury or death.

The Board also considers any other relevant medical evidence to assist in determining whether a worker's injury or death arises out of and in the course of the worker's employment.

ii. Non-Medical

In addition to medical evidence, the Board considers the factors described below. All of the factors listed may be considered in making a decision, but no one of them may be used as an exclusive test for deciding whether an injury or death arises out of and in the course of the worker's employment. This list is by no means exhaustive, and relevant factors not listed in policy may also be considered.

Other policies in this Chapter may provide further guidance as to whether the injury or death arises out of and in the course of the worker's employment in particular situations.

1. On Employer's Premises

Did the injury or death occur on the employer's premises? If so, this factor favours coverage.

An employer's premises includes any land or buildings owned, leased, rented, or controlled (solely or shared) for the purpose of carrying out the employer's business. An employer's premises may also include:

- captive roads (see Item C3-19.00); and
- employer-provided facilities (see Item C3-20.00).

2. For Employer's Benefit

Did the injury or death occur while the worker was doing something for the benefit of the employer's business? If the worker is in the process of doing something for the benefit of the business generally or the employer personally, this factor favours coverage. If the worker is in the process of doing something solely for the worker's own benefit, this factor does not favour coverage.

In the case of independent operators and active principals of corporations, it is necessary to distinguish between the activities the independent operators or active principals carry on in furtherance of the business, and personal activities undertaken independent of the business. Only injuries or death occurring while pursuing the former type of activity may be considered to arise out of and in the course of a worker's employment.

3. Instructions From the Employer

Did the injury or death occur in the course of action taken in response to instructions from the employer? For example, did the employer direct or request that the worker participate in an activity as part of the employment? The clearer the direction, the more this factor favours coverage.

The more tenuous the direction, the less this factor favours coverage: for example, if the worker was doing something on a purely voluntary basis, or the employer simply sanctioned participation without directing or requesting it.

4. Equipment Supplied by the Employer

Did the injury or death occur while the worker was using equipment or materials supplied by the employer? If so, this factor favours coverage.

5. Receipt of Payment or Other Consideration from the Employer

Did the injury or death occur while the worker was in the process of receiving payment or other consideration from the employer? If so, this factor favours coverage.

This includes cases where the worker is required to report to the employer's premises or office in order to pick up a paycheque, whether or not this is during a regular shift.

6. During a Time Period for which the Worker was Being Paid or Receiving Other Consideration

Did the injury or death occur during a time period in which the worker was paid a salary or other consideration, or did the injury or death occur during paid working hours? If so, this is a factor that favours coverage.

7. Activity of the Employer, a Fellow Employee or the Worker

Was the injury or death caused by an activity of the employer or of a fellow employee? If so, this factor favours coverage.

Was the injury or death caused by a non-work related activity of the worker? The more tenuously the worker's activity is related to the employment, the less this factor favours coverage.

Consideration in either case is given to whether the activity of the employer, fellow employee or worker was employment-related or unauthorized (see Item C3-17.00).

8. Part of Job

Did the injury or death occur while the worker was performing activities that were part of the worker's job? If so, this factor favours coverage.

9. Supervision

Did the injury or death occur while the worker was being supervised by the employer or a representative of the employer having supervisory authority? If so, this factor favours coverage.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-17.00, *Deviations from Employment*; Item C3-18.00, *Personal Acts*; Item C3-19.00, *Work-Related Travel*; Item C3-20.00, *Employer-Provided Facilities*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation. July 1, 2010 – This policy was amended to include content from former policy items #14.00, #21.30 and #21.40 of the *Rehabilitation Services & Claims Manual*, Volume II. June 1, 2004 − Former policy item #14.00 was amended to include "whether the injury occurred while the worker was performing activities that were part of the regular job duties" and "whether the injury occurred while the worker was being supervised by the employer" as factors to be considered. The amendment applied to all injuries on or after June 1, 2004 and was undertaken as part of the review of former policy item #20.20.
APPLICATION:	Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Serious and Wilful Misconduct **ITEM: C3-14.10**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining compensability for an injury or death due to the serious and wilful misconduct of a worker.

2. The Act

Section 134, in part:

(1) If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

(2) As an exception to subsection (1), if the injury is attributable solely to the serious and wilful misconduct of the worker, compensation is not payable unless the injury results in the worker's death or serious or permanent disablement.

...

POLICY

Before section 134(2) can be considered, it must first be determined under section 134(1) that the worker's personal injury or death arose out of and in the course of the worker's employment. Item C3-14.00 is the principal policy used for making this determination.

In weighing the evidence, the actions or conduct of the worker may induce the Board to conclude that the worker's injury or death did not arise out of and in the course of the worker's employment under section 134(1). If such a conclusion is reached, the claim is disallowed, and section 134(2) is not considered. This is so even in the event of death or serious or permanent disablement.

If it is determined that the worker's injury or death did arise out of and in the course of the worker's employment and there is an indication that misconduct of the worker played a role in the worker's injury or death, section 134(2) is then considered.

A. Serious and Wilful Misconduct by the Worker

The first question to be considered is, was the worker's misconduct serious and wilful?

A worker engages in serious and wilful misconduct if the worker deliberately and intentionally violates rules, regulations or laws known to the worker. Serious and wilful misconduct is a voluntary act by a worker with reckless disregard for the worker's own safety and which the worker should have recognized as having the potential to result in personal injury.

If a worker's misconduct was not serious and wilful, the injury that arose out of and in the course of the worker's employment is compensable.

B. Attributable Solely to the Worker's Serious and Wilful Misconduct

If a worker's misconduct was serious and wilful, the second question to be considered is, was the injury attributable solely to the worker's serious and wilful misconduct?

The word "solely" in this situation means that, without the worker's misconduct, the injury would not have resulted.

If a worker's injury is not attributable solely to the worker's serious and wilful misconduct, compensation is payable.

C. Death or Serious or Permanent Disablement

If a worker's injury is attributable solely to the worker's serious and wilful misconduct, the third question to be considered is, did the worker's injury result in death or serious or permanent disablement?

In this context, the word "serious" is used in a physical rather than an economic sense. For example, if a worker has suffered a sprained wrist or finger which causes only two or three weeks of lost wages, this may not be considered as a serious disablement even though the loss of earnings may cause a serious financial problem for the worker. If an injury results in a prolonged disability, however, it may be regarded as serious even though the initial injury appears minor.

If a worker's injury that was attributable solely to the worker's serious and wilful misconduct did not result in death or serious or permanent disablement, it is not compensable, even though it also arose out of and in the course of the worker's employment.

D. Employer's Experience Rating

Where the injury attributable solely to the serious and wilful misconduct of the worker resulted in death or serious or permanent disablement, the cost of all compensation paid on the claim is excluded from the employer's experience rating.

EFFECTIVE DATE:	June 1, 2022
AUTHORITY:	Section 134(2) of the *Act.*
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-17.00, *Deviations from Employment*; Item C17-114.00, *Experience Rating Cost Exclusions*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2022 − Policy change to exclude from experience rating the cost of all compensation paid on claims where section 134(2) of the *Act* applies. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaced former policy item #16.60, *Serious and Wilful Misconduct*, of the *Rehabilitation Services & Claims Manual*, Volume II. The number of weeks of wage-loss benefits that must be paid before the costs of compensation will be excluded from an employer's experience rating changed from 13 weeks to 10 weeks in former policy item #16.60 effective September 28, 2002.
APPLICATION:	This Item applies to all decisions, including appellate decisions, made on or after June 1, 2022.

RE: Accident – Section 134(3) Presumption **ITEM: C3-14.20**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury caused by accident.

2. The Act

Section 1, in part:

> **"accident"**, in relation to a worker, includes
>
> (a) a wilful and intentional act that is not the act of the worker, and
>
> (b) a fortuitous event occasioned by a physical or natural cause;
>
> ...

Section 134(3):

> The following apply in relation to an injury caused by accident:
>
> (a) if the accident arose out of the worker's employment, unless the contrary is shown, it must be presumed that the injury occurred in the course of that employment;
>
> (b) if the accident occurred in the course of the worker's employment, unless the contrary is shown, it must be presumed that the injury arose out of that employment.

POLICY

The definition of "accident" provided in the *Act* is not an exclusive definition of the term; the word has been interpreted in its normal meaning of a traumatic incident. It has not, for example, been extended to cover injuries resulting from a routine work action or a series of such actions occurring over a period of time.

Section 134(3) of the *Act* creates the following presumption for injuries resulting from an accident:

- Where an injury is caused by an accident that arose out of the worker's employment, unless the contrary is shown, it is presumed that the injury occurred in the course of that employment.

- Where an injury is caused by an accident that occurred in the course of the worker's employment, unless the contrary is shown, it is presumed that the injury arose out of that employment.

Where an injury occurs at work as a result of any traumatic experience or external cause, it is usually from an accident to which the presumption in section 134(3) applies. For injuries resulting from an accident, evidence is only needed to establish either that the injury arose out of the worker's employment or that it arose in the course of the worker's employment. The other component of the test is presumed, unless there is evidence to the contrary.

The standard of proof to be applied in determining whether the presumption has been rebutted is proof on a balance of probabilities. Balance of probabilities means "more likely than not." The presumption is rebutted if opposing evidence shows that the contrary conclusion is the more likely. The presumption is not rebutted because there is a lack of evidence to support an employment connection. Every reasonable effort is made to obtain all available evidence.

Where there is no "accident", the presumption in section 134(3) does not apply.

The broad interpretation given to the term "accident" for the purpose of section 4(1) of the *Government Employees Compensation Act*, R.S.C. 1985, c. G-5 does not apply to section 134(3) of the *Workers Compensation Act*.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(3) of the *Act.*
CROSS REFERENCES:	Item C3-12.10*, Entitlement for Federal Government Employees*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	July 4, 2025 – Housekeeping changes. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on legal issues of standard of proof, evidence, and causation. July 1, 2010 – This policy replaced former policy item #14.10 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Hazards Arising from Nature **ITEM: C3-14.30**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death that is caused by a hazard arising from nature.

2. The Act

Section 1, in part:

> **"accident"**, in relation to a worker, includes
>
> (a) a wilful and intentional act that is not the act of the worker, and
>
> (b) a fortuitous event occasioned by a physical or natural cause;
>
> ...

Section 134:

> (1) If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.
>
> (2) As an exception to subsection (1), if the injury is attributable solely to the serious and wilful misconduct of the worker, compensation is not payable unless the injury results in the worker's death or serious or permanent disablement.
>
> (3) The following apply in relation to an injury caused by accident:
>
> (a) if the accident arose out of the worker's employment, unless the contrary is shown, it must be presumed that the injury occurred in the course of that employment;
>
> (b) if the accident occurred in the course of the employment, unless the contrary is shown, it must be presumed that the injury arose out of that employment.

POLICY

An injury or death may result from natural elements. For instance, a worker may be stung by an insect or plant or suffer from exposure to extreme weather conditions. An injury or death resulting from a natural element is considered to arise out of and in the course of a worker's employment where a particular activity required by the employment exposes the worker to these natural elements.

If an injury is caused by accident, the rebuttable presumption contained in section 134(3) of the *Act* applies.

The failure of a worker to wear protective clothing may in some cases be considered serious and wilful misconduct and grounds for denying a claim under section 134(2) of the *Act*.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Sections 134(1) to 134(3) of the *Act.*
CROSS REFERENCES:	Item C3-14.10, *Serious and Wilful Misconduct*; Item C3-14.20, *Accident – Section 134(3) Presumption*; Item C3-17.00, *Deviations from Employment*; Item C3-18.10, *Clothing and Footwear*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy resulted from the consolidation of former policy items #17.00, #17.10, #17.20 and #17.30 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This item applies to all claims for injuries occurring on or after July 1, 2010.

RE:	Injuries Following Natural Body Motions at Work	ITEM:	C3-15.00

BACKGROUND

1. Explanatory Notes

This policy sets out the principles to consider when determining the compensability of an injury following a natural body motion at work.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 339(3):

> If the Board is making a decision respecting the compensation or rehabilitation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the Board must resolve that issue in a manner that favours the worker.

POLICY

A natural body motion is one that is commonly performed as part of daily living. The motion may occur both at work and away from work. For instance, standing up from a chair or turning one's head to speak to someone, are considered natural body motions.

Item C3-14.00 is the principal policy for determining whether a worker's injury arises out of and in the course of the worker's employment. This policy provides additional guidance for determining the compensability of injuries that do not result from an accident, but which follow a natural body motion at work. In these circumstances, it is generally clear that the injury arose in the course of the worker's employment, and the adjudication rests on whether the injury also arose out of the worker's employment. The Board considers both whether:

- the natural body motion has an employment connection; and
- the natural body motion was of causative significance in producing the injury.

This policy applies whether the injury results from one motion or a series of motions occurring over a period of time.

A. Sufficient Employment Connection

A natural body motion is sufficiently connected to the worker's employment where the motion is required or incidental to the employment.

Sufficient employment connection may exist where, for example, a health care worker undertakes the employment activity of bending over to retrieve a lunch tray to serve to a patient. Sufficient employment connection may not exist where, for example, a worker undertakes the personal action of bending over to retrieve the worker's lunch from the office refrigerator.

If the natural body motion is not sufficiently connected to the employment, the personal injury did not arise out of the worker's employment and is therefore not compensable.

B. Causative Significance

A natural body motion is of causative significance in producing the injury where the evidence, and in particular the evidence relating to medical causation, shows that the motion was more than a trivial or insignificant aspect of the injury.

When reviewing medical evidence, the Board considers whether:

- the force and/or physical placement involved in performing the motion has the likelihood to be of causative significance in producing the injury;
- the symptoms are medically known to have a spontaneous occurrence, or are more likely to occur following a specific motion or series of motions;
- there is a temporal relationship between the motion and the onset of symptoms; and
- there is evidence of any non-work-related medical conditions that contributed to the injury.

The Board also considers any other relevant medical evidence to assist in determining whether a worker's injury arises out of and in the course of the worker's employment.

In addition to medical evidence, the Board considers the description of the activities or events leading up to the injury provided by the worker, any witnesses, and the employer.

Where the evidence does not support a finding that the motion had causative significance in producing the injury, it is not compensable. A speculative possibility that the motion contributed to the injury is not enough.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-18.00, *Personal Acts*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issues of standard of proof and evidence. July 1, 2010 – This policy replaced former policy item #15.20, *Injuries Following Motions at Work* of the *Rehabilitation Services & Claims Manual*, Volume II, and revised entitlement test requirements of "sufficient employment connection" and "causative significance" for injuries involving natural body motions at work.
APPLICATION:	Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Pre-Existing Conditions or Diseases **ITEM: C3-16.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance on distinguishing between injuries or death that arise out of and in the course of a worker's employment, and injuries or death that result from a worker's pre-existing conditions or diseases.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

A. General

It is necessary to distinguish between injuries or death resulting from a worker's employment (which are compensable), and injuries or death resulting from a worker's pre-existing conditions or diseases (which are not compensable).

An injury or death is not compensable simply because it happened at work. It is also necessary to determine that it arose out of the worker's employment. This means that there must have been something in the worker's employment activity or situation that had causative significance in producing the injury or death.

A pre-existing condition or disease may be aggravated by an employment-related incident or trauma, or series of incidents or traumas. In such cases, the worker's resulting injury or death may be compensable.

In adjudicating these types of claims, the Board considers:

- the nature and extent of the pre-existing condition or disease;
- the nature and extent of the employment activity; and

- the relationship between the pre-existing condition or disease and the employment activity, including the degree to which the employment activity may have affected the pre-existing condition or disease.

Evidence that the pre-existing condition or disease has been accelerated, activated or advanced more quickly than would have occurred in the absence of the employment activity, may be confirmation that the aggravation resulted from the employment activity.

B. Pre-Existing Deteriorating Condition or Disease

If a worker's pre-existing condition or disease is a *deteriorating* condition or disease, the evidence is examined to determine whether or not, at the time of the injury or death, the pre-existing deteriorating condition or disease was at a critical point at which it was likely to result in a manifest disability.

If the injury or death is one that the worker would have sustained whether at work, at home, or elsewhere, regardless of the employment activity, then the employment was not of causative significance, and the injury or death is considered to have resulted from the pre-existing deteriorating condition or disease and is not compensable.

On the other hand, if the injury or death is one that the worker would not have sustained for months or years, but for the exceptional strain or circumstance of the employment activity, then the employment is of causative significance, and the injury or death may be compensable.

An example may help to illustrate the distinction. If the evidence shows that a worker has a pre-existing deteriorating heart condition, which could result in a heart attack at any time, an employment activity such as walking up one flight of stairs to their office would not mean that the employment activity was of causative significance in a resulting heart attack. On the other hand, if the worker was at the bottom-end of moving a 300-pound load up a flight of stairs, and the load slipped, causing the worker fright and strain, that strain or circumstance may mean that the employment activity was of causative significance and the resulting heart attack arose out of and in the course of the worker's employment.

In all cases, the medical and factual evidence is considered together, in order to determine the causative significance of the pre-existing deteriorating condition or disease, and the employment activity or situation, in the resulting injury or death.

C. Pre-Existing Non-Deteriorating Condition or Disease

If a worker's pre-existing condition or disease is not a deteriorating condition or disease, it may be said that an event at work "triggered" the pre-existing condition or disease resulting in an injury or death. This does not mean, however, that the resulting injury or disease is compensable. The circumstances, including the condition of the worker, are considered to determine whether the employment was of causative significance.

For example, a worker's injury resulting from falling to the floor during an epileptic seizure would likely occur regardless of the worker's employment activity. The employment activity would therefore be considered trivial or insignificant and the injury not compensable.

On the other hand, if the employment activity or situation results in injuries or death beyond those that might have flowed from the pre-existing condition or disease, the additional injuries or death resulting from the employment activity or situation may be compensable. For example, the causative significance of a worker's employment activity would be much more than trivial or insignificant where a worker's injury results from falling off a twelve foot scaffold during an epileptic seizure. Here, the employment situation results in injuries beyond those that might have flowed from the pre-existing condition, and though the epileptic seizure itself is not a compensable injury, the injuries resulting from falling off the scaffold may be compensable, due to the significance of the employment situation.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C4-25.20, *Establishing Work Causation*; Item C17-114.00, *Experience Rating Cost Exclusions*; Item C17-114.40, *Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation. July 1, 2010 – This policy replaced former policy items #15.00, #15.10 and #15.30 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Pre-Existing Conditions – Specific Injuries **ITEM: C3-16.10**

BACKGROUND

1. Explanatory Notes

This policy provides guidance on the adjudication of claims for certain specific injuries that may originate from pre-existing conditions and be aggravated by something in the employment relationship.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 125(1):

> The Board may, at any time, on its own initiative or on application, reopen a matter that had been previously decided under a compensation provision by the Board or an officer or employee of the Board if, since the decision was made in the matter,
>
> (a) there has been a recurrence of a worker's injury, or
>
> (b) there has been a significant change in a worker's medical condition that the Board had previously decided was compensable.

POLICY

Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment.

Item C3-16.00 distinguishes between injuries or death resulting from the worker's employment (which are compensable), and injuries or death resulting simply from a worker's pre-existing condition or disease (which are not compensable).

Though the following injuries may originate from a pre-existing condition, a worker's employment may have causative significance in aggravating or producing the injury such that it is considered to arise out of and in the course of the worker's employment.

A. Ganglia

Ganglia are generally not considered to be of traumatic origin and are normally not considered to arise out of and in the course of a worker's employment.

Exceptions may be made when:

1. a ganglion first appears between six weeks and six months following a deep penetrating wound or a contusion involving deep tissue damage at the site where the ganglion appears, or

2. a ganglion appears within six weeks of commencing work which is both unaccustomed and involves repetitive movements of joints or tendons at the site of the ganglion. The Board considers this to be an aggravation of the ganglion in a pre-disposed individual.

B. Herniae

i. General

There are two main types of herniae, inguinal (groin) herniae, and non-inguinal herniae (e.g., femoral, incisional, and umbilical herniae).

On the basis of the Board's present understanding of the biologic characteristics of herniae, the following principles are followed in the adjudication of hernia claims.

1. There must be increased intra-abdominal pressure, or evidence of severe direct trauma, resulting from the work or employment preceding the appearance of the hernia. Symptoms will generally appear shortly after the incident.

2. Given the preponderance of medical information indicating that herniae are multi-factorial in development, herniae will be considered an aggravation of a pre-existing condition, and surgery will be recognized as an attempt to correct the aggravation.

3. There is usually no urgency to the hernia operation, except where there are threatening complications, such as a bowel obstruction or inability to reduce the hernia. In most cases, there is no need to stop working while awaiting surgery.

Given the above, pre-operative wage-loss benefits will not normally be paid unless medical information is provided by the attending physician indicating the complication which restricts the worker's ability to continue working. Where an attending physician's report certifies that a worker is disabled pre-operatively, other objective evidence, such as a medical opinion, regarding the worker's condition may be sought to either verify or dispute the attending physician's opinion.

4. Where a worker suffers bilateral herniae, it is extremely unlikely that both will have resulted from the same incident. However, where a claim for one of those hernia is acceptable in accordance with the principles set out above, the Board will accept responsibility for both herniae if the evidence is such that it is not possible to determine which of the two herniae did result from the employment.

5. Usual recovery times for hernia surgical repair are based on medical protocols and procedures adopted by the Board.

ii. Prior Compensable and Non-Compensable Herniae

a. Prior Compensable Herniae

- Under 18 Months Since Surgery Date

If no new incident is reported, the Board may reopen the decision of a prior compensable hernia(e) where less than 18 months have passed since the surgery date for the prior compensable hernia and a ground for reopening is met. If a significant new trauma is reported, it is usually adjudicated as a new claim.

- Over 18 Months Since Surgery Date

A hernia claim that occurs 18 months or more after the surgery date for the worker's prior compensable hernia(e) is generally adjudicated as a new claim. This consideration, however, also includes evaluating the question of reopening the old claim. The claim can only be reopened where a ground for reopening is met.

b. Prior Non-Compensable Herniae

- Under 18 Months Since Surgery Date for Prior Herniae

There is a greater potential for recent hernia(e) repairs to break down in the first 18 months after a repair. For this reason a hernia claim that occurs less than 18 months after the worker's surgery date for a prior non-compensable hernia(e) is more likely to be a repair breakdown than a new injury. As a result, for the hernia

claim to be accepted, there must be clear evidence to establish a relationship of the breakdown to the worker's employment.

- Over 18 Months Since Surgery Date for Prior Herniae

A hernia claim that occurs more than 18 months after the worker's surgery date for a prior non-compensable hernia(e) is more likely to be a new injury than a breakdown of the prior non-compensable hernia(e) repair.

All claims are adjudicated on the merits and justice of the case.

C. Adverse Reactions to Inoculations or Injections

An injury or death that results from a worker's adverse reaction to an inoculation or injection may be considered to arise out of and in the course of the worker's employment if:

1. the inoculation or injection is required, either as a condition of the employment or as a condition of continued employment (such as where the worker has sustained an injury or contracted a disease outside the work environment, but the employer insists on precautionary measures being taken before the worker returns to employment),

2. due to concerns of a potential outbreak of some disease on the employer's premises, an employer advises that if the worker refuses to receive an inoculation or injection and there is an outbreak, the worker will not be permitted to work until after the outbreak has passed; for example, influenza immunizations for health care workers, or

3. the worker was convinced that it was necessary to receive an inoculation or injection in spite of objective evidence from the employer that the process was not compulsory.

An injury or death that results from a worker's adverse reaction to an inoculation or injection is not likely to be considered to arise out of and in the course of the worker's employment, if the inoculation or injection is received voluntarily by the worker, either as part of a broad program put on by the employer or in any other circumstances.

An injury or death that results from a worker's adverse reaction to a post-exposure prophylaxis ("PEP") that has been administered for a compensable exposure under Item C3-12.30 is adjudicated as a compensable consequence under Item C3-22.00.

EFFECTIVE DATE:	May 1, 2018
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-12.30, *Infectious Agent or Disease Exposures*; Item C3-14.00, *Arising Out of and in the Course of a Worker's Employment*; Item C3-16.00, *Pre-Existing Conditions or Diseases*; Item C14-102.01, *Changing Previous Decisions – Reopenings*; Item C17-114.40, *Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. May 1, 2018 − This policy was revised to delete Section C., Prior Shoulder Dislocations. July 1, 2010 − This policy replaced former policy items #15.40, #15.50, #15.51, #15.60, and #19.41 of the *Rehabilitation Services & Claims Manual*, Volume II. December 1, 2004 − Housekeeping changes were made to correct grammar and to add practice references to former policy item #15.50. June 1, 2004 − Former policy item #15.50 was revised to delete an outdated timeframe for post-operative wage-loss benefits, extend general adjudicative principles to all types of hernia claims, and remove outdated content for various types of non-inguinal herniae, and applied to all decisions, including appellate decisions made on or after June 1, 2004. March 3, 2003 − Former policy item #15.51 was revised as to references to re-opening.
APPLICATION:	This item applies to all claims for injuries occurring on or after May 1, 2018.

RE: Deviations from Employment **ITEM: C3-17.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation where a worker's participation in an unauthorized activity may have had causative significance in the worker's personal injury or death.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

A. Introduction

Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment. In some circumstances, evidence supporting one component of the employment-connection test may be clear, while evidence supporting the other component is questionable, because the worker did something that was unauthorized by the employer, the employer condoned an unsafe practice, or some emergency forced the worker to act.

In considering whether an injury or death arose out of and in the course of a worker's employment, all relevant factors are taken into consideration including the causative significance of the worker's conduct in the occurrence of the injury or death and whether the worker's conduct was such a substantial deviation from the reasonable expectations of employment as to take the worker out of the course of the employment. An insubstantial deviation does not prevent an injury or death from being held to have arisen out of and in the course of a worker's employment.

Once it has been established that a worker's injury or death arose out of and in the course of the worker's employment, consideration may be given to whether the injury or

death is attributable solely to the serious and wilful misconduct of the worker under section 134(2) of the *Act*. (See Item C3-14.10.)

If a worker's injury or death is the result of a crime or an emergency action to prevent a crime, there may be entitlement to benefits under the *Crime Victim Assistance Act*, S.B.C. 2001, c.38, distinct from those available under the *Workers Compensation Act*.

The following provides guidance as to how some of the factors in Item C3-14.00 may be applied when considering the causative significance of a worker's unauthorized activity in the worker's personal injury or death.

B. Instructions of the Employer

It is clearly impossible for an employer to lay down fixed rules covering every detail of a worker's employment activity, so workers may be uncertain as to the limits of their work. Carelessness or exercising bad judgment are not bars to compensation where it is reasonable that a worker would exercise some discretion as part of the worker's employment. Thus an act that is done in good faith for the purpose of the employer's business may form part of a worker's employment, even if not specifically authorized by the employer.

On the other hand, a worker's injury or death may not be considered to arise out of and in the course of the worker's employment if the worker's act is specifically prohibited by an employer or is known or should reasonably have been known to the worker to be unauthorized, or if the worker has been previously warned against doing it. This is so even if the act could legitimately benefit the employer.

C. For Employer's Benefit

A worker's injury or death may be considered to arise out of and in the course of the worker's employment if the worker is acting to protect the employer's interests during an emergency. This may include protecting the employer's property or protecting an individual who is associated with the employment, such as a fellow worker or customer.

A worker's injury or death is not likely to be considered to arise out of and in the course of the worker's employment if the emergency action is that of a public spirited citizen, where the worker was doing no more than anyone would do, whether or not working for an employer at the time.

The distinction can perhaps best be illustrated by an example. A worker's injury or death may be considered to arise out of and in the course of the worker's employment where the worker receives a telephone call at work indicating that there is a fire in a portion of the employer's premises. The worker races from the office and, due only to haste, falls and injures an arm. There is no doubt that in light of the relationship of the emergency to the employment, this injury would be compensable.

On the other hand, a worker's injury or death is not likely to be considered to arise out of and in the course of the worker's employment where the worker receives a telephone call to the effect that a family member has been seriously injured in an accident. Once again the worker races from the office and, due only to haste, falls and injures an arm. The reason for the worker's departure is unrelated to the employment and nothing about the employment contributed to the injury.

The fact that the employment places a worker in a position to observe an emergency cannot be of itself a determinative factor in granting compensation.

D. Part of Job

If a generally unauthorized activity such as alcohol consumption is part of the permitted activities of the employment, a worker's employment may be considered to have causative significance in any injury or death that results from intoxication. For example, bartenders or sales representatives may be encouraged or permitted by their employers to drink with customers. The causative significance of the employment may be considered trivial or insignificant if the worker goes beyond the pursuit of the employer's interests to engage in a social event.

If a generally unauthorized activity such as alcohol consumption is not a permitted part of the employment, this does not automatically mean that an injury or death involving alcohol consumption did not also arise out of and in the course of a worker's employment. The Board considers the employment-connection test set out in Item C3-14.00 to determine whether the employment factors of the situation were of causative significance. Where the causative significance of the alcohol consumption is predominant in the resulting injury or death, and the employment factors are neutral or non-existent, this does not favour coverage.

E. On Employer's Premises

If an injury or death occurs in the course of the worker's employment and there are no other employment factors of causative significance to satisfy the "arising out of" component of the employment test, the injury or death will not be considered to arise out of and in the course of the worker's employment.

For example, if a worker stumbles while walking over normal ground as a result of intoxication or impairment, and is injured in the fall, nothing in the employment would have had any causative significance in producing the injury.

F. Activity of the Employer, a Fellow Employee or the Worker

i. Horseplay

If a generally unauthorized activity such as horseplay is a contributing factor of a worker's injury or death, the Board considers the degree of participation of the worker in the horseplay. For instance, a worker who instigates or provokes horseplay will more likely be considered to have made a substantial deviation from the course of the worker's employment than a worker who simply reacts to actions commenced or provoked by someone else.

The duration and seriousness of a worker's horseplay is also of relevance in considering whether there has been a substantial deviation from the course of the worker's employment. For example, if a worker walks over to a co-employee to engage in a friendly word, and accompanies this with a playful jab in the ribs, this is a trivial incident which would probably be considered an insubstantial deviation. On the other hand, playing a game of tag while driving the employer's forklifts would be considered a more substantial deviation.

ii Assault

If a worker's injury or death is the result of an assault that arises out of and in the course of the worker's employment, the worker may be entitled to compensation. However, if the worker's injury or death is the result of an assault that the worker initiated, this may constitute a substantial deviation from the course of the worker's employment.

The Board considers the spontaneity of the assault, whether the worker's aggressive response is in proportion to a triggering incident or provocation, whether there is a connection between the employment and the subject matter of the dispute that led to the assault. Where the actions or response of a worker are extreme or are out of proportion to a triggering incident or provocation, this may be an indication that the assault is of a more personal nature. If the subject matter of the dispute that led to the assault is a personal matter, the injury or death is not considered to have arisen out of and in the course of a worker's employment.

Just as a worker's initiation of an assault may take the worker out of the course of the employment, an assailant's attack on a worker may bring the worker into the course of the employment, even though the assault does not occur at the workplace or during working hours. An assailant may be an employer, fellow worker or a non-worker (for example, a client or customer).

In these cases, the facts of the situation as to whether the assault is clearly related to the worker's employment are carefully considered to determine whether the employment was of causative significance. If the employment aspects of the assault are more than just an incidental intrusion into the personal life of the worker at the moment of the injury or death, the worker may be entitled to compensation.

The term "assault", as used in this policy, includes sexual assault.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-14.10, *Serious and Wilful Misconduct*; Item C3-18.00, *Personal Acts*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2020 − This policy resulted from the consolidation of former policy items #16.00, #16.10, #16.20, #16.30, #16.40 and #16.50 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Personal Acts **ITEM: C3-18.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for differentiating between a worker's employment functions and a worker's personal actions, when determining whether a personal injury or death arises out of and in the course of the employment.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 339(3):

> If the Board is making a decision respecting the compensation or rehabilitation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the Board must resolve that issue in a manner that favours the worker.

POLICY

A worker's injury or death is compensable if it arises out of and in the course of the worker's employment, as described in Item C3-14.00. However, there is a broad intersection and overlap between employment and personal affairs. An incidental intrusion of personal activity into the process of employment is not a bar to compensation. Conversely, an incidental intrusion of some aspect of employment into the personal life of a worker at the moment of an injury or death does not automatically entitle the worker to compensation.

In the marginal cases, it is impossible to do better than weigh the employment features of the situation against the personal features to reach a conclusion, which can never be devoid of intuitive judgment, as to whether the test of employment connection has been met. For decisions respecting the compensation or rehabilitation of a worker, the standard of proof under section 339(3) of the *Act* is "at least as likely as not."

Where the common practice of an employer or an industry permits some latitude to workers to attend to matters of personal comfort or convenience in the course of employment, compensation for injuries or death occurring at those moments is not denied simply on the ground that the worker is not in the course of productive work activity at the crucial moment. This is within the scope of the established doctrine relating to acts which, though not in themselves productive, are nevertheless a normal incident of employment.

A. Lunch, Coffee and Other Breaks

A worker may be considered to be in the course of the worker's employment not only when doing the work the worker is employed to do, but also while engaged in other incidental activities. For example, a worker does not cease to be in the course of the worker's employment while using washroom facilities or having a lunch or coffee break on the employer's premises. An injury or death that occurs in these situations may not, however, also arise out of the worker's employment. While both employment and non-employment factors may contribute to the injury or death, the causative significance of the employment must be more than trivial for the Board to find that the injury or death arose out of the employment.

B. Acts for Personal Benefit of Principals of Business

An injury or death may be considered to arise out of and in the course of a worker's employment if it occurs while a worker is in the process of doing something for the benefit of the employer's business generally, or for the employer personally.

In the case of independent operators with Personal Coverage and active principals of small corporations, it is necessary to distinguish between the activities the independent operators or active principals carry on in furtherance of the business for which they (or the company) are covered by the *Act*, and independent, personal or business activities that are not so covered. Only injuries or death occurring while pursuing the former type of activity may be considered to arise out of and in the course of the employment.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-20.00, *Employer-Provided Facilities* (Section C. Lunchrooms), of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	March 2, 2026 – Housekeeping change to update the term "Personal Optional Protection" to "Personal Coverage." April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issue of standard of proof.

July 1, 2010 – This policy resulted from the consolidation of former policy items #21.00, #21.10, and #21.40 of the *Rehabilitation Services & Claims Manual*, Volume II.

APPLICATION: Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Clothing and Footwear **ITEM: C3-18.10**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death sustained by a worker resulting from clothing or footwear.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

Changing clothes prior to starting or after finishing work is generally a prerequisite to work and therefore not normally part of a worker's employment.

However, where changing clothes on the employer's premises is a requirement of the job, such as the donning and removal of protective garments, an injury or death resulting from this activity may be considered to arise out of and in the course of a worker's employment.

Injuries or death resulting from the wearing of clothing or footwear may be considered to arise out of and in the course of a worker's employment where the employment activity was of causative significance to the injury or death *and* the clothing or footwear was required by the employer for the job.

If there is nothing in the employment activity which would reasonably cause an injury or death and that injury or death can be seen to be directly related to the ill-fitting nature of the clothing or footwear, the injury or death does not arise out of and in the course of a worker's employment.

It is irrelevant who purchased the clothing or footwear.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act.*
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-18.00, *Personal Acts*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaces former policy item #20.41 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Work-Related Travel **ITEM: C3-19.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death when engaged in work-related travel.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

The general policy related to travel is that injuries or death occurring in the course of travel from the worker's home to the normal place of employment are not compensable. On the other hand, where a worker is employed to travel, injuries or death occurring in the course of travel may be covered. This is so whether the travel is a normal part of the job or is exceptional. In these cases, the worker is generally considered to be traveling in the course of the worker's employment from the time the worker commences travel on the public roadway.

In assessing work-related travel cases, the general factors listed under Item C3-14.00 are considered. Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment.

A. Regular Commute

An employment connection generally begins when the worker enters the employer's premises for the commencement of a shift, and terminates on the worker leaving the premises following the end of the shift.

Therefore, a worker's regular commute between home and the normal, regular or fixed place of employment is not generally considered to have an employment connection. This includes injuries or death that occur on a worker's regular or routine commute where:

- the employer provides the worker with a vehicle for the purpose of work and also allows the worker to use the vehicle for personal use outside of work hours; or
- the worker commutes to work in their own vehicle and uses the vehicle for a work purpose during the worker's shift.

There are, however, certain situations when a worker's regular commute may be considered part of a worker's employment.

The following provides guidance as to how some of the factors in Item C3-14.00 may be applied when considering specific cases relating to a worker's regular commute.

1. On Employer's Premises

Did the injury or death occur on the employer's premises? If so, this is a factor that favours coverage.

It is the responsibility of an employer to provide a safe means of access to and egress from the place of work. Thus, where a worker is traveling by public roadway to a place of work that is not adjacent to the public roadway, and must travel along a captive road or through a special hazard before reaching the employer's premises, the employment connection may begin at the point of departure from the public roadway rather than at the point of entry to the employer's premises.

It is not considered significant that an injury or death occurs while a worker is seeking to gain access to the employer's premises by a method that is different from that which the employer intends. However, it may be considered significant if the worker chooses a method that the worker has been advised is specifically forbidden by the employer, or if the worker chooses a route that is clearly dangerous.

a. Captive Road

Where a road is public, but as a practical matter is controlled by and leads only to the premises of the particular employer, the road can effectively be regarded as part of the employer's premises. The employer's control may be demonstrated by the fact that the employer makes decisions on maintenance or repairs of the public road. This is known as the "captive road" doctrine.

Where a road is privately owned by the employer, but in reality leads to the premises of several different employers and/or is used by the public, the road may not be considered part of the employer's premises. Consideration is given to other factors, such as the normal usage of the road and its relationship to the operation of the employer's business, not simply whether the employer legally owns or controls the road in question.

An injury or death is not compensable just because it happens on the employer's premises, nor is an injury or death compensable just because it occurs on a captive road. The circumstances surrounding the injury or death may indicate that, notwithstanding the place where it occurred, it did not arise out of and in the course of a worker's employment. All relevant factors are considered and no single factor is determinative.

An injury or death that occurs on a captive road is a factor that favours coverage, though it is not determinative. An injury or death on a captive road does not arise out of and in the course of a worker's employment if the journey along that road is not for a legitimate purpose associated with the employment.

b. Special Hazards of Access Route

Where a place of work is so located that for access and egress the worker must pass through special hazards beyond the ordinary risks of travel, an injury or death sustained from those hazards may be one arising out of and in the course of a worker's employment.

A "special hazard" for the purpose of this policy is one that goes beyond those hazards normally encountered by the traveling public and which the worker would not normally encounter, but for the location of the employer's premises.

For a claim to succeed on the grounds of a special hazard, the hazard need not lie on the only route to the employer's premises. It is sufficient if it is on the worker's regular commute route.

c. Extension of the Employer's Premises

An injury or death that occurs to a worker in the immediate approaches to the place of work, though still on the public roadway, may be considered to arise out of and in the course of a worker's employment if the hazard causing the injury or death is a spill-over from the employer's premises.

As well, if an employer provides a specific vehicle, like a crew bus, to transport its workers to and from the employer's premises, injuries or death occurring while traveling in this employer-controlled vehicle may be considered to arise out of and in the course of a worker's employment, as the crew bus is considered to be an extension of the employer's premises.

The employer's control of the transportation does not need to be exclusive for this factor to be in favour of coverage. For example, coverage may also be extended where the employer contracts out the crew bus service to transport its workers to and from work.

2. Instructions from the Employer

Was the worker instructed or otherwise directed by the employer? When considering specific cases relating to a worker's regular commute, this factor may favour coverage in the following circumstances.

a. Deviations From Route

An employment connection may be found where a worker is instructed by the employer to perform some activity related to work, which requires the worker to deviate from the worker's normal route while commuting. Generally speaking, an employment connection will only be found where, because of the employer's instructions, the worker is required to do something that would not normally be done while traveling to or from work, or to go somewhere where the worker would not normally go. A minor diversion from what is essentially a normal commute to or from work does not favour coverage.

Where an employer instructs or otherwise directs a worker to temporarily work at a place other than the normal, regular or fixed place of employment, an employment connection may be found for travel from the point at which the worker commences travel on the public roadway to the temporary work location. These workers are considered "traveling employees", which is discussed in Section C below. Once the temporary assignment becomes routine or consistent in nature, the travel will be considered a regular commute. This is assessed in the context of each individual case.

b. Emergency Response

An employment connection may also be found where, because of an emergency, a worker is directed or required by the employer to make a special trip to and from home and the employer's premises or to some other place where the job has to be done.

In cases of an emergency, if an injury or death results primarily from the activity associated with the urgency of the preparation for travel, it may be considered to arise out of and in the course of a worker's employment. This is an exception to the policy that workers who are employed to travel are generally considered to be in the course of the employment only from the time the worker commences travel on the public roadway.

B. Journeys to a Remote Worksite

There may be situations where a worker's journey is not simply a routine matter of driving to and from work on a regular commute, but there are also some additional circumstances which connect the journey with some particular aspect of the worker's

employment. This additional circumstance may be sufficient to bring all or part of the journey within the scope of the worker's employment.

The remoteness of a work site and the limited availability of transportation are factors which may suggest that a journey to or from the work site may be part of the employment. A journey between an established town and a remote place consisting only of a work site may be more hazardous and therefore more likely to favour coverage than a journey between two towns or cities with regular and established means of transportation.

If a person travels some distance on their own initiative looking for whatever jobs may be found, the person takes the risk of travel upon themselves.

C. Traveling Employees

"Traveling employees" are workers who:

- typically travel to more than one work location in the course of a normal work day as part of their employment duties; or

- have a normal, regular or fixed place of employment, and are directed by the employer to temporarily work at a place other than the normal, regular or fixed place of employment.

An employment connection generally exists throughout the travel undertaken by traveling employees, provided they travel reasonably directly and do not make major deviations for personal reasons. This is so regardless of whether public or private transportation is used.

An employment connection may not exist for the portion of travel between the traveling employee's home and the employer's premises that is undertaken at the commencement or termination of each work day. These workers may be considered to be on a "regular commute" for that portion of their travel, which is discussed in Section A above.

Examples of traveling employees include, but are not limited to, taxi drivers, emergency response personnel, transport-industry drivers, cable installers, home care workers, many sales representatives, and persons attending off-site business meetings.

One factor from Item C3-14.00 that may require further explanation in its application to specific cases relating to traveling employees is whether the travel is part of the job.

Travel to different work locations has an employment connection where a worker:

- terminates productive activity at one work location and travels to another work location to commence productive activity for the same employer. This is so

regardless of whether the worker was paid a salary or other consideration for the travel;

- travels from the employer's premises or assembly area, to another work location, after first reporting to the employer. This applies to a temporary worker who commutes to a labour supply firm each day, and then is dispatched to a client as, in these cases, the labour supply firm is the employer. This does not apply to a worker who goes to a union hiring hall and then is dispatched to an employer. The worker's travel from home to the employer's premises or assembly area would be considered a regular commute. The worker's travel from the employer's premises or assembly area to the point where the worker will begin work is normally considered to have an employment connection;

- routinely commences or terminates productive activity at varying work locations in the course of a normal work day. In these situations, the worker is generally considered to be in the course of the worker's employment from the time the worker commences travel on the public roadway. This could apply, for example, to cable installers and pharmaceutical sales representatives; or

- travels from home to a temporary place of work without first traveling to the normal, regular or fixed place of employment. Again, the employment connection begins when the worker commences travel on the public roadway.

An employment connection generally exists for traveling employees during normal meal or other incidental breaks, such as using the washroom facilities, so long as the worker does not make a distinct departure of a personal nature.

D. Business Trips

The general factors listed under Item C3-14.00 are used to determine whether a trip undertaken by a worker is sufficiently connected to the worker's employment as to be a business trip. For example, if the trip is taken for the employer's benefit, on the instructions of the employer, or paid for by the employer, these are all factors that weigh in favour of finding that the trip is a business trip.

An employment connection generally exists continuously during a business trip, except where the worker makes a distinct departure of a personal nature.

This means that injuries or death that result from a hazard of the environment into which a worker has been put by the business trip, including hazards of any overnight accommodation itself, are generally considered to arise out of and in the course of a worker's employment. However, injuries or death resulting from a hazard introduced to the premises by the worker for the worker's personal benefit may not be considered to

arise out of and in the course of the worker's employment, if no other factors demonstrate an employment connection.

Personal activities associated with and incidental to business trips, such as traveling, eating in restaurants, staying in overnight accommodations (including sleeping, washing etc.) are normally regarded as within the scope of a worker's employment where a worker is on a business trip.

On the other hand, when a worker makes a distinct departure of a personal nature while on a business trip, this may be regarded as outside the scope of the worker's employment. There is an obvious intersection and overlap between employment and personal affairs while a worker is on a business trip. However, a "distinct departure" is more than a brief and incidental diversion.

If a worker simply stops for a short refreshment break, this may be regarded as a brief and incidental diversion from the business trip and an employment connection may still be found. The employment connection may be broken where the injury or death occurs as a result of the worker's involvement in social or recreational activities that are not incidental to the business trip.

In the marginal cases, it is impossible to do better than weigh the business trip features of the situation against the personal features to reach a conclusion as to whether the injury or death arises out of and in the course of a worker's employment.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-18.00, *Personal Acts*; Item C3-20.00, *Employer Provided Facilities*; Item C3-22.10, *Compensable Consequences – Travel*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy resulted from the consolidation of former policy items #18.00, #18.01, #18.10, #18.11, #18.12, #18.20, #18.21, #18.22, #18.30, #18.31, #18.32, #18.33, #18.40, #18.41 and #18.42 of the *Rehabilitation Services & Claims Manual*, Volume II. February 24, 2004 − Former policy item #18.31 was revised and applied to all decisions made on or after February 24, 2004, to clarify that compensation is provided to workers from leaving home until their return home, if the workers are required to make a special journey to the employer's premises or some other place where the job was to be done,

because of an emergency or for some other reason, provided the workers do not deviate from their route.

APPLICATION: This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Worker-Owned Tools and Equipment **ITEM: C3-19.10**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death sustained by a worker who provides their own tools or equipment for employment.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

The fact that a worker is required to provide their own tools or equipment for a job does not mean that carrying or transporting the tools or equipment to work or away from work is part of the worker's employment. In most instances, injuries or death associated with carrying or transporting tools or equipment to or from work as part of a worker's regular commute do not arise out of and in the course of a worker's employment.

The carrying or transporting of tools or equipment may be sufficiently connected to the worker's employment where the worker's travel is not a regular commute and:

- the worker is a traveling employee; or
- the worker is on a business trip.

In such cases, an injury or death that results may be considered to arise out of and in the course of a worker's employment.

EFFECTIVE DATE: July 1, 2010
AUTHORITY: Section 134(1) of the *Act*.

CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-19.00, *Work-Related Travel*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaced former policy item #20.40 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Employer-Provided Facilities **ITEM: C3-20.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death resulting from the use of employer-provided facilities.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment.

An injury or death that occurs when a worker uses an employer-provided facility may be considered to arise out of and in the course of a worker's employment.

An injury or death occurring in such circumstances generally is not considered to arise out of and in the course of a worker's employment if the injury or death results from exposure to a hazard or risk introduced by the worker into the workplace for the worker's own purposes, if no other factors demonstrate an employment connection.

It is not essential that the personal property that causes the injury or death be intrinsically hazardous. It is sufficient that it causes the injury or death in the particular case.

Facilities commonly supplied by employers include the following:

A. Accommodation

The use of employer-provided accommodation by a worker is generally connected to the worker's employment where the employer requires the worker to use that

accommodation, or there is no reasonable alternative accommodation. However, where an employer is simply providing accommodation for the worker as an additional service, and the availability of suitable alternative accommodation gives the worker a reasonable choice between that provided by the employer and that provided by others, the worker's use of the employer's accommodation is not connected to the employment.

Where a camp is isolated or for other reasons the worker has no reasonable choice about staying in accommodation provided by the employer, injuries or death resulting from the use of facilities on the camp site will normally be held to have arisen out of and in the course of a worker's employment. This applies not only to residential but also to recreational facilities.

Even where the employer-provided accommodation is not isolated and there is other available accommodation, an employment connection may exist where the employer-provided accommodation is provided free of charge and the worker would have to pay for other accommodation. In practice, most persons would stay in the employer-provided accommodation in such a situation and only those who had existing homes nearby would likely exercise the option to live elsewhere. The freedom of choice would be more theoretical than real and this may indicate that an employment connection extends to living in the employer-provided accommodation. While in the case of an isolated camp, injuries or death resulting from the use of both residential and recreational facilities will normally be held to have arisen out of and in the course of a worker's employment, the same will not necessarily be the case when the employer-provided accommodation is located close to a town and alternative recreational facilities. Economic factors may make a worker's freedom to choose the worker's own residence largely theoretical, but this does not extend to the choice of recreation.

B. Parking Lots

For the purpose of determining whether an injury or death occurring in a parking lot arises out of and in the course of a worker's employment, the Board considers Item C3-14.00 and the following additional questions. No single criterion is determinative.

1. Was the parking lot provided by the employer?

If the employer provides a parking lot for the use of a worker, this weighs in favour of coverage. However, the unauthorized use of a parking lot by a worker would normally weigh against the acceptance of a claim. There may, however, be exceptions where the employer, while not authorizing the parking, has condoned the practice by default in failing to take action to prohibit the practice.

2. Was the parking lot controlled by the employer?

If the parking lot is controlled by the employer, this weighs in favour of coverage. If control does not exist, there may be other factors that demonstrate an employment connection.

Control of a parking lot is not determined only by whether the parking lot is owned or leased by an employer. In assessing if an employer controls a parking lot used by a worker, the Board may also consider whether the employer was responsible for the operation, maintenance, or repair of the parking lot, or had the ability to control access to the parking lot.

In the absence of other factors demonstrating an employment connection, an injury or death that occurs on a shopping centre or shopping mall parking lot designed primarily for customer use and not controlled by the individual employer of a worker would not normally be considered to arise out of and in the course of a worker's employment.

3. Was the injury or death caused by a hazard of the parking lot?

If the injury or death was caused by a hazard of the parking lot, this weighs in favour of coverage.

The term "hazard of the parking lot" is intended to limit acceptance to only injuries or death which have an employment connection. This serves to distinguish between injuries or death resulting from personal causes and those resulting from the employment. In effect, the type of injury or death that would qualify for acceptance if it occurred on a factory floor would also qualify for acceptance if it occurred in a parking lot. For example, a slip on a pool of oil or a trip over an obstruction would weigh in favour of coverage. On the other hand, workers who close their own car doors on their fingers would not have their claims allowed. There will also be injuries or death which are not a direct result of the parking lot which may be considered to arise out of and in the course of a worker's employment, such as a worker struck by a fellow employee's car while walking on the parking lot.

4. Did the injury or death occur on a parking lot that was contiguous to the place of employment?

The word "contiguous" is defined as meaning both adjacent to and attached to.

If the injury or death occurs on a parking lot that is contiguous to the place of employment, this weighs in favour of coverage. If the injury or death occurs on a non-contiguous parking lot under the direction, supervision or control of an employer, this also weighs in favour of coverage. In the absence of other factors demonstrating an employment connection, injuries or death that occur while workers make their way across and along public thoroughfares between the place of employment and the non-

contiguous parking lot are not normally considered to arise out of and in the course of a worker's employment.

5. Did the injury or death occur proximal to the start or stop of a worker's shift?

In the absence of other factors demonstrating an employment connection, a significant time gap between the time of the worker's injury or death and the start or stop of the worker's shift, does not weigh in favour of coverage.

C. Lunchrooms

Injuries or death occurring in lunchrooms may be considered to arise out of and in the course of a worker's employment if the lunchroom is provided by the employer. This does not extend to injuries or death sustained through eating food, unless the food was provided by the employer, and the worker was specifically required to eat the food provided by the employer, or the food was provided as part of the worker's remuneration.

An employment connection generally exists for traveling employees during normal meal breaks. However, an employment connection generally does not exist where a non-traveling worker chooses to have a coffee break in a coffee shop away from the employer's premises, rather than use the company facilities.

D. Medical Facilities

An injury or death that results from the use of medical or first aid facilities may be considered to arise out of and in the course of a worker's employment, where such facilities are provided by the employer.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-18.00, *Personal Acts* (Section A. Lunch, Coffee and Other Breaks); Item C3-19.00, *Work-Related Travel*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy resulted from the consolidation of former policy items #19.00, #19.10, #19.20, #19.30, #19.31 and #19.40 of the *Rehabilitation Services & Claims Manual*, Volume II.

APPLICATION: This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Extra-Employment Activities **ITEM: C3-21.00**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for personal injury or death when engaged in extra-employment activities.

2. The Act

Section 1, in part:

> **"worker"** includes the following:
>
> …
>
> (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;
>
> ...

Section 6:

> (1) This section applies if the minister responsible for the *School Act* or the minister responsible for the *College and Institute Act*, as applicable, and the minister responsible for the administration of this Act approve
>
> (a) a vocational or training program, and
>
> (b) a school or other location as a place at which the vocational or training program is to be provided.
>
> (2) The Board may, at the request of a minister referred to in subsection (1), deem a person or class of persons enrolled in a

program approved under that subsection to be a worker or workers of the Crown in right of British Columbia.

(3) In relation to a person who is deemed to be a worker under subsection (2), compensation under this Act is payable under the compensation provisions for injuries to the worker arising out of and in the course of training for that worker.

(4) As limits on subsection (3), if an injury results in a period of temporary disability with no loss of earnings,

(a) subject to paragraph (b) of this subsection, a health care benefit only is payable, and

(b) if training allowances paid by Canada or British Columbia are suspended, the Board may, for the period the Board considers advisable, pay compensation in the amount of the training allowance.

(5) Admissions under this section may be made at the time, in the manner, subject to the terms and conditions and for the period the Board considers adequate and proper.

Section 134(1):

If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 339(3):

If the Board is making a decision respecting the compensation or rehabilitation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, the Board must resolve that issue in a manner that favours the worker.

POLICY

Activities which people undertake outside the course of their employment are for their own benefit, and injuries or death occurring in the course of these activities are generally not compensable. However, some extra-employment activities may be sufficiently connected to the worker's employment as to be considered part of that employment.

In assessing these cases, the general factors listed under Item C3-14.00 are considered. Item C3-14.00 is the principal policy that provides guidance in deciding whether or not an injury or death arises out of and in the course of a worker's employment. All relevant factors must be considered and no single factor is determinative. Relevant factors not listed in policy may also be considered. The evidence is then weighed to determine whether the injury or death arose out of and in the course of the worker's employment. For decisions respecting the compensation or rehabilitation of a worker, the standard of proof applied under section 339(3) the *Act* is "at least as likely as not."

A. Participation in Competitions

Subject to the general factors listed under Item C3-14.00, an injury or death sustained by a worker while participating in, or while traveling to or from, an employment-related competition (such as a first aid, mine rescue, or fire-fighting competition), is considered to arise out of and in the course of the worker's employment if all three of the following conditions are satisfied.

1. The type of skill or knowledge that the competition is designed to test or promote is connected to the worker's employment. It is not necessary that the worker function in the tested capacity regularly or on a full-time basis. It is sufficient if the worker functions in the capacity on a standby basis while having another regular job function (for example, a worker who also serves the role of first aid attendant at their workplace).

2. The worker is a participant in the competition, not merely a spectator. The worker is considered a participant if any of the following apply:

   (a) the worker is a participating or reserve member of a competing team;

   (b) the worker is a coach or trainer;

   (c) the worker is appointed or assigned to assist in the organization or administration of the event; or

   (d) the worker has job responsibilities relating to the skills being tested in the competition, or is training for such responsibilities, and is attending to improve the worker's skill or knowledge relating to those responsibilities.

3. The worker's participation in the competition is sponsored or requested in some way by the employer. If the employer has not specifically requested the worker to attend, this may be implied from the circumstances. For example, a request for the worker to attend may be implied if any of the following apply:

   (a) the worker is paid for the whole or any part of the period of participation;

   (b) the worker is paid for the whole or any part of the time spent in training for the event;

   (c) the employer makes some contribution towards the expenses of the worker for attending the event; or

   (d) the employer provides supplies or equipment for the worker's participation or training for the event.

An injury sustained by a worker while practising or training for a competition may arise out of and in the course of the worker's employment, as discussed in Section B below.

B. Recreational, Exercise or Sports Activities

The organization of, or participation in, recreational, exercise or sports activities or physical exercises is not normally considered to be part of a worker's employment under the *Act*. There are, however, exceptional cases when such activities may be considered to have an employment connection. The obvious one is where the main job for which a worker is hired is to organize and participate in recreational activities. There may also be cases where, although the organization or participation in such activities is not the main function of the job, the circumstances are such that a particular activity can be said to be part of a worker's employment.

i. Application of Item C3-14.00 Factors

The following provides guidance as to how some of the factors in Item C3-14.00 may be applied when considering specific cases relating to recreational, exercise or sports activities.

1. Part of Job

Was the activity part of the job? If so, this is a factor that favours coverage. For example, a ski instructor injured while engaging in personal skiing activities unrelated to the instruction of pupils would not be covered. However, coverage may be provided if the skiing activity involved the instructor's pupils and was deemed part of the teaching activities.

2. Instructions from the Employer

Was the worker instructed or otherwise directed by the employer to carry out the exercise activity or to participate in the sports, exercise or recreational activity? For example, did the employer direct, request or demand that the worker participate in an activity as part of the worker's employment? The clearer the direction, the more likely this will favour coverage.

Was participation purely voluntary on the part of the worker? In some instances the employer may simply sanction participation without directing or requesting participation. If so, this is a factor that does not favour coverage.

3. During Working Hours

Did the recreational, exercise or sports activity occur during normal working hours? If so, this is a factor that favours coverage.

Where recreational, exercise or sports activities occur outside of normal working hours, including paid lunch breaks, this does not favour coverage. However, this factor does not automatically preclude coverage. For example, coverage may be extended where a teacher is injured while coaching or supervising a student soccer game in the schoolyard during their lunch break or after school.

Coverage under the *Act* cannot be extended by an employer simply by labeling an off-duty recreational, exercise or sport activity as mandatory.

4. Receipt of Payment or Other Consideration from the Employer

Was the worker paid a salary or other consideration while participating in the activity? The payment of salary favours coverage. If salary or other consideration was not paid, this does not favour coverage.

5. Supervision

Was the activity supervised by a representative of the employer having supervisory authority? If so, this favours coverage. If the activity was not supervised, this does not favour coverage.

6. On Employer's Premises

Did the activity take place on the employer's premises? If so, this is a factor favouring coverage.

Coverage is normally not extended to recreational, exercise or sports activities occurring off the employer's premises. However, coverage is not automatically precluded. Rather, a weighing of all relevant factors is required. For example,

coverage may be extended where a teacher is injured while supervising students during an off-site sports day during regular school hours organized by the employer.

ii. Factors Unique to Recreational, Exercise or Sports Activities

In addition to the factors in Item C3-14.00, the following factors may also be considered in determining whether a recreational, exercise or sports-related injury or death arises out of and in the course of a worker's employment.

1. Fitness a Job Requirement

Was physical fitness a requirement of the job? This factor is concerned with whether fitness is required in order to perform the job (e.g. muscle strength or aerobic capacity). If physical fitness is a requirement of the job, this is a factor favouring coverage.

Fitness training or exercise is more likely to be viewed as a job requirement where a significant degree of aerobic capacity or strength is needed to perform the job properly, but the work itself does not provide sufficient conditioning. This may be the case, for instance, for certain professionals such as police or firefighters, who may require the ability to react quickly to sudden and strenuous emergencies.

It is recognized that any recreation or exercise activity which adds to a worker's general health and enjoyment of life may be said to assist them in their work and, therefore, to benefit their employer. However, to cover these activities under the *Act* for that reason alone would obviously be to expand its horizons far beyond what the *Act* intended.

2. Public Relations for Benefit of Employer

Was there an intention to foster good relations with the public, or a section of the public with which the worker deals? A worker may have been injured while engaged in a recreational, exercise or sport activity, on behalf of the employer, involving the public, or a section of the public, which was clearly designed to foster good community relations. If so, this is a factor favouring coverage.

C. Educational or Training Courses

Compensation coverage does not generally extend to injuries or death that occur during educational or training courses. Such courses are generally for the worker's own benefit, and are not considered to have sufficient employment connection as to be compensable.

i. Education Sufficiently Connected to the Employment

However, some types of educational or training courses may be sufficiently connected to the worker's employment as to be considered part of that employment. Consideration is then given to the factors in Item C3-14.00 and any other relevant

factors not listed in policy, and the evidence is weighed to determine whether the injury or death arose out of and in the course of the worker's employment.

Factors that may weigh in favour of coverage for injuries or death sustained during educational or training courses include whether the education or training:

- took place on the employer's premises;
- was for the benefit of the employer's business;
- was undertaken at the direction of the employer;
- involved using equipment supplied by the employer;
- was during a time period for which the worker was being paid;
- was paid for by the employer; or
- was considered by the employer to be part of the worker's job.

No single factor is determinative. In marginal cases, it is impossible to do better than weigh the employment features of the education or training against the personal features to reach a conclusion as to whether the test of employment connection has been met.

ii. Education as Employment

In addition, there are three specific situations where the educational or training course is considered to be the worker's employment, and the question to be determined is whether the injury or death arose out of and in the course of the worker's education or training itself:

- Board-recognized vocational or training programs under section 6 of the *Act*.

- Vocational rehabilitation programs undertaken as part of a Board-approved rehabilitation plan (see Items C11-88.50 and C3-22.00).

- Pre-employment training or probationary work, undertaken by a person who is not under a contract of service or apprenticeship, that was specified by an employer as a preliminary to employment and which subjects the person to the hazards of an industry within the scope of the compensation provisions of the *Act*.

D. Fundraising, Charitable or Other Similar Activities

The organization of, or participation in, fundraising or charitable activities is normally not considered to be part of a worker's employment under the *Act*. There are, however, certain cases when such activities may be considered sufficiently connected to the worker's employment as to be considered part of the worker's employment.

The factors listed in Item C3-14.00 are considered in determining whether coverage should be provided for an injury or death sustained during a fundraising or charitable activity. All relevant factors must be considered and no single factor is determinative. Relevant factors not listed in policy may also be considered.

The above guidance does not apply to persons who are employees of charitable or other like agencies which are covered under the *Act*, or to persons from other companies who are seconded for a period of time to work with such agencies and who are considered workers of those agencies under the *Act*.

EFFECTIVE DATE:	February 1, 2020
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C2-4.10, *Coverage for Volunteer Firefighters*; Item C3-12.20, *Commencement and Termination of the Employment Relationship*; Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C11-88.50, *Vocational Rehabilitation – Formal Training*; Item C17-114.00, *Experience Rating Cost Exclusions*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language. October 21, 2020 − Housekeeping amendments to the *Act* portion of the Background section to reflect amendments to the *Act* by the *Workers 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. February 1, 2020 – Policy amended to provide guidance on the legal issue of standard of proof. July 1, 2010 – This policy resulted from the consolidation of former policy items #20.00, #20.10, #20.20, #20.30 and #20.50 of the *Rehabilitation Services & Claims Manual*, Volume II. June 1, 2004 – Former policy item #20.20 was amended to clarify each of the factors listed in policy and to indicate which factors favour coverage. As part of the review of former policy item #20.20, former policy item #20.50 was also amended to clarify that fundraising or charitable activities are not normally considered to be part of a worker's employment, though in certain circumstances such activities may be covered; cross-reference former policy item #14.00; and delete discussion of the test in then section 5(1) of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492. Changes to both former policies applied to all injuries on or after June 1, 2004.
APPLICATION:	Applies to all decisions made on or after February 1, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE: Compensable Consequences **ITEM: C3-22.00**

BACKGROUND

1. Explanatory Notes

This policy provides general guidance for determining a worker's entitlement to compensation for a further injury, increased disablement, disease, or death that is a consequence of a compensable injury.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 157, in part:

> (1) Health care provided … must at all times be subject to the direction, supervision and control of the Board …
>
> (2) All questions as to the necessity, character and sufficiency of health care to be provided are to be determined by the Board.
>
> ...

Section 160:

> (1) The Board must permit health care to be administered, so far as the selection of a physician or qualified practitioner is concerned, by a physician or qualified practitioner who may be selected or employed by the injured worker.
>
> (2) Subsection (1) does not limit the powers of the Board under this Division respecting the supervision and provision of health care in every case where the Board considers the exercise of those powers is expedient.

Section 229, in part:

(1) In this section:

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

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

(2) This section applies to an injury that occurred before the transition date.

(3) Subject to subsections (4) to (8), the former Act, as it read immediately before the transition date [June 30, 2002], applies to an injury that occurred before the transition date [June 30, 2002].

(4) Subject to subsections (5) to (8), if a worker's permanent disability first occurs on or after the transition date [June 30, 2002] as a result of an injury that occurred before the transition date [June 30, 2002], this Act applies to the permanent disability.

…

(8) If a worker has, on or after the transition date [June 30, 2002], a recurrence of a disability that results from an injury that occurred before the transition date [June 30, 2002], the Board must determine compensation for the recurrence based on this Act.

Section 125(1):

The Board may at any time, on its own initiative or on application, reopen a matter that had been previously decided under a compensation provision by the Board or an officer or employee of the Board if, since the decision was made in the matter,

(a) there has been a recurrence of a worker's injury, or

(b) there has been a significant change in a worker's medical condition that the Board has previously decided was compensable.

POLICY

If a worker's original compensable injury was before June 30, 2002, the compensable consequences of that injury are adjudicated under the policies in Volume I of the

Rehabilitation Services & Claims Manual. The only exception to this rule occurs when the claim falls under the transitional provisions of section 229(4) or (8) of the *Act*. In these situations, the further permanent disability or recurrence of disability is adjudicated under the policies contained in Volume II. Please refer to policy item #1.03 of Volume I or Item C1-1.00 of Volume II for further guidance with respect to these claims.

A. Compensable Consequences of Employment-Related Injuries

Once it is established that an injury arose out of and in the course of a worker's employment, the question arises as to what consequences of that injury are compensable. While the worker may be entitled to health care benefits for as long as the worker continues to experience the effects of the compensable injury itself, not all consequences of employment-related injuries are also compensable.

Looking at the matter broadly and from a "common sense" point of view, the Board considers whether the compensable injury, or the worker's condition resulting from the compensable injury, was of causative significance in the further injury, increased disablement, disease, or death. If the compensable injury, or the worker's condition resulting from the compensable injury, was of causative significance in the further injury, increased disablement, disease, or death, then the further injury, increased disablement, disease, or death is sufficiently connected to the compensable injury so that it forms an inseparable part of the compensable injury and is therefore also compensable.

This is distinct from a recurrence of the worker's compensable injury.
(See Item C14-102.01.)

If a compensable injury accelerates a worker's need for treatment for a pre-existing non-compensable condition, the Board accepts responsibility for both the treatment and the consequences of that treatment. This is so even if such treatment would likely have been required at some point in the future in any event. In these circumstances, consideration is then given to relief of costs under section 240(1)(d).

B. Aggravation Due to Subsequent Non-Compensable Incidents

A subsequent non-compensable incident may include:

- sustaining a non-compensable injury, condition, disease, or disability; or
- undergoing surgery, tests or other treatment for a non-compensable injury, condition, disease, or disability.

In the event that a worker temporarily suspends treatment for a compensable injury because of personal reasons, such as a family emergency or a vacation, this would not be considered a subsequent non-compensable incident.

If a worker's condition resulting from the compensable injury is aggravated by a subsequent non-compensable incident, the Board does not consider the subsequent non-compensable incident to form part of the compensable injury, or that the increased level of disability is compensable. This is true regardless of the fact that the subsequent non-compensable incident would not have been as significant if the condition that resulted from the compensable injury had not existed.

The only exception to this is if the condition resulting from the compensable injury actually causes the fall or other non-compensable incident that brings about the aggravation.

C. Compensable Consequences of Treatment

Where a further injury, increased disablement, disease, or death arises as a direct consequence of treatment for a compensable injury, it is sufficiently connected to the original employment-related injury as to form part of that injury. The further injury, increased disablement, disease, or death is therefore considered to arise out of and in the course of a worker's employment and is also compensable.

Where a worker is undergoing treatment for a compensable injury, the place of treatment is analogous to a place of employment. A further injury, increased disablement, disease, or death arising at the place of treatment is compensable provided it is consistent with the worker being at the place of treatment for the purpose of treatment and does not result from activities of a personal nature. The further injury, increased disablement, disease, or death in these cases is compensable because it is sufficiently connected to the original employment-related injury so that it forms part of that injury and is therefore considered to arise out of and in the course of the worker's employment. For example, if a worker is undergoing treatment at a hospital for a compensable injury and sustains a further injury by stumbling down the stairs in the hospital while en route to a treatment appointment, the further injury is also compensable.

While the Board does pay compensation for injuries, increased disablement, disease, or death arising as a direct consequence of treatment for a compensable injury, this does not extend to further injuries, increased disablement, diseases, or death that result from ordinary exercises performed at home long after the worker has recovered, the condition has stabilized, or the worker is in receipt of permanent disability benefits. Such exercises are usually for the purpose of preventing further problems rather than for treating an existing condition.

D. Compensable Consequences of Surgery

Ordinarily, when a worker undertakes surgery for a compensable injury, the consequences of the surgery are considered to be sufficiently connected to the original compensable injury as to form part of that injury. Any further injury, increased

disablement, disease, or death resulting from the surgery is treated as compensable on the basis that it arose out of and in the course of a worker's employment.

In cases where the Board has declined to authorize surgery and the worker undertakes it anyway, the worker might be viewed as having introduced an intervening cause of injury, increased disablement, disease, or death so that the further injury, increased disablement, disease, or death is not sufficiently connected to the original compensable injury as to form part of that injury. To determine whether the worker has introduced an intervening cause, the Board considers the pre-operative opinion of the treating physician or surgeon that the worker would benefit from the surgery, the operative report, and any other relevant medical information. However, the connection between the original compensable injury and the further injury, increased disablement, disease, or death is not severed simply because the surgery was not authorized by the Board.

The above rules only apply where the surgery resulted from the compensable injury. The Board accepts no responsibility for the cost of surgery or any resulting injury, increased disablement, disease, or death where the surgery was not a consequence of the compensable injury.

E. Compensable Consequences of Board-Related Assessments

Where a worker is attending at the Board or the Workers' Compensation Appeal Tribunal by prearranged appointment for the purpose of an enquiry, medical examination, interview, discussion, review or appeal in respect of a claim which has been accepted, or which is subsequently accepted, and where the worker suffers a further injury, increased disablement, disease, or death arising out of and in the course of such an appointment, the further injury, increased disablement, disease, or death may be compensable.

Where a worker sustains a further injury, increased disablement, disease, or death while participating in a vocational rehabilitation program undertaken as part of a Board-approved rehabilitation plan, the further injury, increased disablement, disease, or death may be regarded as a compensable consequence of the compensable injury.

EFFECTIVE DATE: October 21, 2020
AUTHORITY: Section 134(1) of the *Act*.
CROSS REFERENCES: Item C1-1.00, *Scope of Manual*;
Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*;
Item C3-22.10, *Compensable Consequences – Travel*;
Item C3-22.20, *Compensable Consequences – Pain and Chronic Pain*;
Item C3-22.30, *Compensable Consequences – Psychological Impairment*;

Item C3-22.40, *Compensable Consequences – Certain Diseases and Conditions*;
Item C10-72.00, *Health Care – Introduction;*
Item C10-73.00, *Direction, Supervision, and Control of Health Care*;
Item C11-88.50, *Vocational Rehabilitation – Formal Training*;
Item C14-102.01, *Changing Previous Decisions – Reopenings*;
Item C17-114.00, *Experience Rating Cost Exclusions*;
Item C17-114.70, *Certain Compensable Consequences*, of the *Rehabilitation Services & Claims Manual*, Volume II.

HISTORY:

December 1, 2025 − Housekeeping change to update internal cross-reference, consequential to reformatting and renumbering Chapter 1, *Scope of Volume II of this Manual*.
October 21, 2020 − Amended to reflect amendments to health care provisions of the *Act* by the *Workers Compensation Amendment Act, 2020* (Bill 23 of 2020), in effect August 14, 2020.
April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.
This policy resulted from the consolidation of former policy items #22.00, #22.10, #22.11, #22.12, #22.13, #22.20 and #22.21 of the *Rehabilitation Services & Claims Manual*, Volume II.
February 1, 2004 − Former policy items #22.00, #22.10, #22.11, and #22.21 were amended to clarify respectively that, if the work injury was a significant cause of a further injury, then the further injury forms part of the work injury; a further injury arising out of the place of treatment is compensable provided it is consistent with the worker being at the place of treatment for the purpose of treatment and does not result from activities of a personal nature; when a worker undertakes surgery for a work injury, the consequences of the surgery are considered to be sufficiently connected to the original work injury as to form part of that injury; and a further injury is compensable because it is sufficiently connected to the original work injury as to form part of that injury. Any further injuries or disablement are compensable on the basis that they arose out of and in the course of the employment. These amendments applied to all decisions, including appellate decisions, made on or after February 1, 2004 regardless of the date of the original work injury or the further injury.

APPLICATION:

Applies to all decisions made on or after October 21, 2020, respecting claims for injuries occurring on or after July 1, 2010.

RE:	Compensable Consequences – Travel	ITEM:	C3-22.10

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for a further injury, increased disablement or death that occurs during travel undertaken as a consequence of a compensable injury.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided by this Part must be paid by the Board out of the accident fund.

POLICY

A. Generally Non-Compensable Travel

The places of treatment, appointment or rehabilitation that a worker attends because of a compensable injury are considered analogous to the worker's place of employment. Travel to and from places of treatment, appointment or rehabilitation, are therefore considered analogous to the worker's regular commute to and from work. For this reason, further injuries, increased disablement or death sustained in the course of this travel are not generally compensable. This includes such travel as:

- going to the office of the attending physician for advice, examination or treatment;
- attending for diagnostic imaging services or laboratory tests when associated with a visit to the office of the attending physician and not involving a special journey from home;
- traveling to undergo a course of treatments, whether at the office of a medical specialist, the out-patient department of a hospital, a physiotherapist's office, or any other type of health care provider;

- travel to a drugstore for the purchase of drugs or other medical supplies; or

- travel to an optician or optometrist, prosthetist, orthotist, or hearing aid service provider in connection with medical supplies or the fulfillment of prescriptions.

Any injuries, increased disablement or death sustained in the course of travel for any other types of visits or attendances which are part of a routine (analogous to traveling to and from work) or which are analogous to personal shopping are also not compensable.

B. Generally Compensable Travel

On the other hand, further injuries, increased disablement or death sustained in the course of a special or exceptional journey may be compensable because the special or exceptional journey is sufficiently connected to the compensable injury and is not analogous to a regular commute.

1. Emergency Transportation

Where a compensable injury has just occurred and a worker is being transported to a hospital or other place of emergency treatment, and a further injury, increased disablement or death occurs in the course of such transportation, the further injury, increased disablement or death may also be compensable. This is so whether the worker is traveling on foot, by ambulance, by automobile, by aircraft, or by any kind of vehicle; and it is so regardless of the ownership of the vehicle, and regardless of whether the worker is driving the vehicle or being carried as a passenger.

2. Treatment-Related Vehicles

If a worker is traveling to or from a place of treatment for a compensable injury and sustains a further injury, increased disablement or death while traveling in a vehicle that is provided by an institution engaged in the provision of treatment, or in the provision of a vehicle for the conveyance of patients for treatment, the further injury, increased disablement or death may be compensable.

3. Exceptional Travel

If a worker is traveling by prearranged appointment to a place of exceptional medical treatment, or for an exceptional examination, an injury, increased disablement or death that occurs in the course of travel to or from that place of treatment may be compensable. This includes such travel as:

- traveling to a hospital for admittance as an inpatient, or traveling home following discharge from a hospital as an inpatient;

- traveling to any other place of special treatment that involves living away from home for the duration of the treatment;

- traveling in relation to a referral by the attending physician to a specialist for a special examination or treatment (but not for a course of treatments);

- traveling for diagnostic imaging services or laboratory tests where this involves a special journey separate from any attendance for routine treatment;

- traveling to a social or rehabilitation agency in connection with assistance in the diagnosis, handling, treatment or care of medical or rehabilitation problems related to the compensable injury on referral by the attending physician, or by the Board;

- traveling on referral by a physician or qualified practitioner to another physician or qualified practitioner for a second opinion;

- traveling for a medical examination at the Board by prearranged appointment with the Board, or for a medical examination elsewhere approved by the Board in connection with a compensable injury;

- traveling to or from the Board for a prearranged appointment for the purpose of an enquiry, interview, discussion, or review in respect of a claim that has been accepted, or that is subsequently accepted; or

- traveling to or from a prearranged appointment at the Workers' Compensation Appeal Tribunal in respect of a claim that has been accepted, or that is subsequently accepted.

EFFECTIVE DATE: July 1, 2010
AUTHORITY: Section 134(1) of the *Act*.
CROSS REFERENCES: Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*;
Item C3-19.00, *Work-Related Travel*;
Item C3-22.00, *Compensable Consequences*;
Item C17-114.70, *Certain Compensable Consequences*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY: April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.
July 1, 2010 − This policy replaced former policy item #22.15 of the *Rehabilitation Services & Claims Manual*, Volume II.
February 1, 2004 − Former policy item #22.15 was amended to clarify that travel to the place of treatment is generally comparable to a regular commute to work, but, where a worker is injured in the course of a special or exceptional journey for medical treatment, the further injury is compensable. Any further injuries or disablement are compensable on

the basis that they arose out of and in the course of the employment. This amendment applied to all decisions, including appellate decisions, made on or after February 1, 2004 regardless of the date of the original work injury or the further injury.

APPLICATION: This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Compensable Consequences – Pain and Chronic Pain **ITEM: C3-22.20**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for pain or chronic pain as a compensable consequence of a worker's personal injury.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

A worker's pain symptoms may be accepted as compensable where the evidence indicates that the pain results as a consequence of an employment-related injury or occupational disease. This policy discusses the scope of coverage in cases where pain is accepted as compensable. Pain is not assessed as a psychological impairment.

A. Definitions

Pain is an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage. It includes cognitive, affective, behavioural and physiological components.

The Board recognizes three main stages of pain:

- Acute pain is pain that coincides with a traumatic injury or disease and the early stages of recovery. In the vast majority of cases acute pain eventually resolves, either spontaneously or with some form of treatment.

- Subacute pain is pain that an injured worker continues to experience four to six weeks after a traumatic injury or disease.

- Chronic pain is pain that persists six months after an injury or occupational disease and beyond the usual recovery time for that injury or disease. Chronic pain is further distinguished as either specific or non-specific as set out in Item C6-39.10.

Usual recovery times for injuries or diseases are based on medical protocols and procedures adopted by the Board. These medical protocols set out the points in time, after an injury, when a worker should regain pre-accident functional ability, or reach maximum medical recovery.

In determining the appropriate recovery time for an injury, the Board may, in consultation with a Board Medical Advisor, consider the medical protocols as well as other factors such as the worker's pre-injury health status and any treatments received that would likely impact the recovery time of the compensable injury.

B. Early Intervention – Acute and Subacute Pain

Early intervention involves the provision of early return to work assistance and/or focused multidisciplinary treatment and rehabilitation, to expedite the worker's medical recovery and return to work. Early intervention at the acute or subacute stages of pain is essential as both rehabilitation and prevention measures in deterring the development of chronic pain. Studies indicate that even with some residual or recurrent pain symptoms, workers do not have to wait until they are completely pain free to return to work. Early intervention should be incorporated into the worker's rehabilitation plan.

i. Early Return to Work Assistance

In the majority of cases following an injury, a worker is able to return to work shortly after an injury without Board assistance. The provision of early return to work assistance for a worker experiencing acute or subacute pain that is affecting the worker's return to work efforts will be considered as soon as the worker is medically able to participate. The Board will coordinate the worker's early return to work plan in collaboration with the worker, the attending physician, a Board Medical Advisor, the employer and treating clinicians as needed.

In developing an early return to work plan, the Board may consider the worker's entitlement to vocational rehabilitation programs and services such as graduated return to work assistance, placement assistance and work site/job modifications where the Board concludes that they will assist in a worker's return to work.

ii. Multidisciplinary Treatment and Rehabilitation

In certain cases, the Board may consider it appropriate to refer the worker for focused multidisciplinary treatment and/or rehabilitation intervention. These interventions are

preferred in cases where the Board concludes that they will assist in the worker's early return to work. The Board may also consider these interventions where they will assist in preventing the onset of chronic pain.

In making this determination, the Board may consult with a Board Medical Advisor and/or a Board Psychologist. The worker's attending physician may also be consulted to confirm their agreement with the proposed intervention.

A multidisciplinary approach may include one or more of the following: medical management, physical conditioning, work conditioning, pain and stress management, ergonomic consultation, and vocational counseling and placement.

In determining what specific treatment or rehabilitation intervention is appropriate for a worker, the Board may refer the worker for a multidisciplinary assessment. A multidisciplinary assessment is an evaluation of the worker by a physician, a psychologist, a physiotherapist, an occupational therapist, or other provider as the Board determines appropriate.

A multidisciplinary assessment may involve consideration of the worker's medical history, health status, physical limitations, psychological state, behaviour, and workplace issues. The evaluation will provide an opinion on the treatment or rehabilitation intervention, or combination of interventions that would be appropriate to aid in the worker's recovery and return to work.

iii. Early Intervention – Chronic Pain

In all cases where the Board considers that a worker may be experiencing chronic pain symptoms, a multidisciplinary assessment must be undertaken. This evaluation will provide an opinion on whether a worker is experiencing chronic pain as a consequence of a compensable injury. The evaluation will also provide an opinion on the appropriate course of treatment and rehabilitation for the worker.

C. Compensation

Where a worker is participating in treatment and/or rehabilitation for temporarily disabling pain, a worker's entitlement to temporary wage-loss benefits may be considered under section 191 or 192 of the *Act*.

Where chronic pain is considered by the Board to become permanent, entitlement to permanent partial disability benefits is considered under sections 195 and 196 of the *Act*.

EFFECTIVE DATE:	January 1, 2021
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-22.00, *Compensable Consequences*; Item C3-22.30, *Compensable Consequences – Psychological Impairment*; Chapter 5 – Wage-Loss Benefits; Chapter 6 – Permanent Disability Benefits; Item C6-39.10, *Chronic Pain*; Chapter 11 – Vocational Rehabilitation; Item C11-88.00, *Vocational Rehabilitation − Nature and Extent of Programs and Services*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 – Housekeeping changes made to modernize terminology by removing gendered language. January 1, 2021 – Policy changes made consequential to implementing the permanent partial disability benefits provisions of the *Workers Compensation Amendment Act, 2020* (Bill 23). April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation. July 1, 2010 – This policy replaced former policy item #22.35 of the *Rehabilitation Services & Claims Manual*, Volume II. January 1, 2003 − Former policy item #22.35 was created to set out the scope of coverage in cases where pain is accepted as compensable; applied to all new claims received and all active claims awaiting an initial adjudication of chronic pain on a claim.
APPLICATION:	Applies to all decisions, including appellate decisions, made on or after January 1, 2021, respecting claims for injuries occurring on or after July 1, 2010.

RE: Compensable Consequences – Psychological Impairment **ITEM: C3-22.30**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for psychological impairment as a compensable consequence of a worker's personal injury.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

Psychological impairment may be accepted as compensable where the evidence indicates that it results as a consequence of an employment-related injury or occupational disease.

It cannot be assumed that a psychological impairment exists simply because the worker has unexplained subjective complaints or is having difficulty in psychologically or emotionally adjusting to any physical limitations resulting from a compensable injury or disease. There must be evidence that the worker has a psychological impairment.

The worker may be entitled to health care benefits for as long as the worker has a psychological impairment that is a compensable consequence of an injury accepted under section 134(1) or occupational disease accepted under section 136(1). When the psychological impairment is temporarily disabling, the worker is also entitled to wage-loss benefits under section 191 or 192 of the *Act*.

When the psychological impairment becomes permanent, it will be necessary to determine whether there is entitlement to permanent disability benefits. The decision-making procedure for assessing entitlement to permanent disability benefits for psychological impairment is found in Item C6-39.00.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C3-12.00, *Personal Injury*; Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-22.00, *Compensable Consequences*; Item C3-22.20, *Compensable Consequences – Pain and Chronic Pain*; Chapter 5 – Wage-Loss Benefits and Return to Work Obligations; Item C6-39.00, *Section 195 Permanent Partial Disability Benefits*; Item C10-72.00, *Health Care – Introduction*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	February 1, 2022 – Housekeeping amendments to update references to former policy item #39.01. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaced former policy item #22.33 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Compensable Consequences – Certain Diseases and Conditions **ITEM: C3-22.40**

BACKGROUND

1. Explanatory Notes

This policy provides guidance for determining a worker's entitlement to compensation for certain specific diseases or conditions that may be considered a compensable consequence of a worker's personal injury.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

POLICY

Once it is established that an injury arose out of and in the course of a worker's employment, a disease or condition beyond the immediate physical damage caused by the compensable injury may also be considered to be a consequence of the compensable injury. If the compensable injury was of causative significance in the subsequent disease or condition, then the subsequent disease or condition is sufficiently connected to the worker's compensable injury as to be considered to arise out of and in the course of the worker's employment, and is therefore also compensable.

A. Suicide

In a case of suicide, death benefits are payable if it is established that the suicide resulted from a compensable injury.

If the employment-related compensable injury was of causative significance in the suicide, then the suicide is sufficiently connected to the employment-related injury as to also be compensable. Consideration is given to the worker's mental health history and any evidence of causal connections between the employment-related injury and the suicide.

B. Alcoholism and Drug Dependency Problems

Where it is claimed that an alcohol or drug dependency problem was caused or made worse by a compensable injury, the compensability of the alcohol or drug dependency problem is thoroughly investigated in the same manner as followed in investigating the relationship of other problems to an injury. Because of the psychological nature of alcohol and drug dependency problems, this investigation would normally include a reference to a Board Psychologist, though the decision on acceptability will be made by the Board officer adjudicating the claim. Any pre-existing alcohol or drug dependency problems are treated in the same way as any other pre-existing condition. The Board determines whether the worker's alcohol or drug dependency problem is a continuation of a pre-existing alcohol or drug dependency problem, or has resulted from or been made worse by the compensable injury.

If the Board accepts one alcohol or drug dependency problem as a compensable consequence of an injury, it does not mean the Board will accept all such problems. Any further or subsequent alcohol or drug dependency problem is investigated, following the procedure set out above. The Board determines whether the further alcohol or drug dependency problem is related to the compensable injury and the previously accepted alcohol or drug dependency problem, or to some pre-existing condition or other cause.

Policy regarding the prescription of narcotics and other drugs of addiction is set out in Item C10-80.00.

Compensation for alcoholism as an occupational disease is addressed in Section C. of Item C4-32.00.

EFFECTIVE DATE:	June 1, 2024
AUTHORITY:	Section 134(1) of the *Act*.
CROSS REFERENCES:	Item C3-14.00, *Arising Out of and In the Course of a Worker's Employment*; Item C3-16.00, *Pre-Existing Conditions or Diseases*; Item C3-22.00, *Compensable Consequences*; Item C3-22.30, *Compensable Consequences – Psychological Impairment*; Item C4-32.00, *Other Matters* (Section C.i. Alcoholism); Item C10-80.00, *Potentially Addictive Drugs*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	June 1, 2024 − This policy was revised to delete section B. Cancer. April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. February 1, 2020 – Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation.

January 1, 2015 – Consequential amendments were made arising from changes to Chapter 10, *Health Care, Rehabilitation Services & Claims Manual*.
January 1, 2014 – This policy was revised to delete section B, Multiple Sclerosis.
July 1, 2010 – This policy resulted from the consolidation of former policy items #22.22, #22.30, #22.31, #22.32, and #22.34 of the *Rehabilitation Services & Claims Manual*, Volume II.
The criteria to be met before considering whether a cancer is traumatically induced set out in former policy item #22.32 was derived from J. Ewing's "Modern Attitude Toward Traumatic Cancer", *Archives of Pathology* 19:690-728, 1935. The statement that there is no causal relationship between bone cancer and trauma is based on the following four studies:
Coley, W.B.; *Neoplasms of Bone,* Paul Haber Inc., 2nd ed., 1960;
Dahlin, David C.; *Bone Tumours,* Charles C. Thomas, 3rd ed., 1978;
Monkman et al.; *Trauma and Oncogenesis,* Mayo Clinic Proceedings 49:157-163, March 1974; and
Pritchard et al.; *The Etiology of Osteosarcoma,* Clinical Orthopedics and Related Research, 111:14-22, September 1975

APPLICATION: Applies to all decisions made on or after June 1, 2024, respecting claims for injuries occurring on or after January 1, 2014.

RE:	Replacement and Repair of Personal Possessions – Section 161(1)	ITEM:	C3-23.00

BACKGROUND

1. Explanatory Notes

This policy provides an introduction to the compensation available for the replacement and repair of artificial appliances, eyeglasses, dentures and hearing aids.

This policy also explains the compensation available for other personal possessions of a worker that are damaged or broken at work and the application of section 161(1) to federal government employees.

2. The Act

Section 1, in part:

> **"accident"**, in relation to a worker, includes
>
> (a) a wilful and intentional act that is not the act of the worker, and
>
> (b) a fortuitous event occasioned by a physical or natural cause;
>
> ...

Section 161(1):

> The Board may assume the responsibility of replacement and repair of the following for a worker:
>
> (a) artificial appliances, including artificial members damaged or broken as the result of an accident arising out of and in the course of the worker's employment;
>
> (b) eyeglasses, dentures and hearing aids broken as a result of an accident arising out of and in the course of the worker's employment if
>
> (i) that breakage is accompanied by objective signs of personal injury to the worker, or
>
> (ii) where there is no personal injury, the accident is otherwise corroborated and the Board is satisfied the worker was not at fault.

POLICY

A. Authority under Section 161(1)

Compensation may be paid where artificial appliances are damaged or broken as a result of an accident arising out of and in the course of the worker's employment.

Compensation may also be paid where eyeglasses, dentures or hearing aids are broken as a result of an accident arising out of and in the course of the worker's employment.

B. Personal Possessions

Except for the circumstances set out in section 161(1) of the *Act* regarding artificial appliances, eyeglasses, dentures and hearing aids damaged or broken as the result of an accident arising out of and in the course of the worker's employment, the Board cannot accept responsibility for damage to a worker's personal possessions.

C. Replacement and Repair Costs

When a claim satisfies the requirements of section 161(1), the worker is reimbursed the amount charged by the supplier or repairer of the appliance in question. The amount payable is not limited to what the Board would pay for a similar appliance required for a worker as the result of an injury covered by section 134(1) of the *Act*.

D. Federal Government Employees

Section 4 of the *Government Employees Compensation Act*, R.S.C. 1985, c. G-5 provides that employees of the federal government are only eligible for compensation where there has been a work-related accident causing personal injury (or disability resulting from an occupationally-acquired disease). For this reason, health care coverage by the Board is limited to those situations where the worker also sustains a personal injury. Therefore, the Board does not assume responsibility for the replacement or repair of a federal employee's damaged artificial appliances or broken artificial appliances, eyeglasses, dentures and hearing aids, unless the accident that caused the damage or breakage also caused the worker personal injury.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 161(1) of the *Act*.
CROSS REFERENCES:	Item C3-23.10, *Section 161(1)(a) – Artificial Appliances*; Item C3-23.20, *Section 161(1)(b) – Eyeglasses, Dentures and Hearing Aids*;

Item C3-23.30, *Section 161(1) – Wage-Loss Benefits During the Replacement or Repair Period*, of the *Rehabilitation Services & Claims Manual*, Volume II.

HISTORY: April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.
July 1, 2010 − This policy replaced former policy item #23.00 and incorporates concepts from former policy items #23.10, #23.40 and #23.70 of the *Rehabilitation Services & Claims Manual,* Volume II.

APPLICATION: This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Section 161(1)(a) – Artificial Appliances **ITEM: C3-23.10**

BACKGROUND

1. Explanatory Notes

This policy sets out the criteria that must be met for a worker to be entitled to compensation for the replacement or repair of artificial appliances.

2. The Act

Section 1, in part:

> **"accident"**, in relation to a worker, includes
>
> (a) a wilful and intentional act that is not the act of the worker, and
>
> (b) a fortuitous event occasioned by a physical or natural cause;
>
> ...

Section 161(1):

> The Board may assume the responsibility of replacement and repair of the following for a worker:
>
> (a) artificial appliances, including artificial members damaged or broken as the result of an accident arising out of and in the course of the worker's employment;

POLICY

A. Definitions

"Artificial appliances" include:

- prosthetic devices, e.g., prosthetic eyes, prosthetic noses, implants, mastectomy bras, prosthetic limbs, etc.
- orthotic devices, e.g., spinal orthoses, knee braces, modified footwear, etc.

- assistive technology devices specifically related to mobility, e.g., crutches, canes, walkers, scooters, manual wheelchairs, power wheelchairs, etc.

This is not an exhaustive list.

B. Factors for Coverage

The Board may assume the responsibility for replacement and repair of artificial appliances if both of the following conditions are met:

i. The artificial appliance is damaged or broken.

The Board also assumes responsibility if the artificial appliance is lost or inaccessible as the result of an accident, if it is reasonable to assume that it is in fact broken.

There is no legislated requirement that the breakage or damage of the artificial appliance be accompanied by objective signs of personal injury, or corroboration of the accident and proof that the worker was not at fault, as is necessary for broken eyeglasses, dentures and hearing aids.

ii. The damage or breakage of the artificial appliance is the result of an accident arising out of and in the course of the worker's employment.

A chance event involving damage or breakage to the artificial appliance without any personal injury to the worker is only considered an "accident" for the purposes of section 161(1) if it had the potential or reasonable probability of causing harm or personal injury to the worker.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 161(1) of the *Act*.
CROSS REFERENCES:	Item C3-14.20, *Accident – Section 134(3) Presumption*; Item C3-23.00, *Replacement and Repair of Personal Possessions – Section 161(1)*; Item C3-23.20, *Section 161(1)(b) – Eyeglasses, Dentures and Hearing Aids*; Item C3-23.30, *Section 161(1) – Wage Loss Benefits During the Replacement or Repair Period*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1.

APPLICATION:	July 1, 2010 − Incorporates concepts from former policy items #23.30 and #23.40 of the *Rehabilitation Services & Claims Manual*, Volume II. This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE:	Section 161(1)(b) – Eyeglasses, Dentures and Hearing Aids	ITEM:	C3-23.20

BACKGROUND

1. Explanatory Notes

This policy sets out the criteria that must be met for a worker to be entitled to compensation for the replacement or repair of eyeglasses, dentures and hearing aids.

2. The Act

Section 1, in part:

> **"accident"**, in relation to a worker, includes
>
> (a) a wilful and intentional act that is not the act of the worker, and
>
> (b) a fortuitous event occasioned by a physical or natural cause;
>
> ...

Section 161(1), in part:

> The Board may assume the responsibility of replacement and repair of the following for a worker:
>
> …
>
> (b) eyeglasses, dentures and hearing aids broken as a result of an accident arising out of and in the course of the worker's employment if
>
> (i) that breakage is accompanied by objective signs of personal injury to the worker, or
>
> (ii) where there is no personal injury, the accident is otherwise corroborated and the Board is satisfied the worker was not at fault.

POLICY

A. Definitions

"Eyeglasses" include contact lenses.

"Dentures" do not include dental crowns or fixed bridgework, which are regarded as part of the anatomy, and adjudicated under section 134(1).

B. Factors For Coverage

In determining whether to assume responsibility for the replacement and repair of eyeglasses, dentures and hearing aids, the following questions are considered:

i. Were the eyeglasses, dentures or hearing aids broken?

The Board also assumes responsibility if the eyeglasses, dentures and hearing aids are lost or inaccessible as the result of an accident, if it is reasonable to assume that they are in fact broken.

ii. Was the breakage a result of an accident arising out of and in the course of the worker's employment?

A chance event involving breakage to the eyeglasses, dentures or hearing aids without any personal injury to the worker is only considered an "accident" for the purposes of section 161(1) if it had the potential or reasonable probability of causing harm or personal injury to the worker.

iii. Did the worker suffer a personal injury?

If there are objective signs of personal injury, the Board may assume the responsibility for replacement and repair of the broken eyeglasses, dentures and hearing aids.

If there are no objective signs of personal injury, the following further questions are also considered:

(a) Can the accident be otherwise corroborated?

It is not sufficient for the worker to simply provide evidence that the breakage or damage has occurred, nor is it sufficient for the worker to simply report that an accident has occurred. Rather, there must be some corroboration of the worker's evidence that will support the worker's statement of the facts.

Normally corroboration consists of the evidence of witnesses to the accident. However, where there are no such witnesses, other evidence that suggests that an accident had occurred will be considered. This may include a worker's spontaneous exclamation of the accident, the evidence of others who had overheard the exclamation, or other circumstantial evidence which suggests that an accident had occurred.

(b) Is the Board satisfied the worker was not at fault?

Any negligent or careless act or omission of the worker is weighed against the causative significance of the worker's employment in contributing to the breakage of the eyeglasses, dentures or hearing aids.

Minor lapses of attention are reasonable to expect from the average worker in the normal course of work and will not generally outweigh the employment aspects of the situation.

After weighing all the relevant factors, if the worker's negligence is considered more than a trivial or insignificant cause of the breakage, the worker is considered to be at fault, and the Board will not assume the responsibility of replacement or repair of the broken eyeglasses, dentures or hearing aids. Alternatively, if there is no negligence, or the worker's negligence is considered trivial or insignificant, the worker is not considered to be at fault, and the Board will assume responsibility for the necessary replacement or repair of the broken item.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 161(1) of the *Act*.
CROSS REFERENCES:	Item C3-12.00, *Personal Injury*; Item C3-14.20, *Accident – Section 134(3) Presumption*; Item C3-23.00, *Replacement and Repair of Personal Possessions – Section 161(1)*; Item C12-97.00, *Evidence – General*; Item C12-97.10, *Evidence Evenly Weighted*; Item C12-97.20, *Presumptions*; Item C12-97.30, *Medical Evidence*; Item C12-97.40, *Evidence – Other Matters*; Item C12-97.50, *Surveillance*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − Incorporates concepts from former policy items #23.20, #23.30, #23.40, #23.50, and #23.60 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Section 161(1) – Wage-Loss Benefits During the Replacement or Repair Period **ITEM: C3-23.30**

BACKGROUND

1. Explanatory Notes

This policy provides guidance with respect to wage-loss benefits for a worker awaiting the repair or replacement of an artificial appliance, eyeglasses, dentures and hearing aids.

2. The Act

Section 134(1):

> If, in an industry within the scope of the compensation provisions, personal injury or death arising out of and in the course of a worker's employment is caused to the worker, compensation as provided under this Part must be paid by the Board out of the accident fund.

Section 161(1):

> The Board may assume the responsibility of replacement and repair of the following for a worker:
>
> (a) artificial appliances, including artificial members damaged or broken as the result of an accident arising out of and in the course of the employment;
>
> (b) eyeglasses, dentures and hearing aids broken as a result of an accident arising out of and in the course of the worker's employment if
>
> (i) that breakage is accompanied by objective signs of personal injury to the worker, or
>
> (ii) where there is no personal injury, the accident is otherwise corroborated and the Board is satisfied the worker was not at fault.

Section 191(1), in part:

> … if a temporary total disability results from a worker's injury, the Board must pay the worker compensation…

Section 192(1), in part:

> … if a temporary partial disability results from a worker's injury, the Board must pay the worker compensation…

POLICY

Wage-loss benefits are payable only where a compensable injury causes a period of temporary disability from work. Broken or damaged artificial appliances, eyeglasses, dentures or hearing aids are not personal injuries.

Section 161(1) does not provide authority for the Board to pay a worker wage-loss benefits when there is a delay in replacing the broken or damaged artificial appliance, eyeglasses, dentures or hearing aids and the only reason the worker is unable to work is because the worker is without the broken or damaged item. Similarly, it does not provide authority for the Board to pay wage-loss where the worker has to take time off from work in order to be fitted for the item or to pick it up when ready.

EFFECTIVE DATE:	July 1, 2010
AUTHORITY:	Section 161(1) of the *Act*.
CROSS REFERENCES:	Item C3-23.00, *Replacement and Repair of Personal Possessions – Section 161(1)*; Item C3-23.10, *Section 161(1)(a) – Artificial Appliances*; Item C3-23.20, *Section 161(1)(b) – Eyeglasses, Dentures and Hearing Aids*; Item C5-33.00, *Introduction to Compensation For Temporary Disability*, of the *Rehabilitation Services & Claims Manual*, Volume II.
HISTORY:	April 6, 2020 − Housekeeping changes consequential to implementing the *Workers Compensation Act*, R.S.B.C. 2019, c. 1. July 1, 2010 − This policy replaced former policy item #23.70 of the *Rehabilitation Services & Claims Manual*, Volume II.
APPLICATION:	This Item applies to all claims for injuries occurring on or after July 1, 2010.

RE: Section 135 – Mental Disorders	ITEM: C3-24.00

BACKGROUND

1. Explanatory Notes

This is the principal policy that sets out the decision-making principles for determining a worker's entitlement to compensation under section 135 of the *Act*.

2. The Act

Section 135, in part:

(1) Subject to subsection (3), a worker is entitled to compensation for a mental disorder, payable as if the mental disorder were a personal injury arising out of and in the course of a worker's employment, if that mental disorder does not result from an injury for which the worker is otherwise entitled to compensation under this Part, and only if all of the following apply:

(a) the mental disorder is either

(i) a reaction to one or more traumatic events arising out of and in the course of the worker's employment, or

(ii) predominantly caused by a significant work-related stressor, including bullying or harassment, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment;

(b) the mental disorder is diagnosed by a psychiatrist or psychologist as a mental or physical condition that is described, at the time of diagnosis, in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;

(c) the mental disorder is not caused by a decision of the worker's employer relating to the worker's employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the worker's employment.

…

(3) The Board may require that a psychiatrist or psychologist appointed by the Board review a diagnosis made for the purposes of subsection (1)(b) and may consider that review in determining whether a worker is entitled to compensation for a mental disorder.

(4) Section 163 *[duties of physicians and qualified practitioners]* applies to a psychiatrist or psychologist who makes a diagnosis referred to in this section.

(5) In this section:

…

"psychiatrist" means a physician who is authorized to practise in the speciality of psychiatry by

(a) the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of medicine, or

(b) an accredited body recognized by the Board;

"psychologist" means a person who is authorized

(a) under the *Health Professions and Occupations Act* to practise the designated health profession of psychology, or

(b) under the laws of another province to practise as a psychologist;

…

POLICY

The complexity of mental disorders gives rise to challenges in the adjudication of a claim for a mental or physical condition that is described, at the time of diagnosis, in the most recent *Diagnostic and Statistical Manual of Mental Disorders* ("DSM") published by the American Psychiatric Association. The mental disorder may be the result of a number of contributing factors, some of which are work-related and some of which are not.

This policy provides guidance on the adjudication of claims for mental disorders where the mental disorder is either:

- a reaction to one or more traumatic events arising out of and in the course of the worker's employment; or

- predominantly caused by a significant work-related stressor, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment.

Section 135 of the *Act* sets out that a worker may be entitled to compensation for a mental disorder that does not result from an injury. This is distinct from a worker's entitlement under section 134(1) for psychological impairment that is a compensable consequence of an injury.

For decisions respecting the compensation or rehabilitation of a worker, the standard of proof under section 339(3) of the *Act* is "at least as likely as not." If the evidence supporting different findings on an issue is evenly weighted, the issue is resolved in favour of the worker.

This standard of proof is different than medical or scientific standards of certainty. Therefore, the presence or absence of expert evidence supporting or opposing a causal link is relevant and will generally be given weight by the Board, but it is not determinative of causation; causation can be inferred from other evidence. In every case, the Board decides whether the evidence supports a finding of causation based on a weighing of the evidence.

The gathering and weighing of evidence generally is covered by policy in Items C12-97.00 through C12-97.50.

A. Does the worker have a DSM diagnosed mental disorder?

Section 135 requires more than the normal reactions to traumatic events or significant work-related stressors, such as being dissatisfied with work, upset or experiencing distress, frustration, anxiety, sadness or worry as those terms are widely and informally used.

It requires that a worker's mental disorder be diagnosed by a psychiatrist or a psychologist as a condition that is described in the most recent DSM, at the time of diagnosis.

As set out in the DSM, a DSM diagnosis generally involves a comprehensive and systematic clinical assessment of the worker.

The Board is responsible for the decision-making process, and for reaching the conclusions on the claim. Under section 135(3) of the *Act*, the Board may obtain expert

advice to review the diagnosis and where required, may obtain additional diagnostic assessment.

In reviewing the diagnosis, the Board also considers all of the relevant medical evidence, including prior medical history, attending physician reports and expert medical opinion. The findings of this additional information are considered in determining whether there is a DSM diagnosed mental disorder.

B. Was there one or more events, or a stressor, or a cumulative series of stressors?

In all cases, the one or more events, stressor or cumulative series of stressors, must be identifiable.

C. Was the event "traumatic" or the work-related stressor "significant"?

All workers are exposed to normal pressures and tensions at work which are associated with the duties and interpersonal relations connected with employment.

A "traumatic" event is an emotionally shocking event. In most cases, the worker must have experienced or witnessed the traumatic event.

A work-related stressor is considered "significant" when it is excessive in intensity and/or duration from what is experienced in the normal pressures or tensions of employment.

Interpersonal conflicts between the worker and their supervisors, co-workers or customers are not generally considered significant unless the conflict results in behaviour that is considered threatening or abusive.

As set out in the *Act*, an example of a significant work-related stressor includes exposure to workplace bullying or harassment.

The Board recognizes that workers may, due to the nature of their work, be exposed to traumatic events or significant work-related stressors as part of their employment. An event may be traumatic or a work-related stressor significant even though the worker has previous work-related exposure to traumatic events or significant stressors.

In determining whether an event is traumatic or a work-related stressor is significant, the worker's subjective statements and response to the event or work-related stressor are considered. However, this question is not determined solely by the worker's subjective belief about the event or work-related stressor. It involves an analysis of both subjective and objective factors. The Board considers whether a reasonable person, in the worker's situation and with the general characteristics of the worker, would expect to find the event traumatic or the work-related stressor significant.

D. Causation

(i) Was the mental disorder a reaction to one or more traumatic events arising out of and in the course of the worker's employment?

The *Act* requires that the mental disorder be a reaction to one or more traumatic events arising out of and in the course of the worker's employment. This requires the Board to determine the following:

- Did the one or more traumatic events arise in the course of the worker's employment?

  This refers to whether the one or more traumatic events happened at a time and place and during an activity consistent with, and reasonably incidental to, the obligations and expectations of the worker's employment.

- Did the one or more traumatic events arise out of the worker's employment?

  This refers to the cause of the mental disorder. Both employment and non-employment factors may contribute to the mental disorder. However, in order for the mental disorder to be compensable, the one or more traumatic events have to be of causative significance, which means more than a trivial or insignificant cause of the mental disorder.

In making the above determinations, the Board reviews the medical and non-medical evidence to consider whether:

- there is a connection between the mental disorder and the one or more traumatic events, including whether the one or more traumatic events were of sufficient degree and/or duration to be of causative significance in the mental disorder;

- any pre-existing non-work related medical conditions were a factor in the mental disorder; and

- any non-work related events were a factor in the mental disorder.

The Board is required to determine whether the evidence supports a finding of one or more traumatic events that are of causative significance in the mental disorder.

(ii) Was the mental disorder predominantly caused by a significant work-related stressor, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment?

The *Act* requires that the mental disorder be predominantly caused by a significant work-related stressor, or a cumulative series of significant work-related stressors,

arising out of and in the course of the worker's employment. There are two parts to this requirement as set out below.

The first part is the determination of whether the significant stressor or cumulative series of significant stressors arose out of and in the course of employment. This requires the Board to determine the following:

- Did the significant stressor or cumulative series of significant stressors arise in the course of the worker's employment?

  This refers to whether the significant stressor, or cumulative series of significant stressors, happened at a time and place and during an activity consistent with, and reasonably incidental to, the obligations and expectations of the worker's employment.

- Did the significant stressor or cumulative series of significant stressors arise out of the worker's employment?

  A significant stressor or a cumulative series of significant stressors may be due to employment or non-employment factors. The *Act* requires that the significant stressors be work-related.

The second part is the determination of whether the significant work-related stressor, or cumulative series of significant work-related stressors, was the predominant cause of the mental disorder.

Predominant cause means that the significant work-related stressor, or cumulative series of significant work-related stressors, was the primary or main cause of the mental disorder.

Both parts of this requirement must be met in order for the mental disorder to be compensable.

(iii) Pre-existing Mental Disorders

Where a worker has a pre-existing mental disorder and claims that a traumatic event or significant work-related stressor aggravated the pre-existing mental disorder, the claim is adjudicated with regard to section 135 of the *Act* and the direction in this policy.

E. Section 135(1)(c) Labour Relations Exclusion

Section 135(1)(c) provides there is no entitlement to compensation if the mental disorder is caused by a decision of the worker's employer relating to the worker's employment. This exclusion is to ensure employers remain able to manage their workplaces and workers in an effective manner.

The labour relations exclusion is not absolute. It only applies to employer decisions on generic processes and actions taken in good faith. This means an employer decision must be both:

- on a generic process; and
- made and performed in good faith.

Decisions of the employer are not limited to explicit decisions and include circumstances related to the worker's employment over which the employer has control.

The *Act* provides a list of examples of decisions on generic processes relating to a worker's employment which include a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the worker's employment. This statutory list of examples is inclusive and not exclusive.

Other examples of decisions on generic processes relating to a worker's employment may include decisions relating to workload and deadlines, work evaluation, performance management, transfers, changes in job duties, lay-offs, demotions and reorganizations.

For the purpose of this policy, good faith is the absence of bad faith. Bad faith means improper purpose or ulterior motive, or a misuse of managerial authority. Bad faith is not simply bad judgment. Decisions performed in bad faith would include management decisions communicated to the worker in an abusive or threatening manner.

Determining whether the labour relations exclusion applies to an employer's decision requires an objective analysis. It does not turn on the worker's subjective perceptions or opinions of the employer's decision or motivation. The Board considers how a reasonable person would view the employer's conduct.

EFFECTIVE DATE:	March 2, 2026
AUTHORITY:	Section 135 of the *Act.*
CROSS REFERENCES:	*Rehabilitation Services & Claims Manual*, Volume II: Item C3-24.10, *Section 135(2) – Mental Disorder Presumption*; Item C3-22.30, *Compensable Consequences – Psychological Impairment*; Item C12-97.00, *Evidence – General*; Item C12-97.10, *Evidence Evenly Weighted*; Item C12-97.20, *Presumptions*; Item C12-97.30, *Medical Evidence*; Item C12-97.40, *Evidence – Other Matters*; Item C12-97.50, *Surveillance.*
HISTORY:	April 1, 2026 – Housekeeping changes to the Background section resulting from the replacement of the *Health Professions Act* with the *Health Professions and Occupations Act*.

March 2, 2026 − Amended the definition of significant work-related stressor; guidance provided on the British Columbia Supreme Court's reading down of the labour relations exclusion to ensure compliance with section 15(1) of the *Canadian Charter of Rights and Freedoms*.
December 1, 2025 − Housekeeping change to update internal cross-references, consequential to reformatting and renumbering Chapter 12, *Claims Procedures.*
June 1, 2024 − Housekeeping changes made to modernize terminology by removing gendered language.
October 21, 2020 − Housekeeping amendments to the *Act* portion of the Background section to reflect amendments to the *Act* by the *Workers 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.
February 1, 2020 − Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation.
May 16, 2019 – the *Workers Compensation Amendment Act*, *2019* (Bill 18 of 2019) amended the definition of firefighter in sections 1 and 5.1 of the then *Workers Compensation Act*, R.S.B.C. 1996, c. 492. Bill 18 of 2019 was brought into force on May 16, 2019, the transitional provisions in sections 4 and 5 of the Bill set out how the legislative amendments apply to claims made before May 16, 2019.
March 1, 2019 − Consequential amendments arising from addition of then policy item #97.70, *Surveillance* were made.
July 23, 2018 – Amendments to Item C3-13.00 were made to reflect changes to the *Act* resulting from the *Workers Compensation Amendment Act, 2018* (Bill 9 of 2018). Bill 9 of 2018 added a mental disorder presumption to the then *Workers Compensation Act*, R.S.B.C. 1996, c. 492, for workers who are or have been employed in an eligible occupation, and revised the definition of firefighter in then section 5.1 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, to include firefighters employed by the government of Canada. Bill 9 of 2018 was brought into force on May 17, 2018, the transitional provisions in sections 3 and 4 of the Bill set out how the legislative amendments apply to claims made before May 17, 2018.
January 1, 2018 − Housekeeping changes were made to the definition of "psychologist" as amended by the *Act* effective November 2, 2017.
July 17, 2013 − Housekeeping changes were made to remove references to multi-axial diagnostic assessment in accordance with DSM-5.
July 1, 2012 – New Item C3-13.00, *Section 5.1 – Mental Disorders*, was added, to reflect changes to the *Act* resulting from the *Workers Compensation Amendment Act, 2011* (Bill 14 of 2011). This section of Bill 14 of 2011 came into force on January 1, 2012, the transitional provision in section 5 of the Bill set out how the legislative amendment applies to claims made before January 1, 2012. This policy replaced former Item C3-13.00, *Mental Stress*, of the *Rehabilitation Services & Claims Manual*, Volume II, in its entirety. Former Item C3-13.00 had replaced former policy item #13.30 by putting it into the new format.
April 30, 2009 – Former policy item #13.30 was amended to delete references identified by the British Columbia Court of Appeal as being

contrary to section 15(1) of the *Canadian Charter of Rights and Freedoms*.

April 1, 2007 – Former policy item #13.30 was amended to delete the paragraph requiring workers with a recurrence of mental stress to meet the requirements of then section 5.1, if their claims had initially been allowed prior to June 30, 2002.

December 31, 2003 – Former policy item #13.30 was amended to reflect the amendment of then section 5.1(1) of the *Act*, to include a reference to a psychologist's diagnosis of mental stress, and the introduction of then sections 5.1(2) to (4) of the *Act*. The amended policy applied to acute reactions to traumatic events that occurred on or after December 31, 2003. Former policy item #13.30 had been created on June 30, 2002 to set out the scope of coverage for mental stress claims. It applied to all injuries on or after June 30, 2002; permanent disabilities where the permanent disability first occurred on or after June 30, 2002, irrespective of the date of the injury; and recurrences, where the recurrence occurred on or after June 30, 2002, irrespective of the date of the injury.

APPLICATION: Applies to all decisions, including appellate decisions, made on or after March 2, 2026.

RE:	Section 135(2) – Mental Disorder Presumption	ITEM:	C3-24.10

BACKGROUND

1. Explanatory Notes

This policy provides guidance on the adjudication of claims for a mental disorder where the presumption in section 135(2) of the *Act* applies.

2. The Act

Section 1, in part:

> **"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);
>
> …

Section 135, in part:

> (1) Subject to subsection (3), a worker is entitled to compensation for a mental disorder, payable as if the mental disorder were a personal injury arising out of and in the course of a worker's employment, if that mental disorder does not result from an injury for which the worker is otherwise entitled to compensation under this Part, and only if…
>
> ...
>
> (b) the mental disorder is diagnosed by a psychiatrist or psychologist as a mental or physical condition that is described, at the time of diagnosis, in the most recent Diagnostic and Statistical Manual of

Mental Disorders published by the American Psychiatric Association;

…

(2) If a worker who is or has been employed in an eligible occupation

(a) is exposed to one or more traumatic events arising out of and in the course of the worker's employment in that eligible occupation, and

(b) has a mental disorder that, at the time of diagnosis under subsection (1)(b), is recognized in the manual referred to in that subsection, as a mental or physical condition that may arise from exposure to a traumatic event,

the mental disorder must be presumed to be a reaction to the one or more traumatic events arising out of and in the course of the worker's employment in that eligible occupation, unless the contrary is proved.

(3) The Board may require that a psychiatrist or psychologist appointed by the Board review a diagnosis made for the purposes of subsection (1)(b) and may consider that review in determining whether a worker is entitled to compensation for a mental disorder.

(4) Section 163 *[duties of physicians and qualified practitioners]* applies to a psychiatrist or psychologist who makes a diagnosis referred to in this section.

(5) In this section:

"correctional officer" means a correctional officer as defined by regulation of the Lieutenant Governor in Council;

"eligible occupation" means the occupation of correctional officer, emergency medical assistant, firefighter, police officer, sheriff or, without limitation, any other occupation prescribed by regulation of the Lieutenant Governor in Council;

"emergency medical assistant" means an emergency medical assistant as defined in section 1 of the *Emergency Health Services Act*;

"police officer" means an officer as defined in section 1 of the *Police Act*;

"psychiatrist" means a physician who is authorized to practise in the speciality of psychiatry by

(a) the regulator that is responsible, under the *Health Professions and Occupations Act*, for governing the designated health profession of medicine, or

(b) an accredited body recognized by the Board;

"psychologist" means a person who is authorized

(a) under the *Health Professions and Occupations Act* to practise the designated health profession of psychology, or

(b) under the laws of another province to practise as a psychologist;

"sheriff" means a person lawfully holding the office of sheriff or lawfully performing the duties of sheriff by way of delegation, substitution, temporary appointment or otherwise.

3. Mental Disorder Presumption Regulation

Section 1:

(1) For the purposes of section 135(5) *[mental disorder]* of the *Workers Compensation Act*, **"correctional officer"** means a worker who

(a) is employed in a correctional centre, as defined in the *Correction Act*, and is appointed under section 2(1)(b) of that Act,

(b) is employed in a youth custody centre, as defined in the *Youth Justice Act*, and is appointed under section 24(1)(b) of that Act, or

(c) is employed in a penitentiary, as defined in the *Corrections and Conditional Release Act* (Canada), and holds one of the following positions:

(i) warden;

(ii) deputy warden;

(iii) assistant warden of operations;

(iv) correctional manager;

(v) correctional officer, including a correctional officer who holds the position of primary worker.

Section 2:

The following occupations, as defined in the Schedule, are prescribed as eligible occupations for the purposes of section 135(5) of the *Workers Compensation Act*:

(a) community integration specialist;

(b) coroner;

(c) emergency response dispatcher;

(d) harm reduction worker;

(e) health care assistant;

(f) nurse;

(g) parole officer;

(h) probation officer;

(i) respiratory therapist;

(j) shelter worker;

(k) social worker;

(l) transition house worker;

(m) victim service worker;

(n) withdrawal management worker.

Schedule:

1 In this regulation:

"community integration specialist" means a worker

(a) who is appointed under the *Public Service Act,*

(b) whose duties include supporting persons in relation to

(i) income assistance or disability assistance, or

(ii) accessing support services for trauma, mental illness or addiction, and

(c) who works primarily in one or more of the following:

(i) a correctional centre, youth custody centre or penitentiary referred to in section 1(1) of this regulation;

(ii) a site operated by a board as defined in section 1 of the *Health Authorities Act*;

(iii) an emergency shelter or homeless encampment;

(iv) a community-based location;

"coroner" means a worker

(a) who is appointed as a coroner under section 54 of the *Coroners Act*, or

(b) who is retained to act as a coroner under section 55 of the *Coroners Act*;

"emergency response dispatcher" means a worker whose duties include one or both of the following:

(a) dispatching ambulance services, firefighters or police officers;

(b) receiving emergency calls that initiate the dispatch of ambulance services, firefighters or police officers;

"harm reduction worker" means a worker

(a) whose duties include, for the purpose of reducing the risk of toxic drug poisoning and other drug-related harms, supporting and monitoring persons who consume drugs, and

(b) who works primarily in one or more of the following:

(i) the community;

(ii) residential facilities or units in which supportive housing services are provided;

(iii) premises used to provide public health interventions, including sites

(A) commonly known as safe consumption sites, or

(B) at which other types of overdose prevention services are provided;

"health care assistant" means a worker

(a) who is registered with the BC Care Aide & Community Health Worker Registry, and

(b) who is employed as a health care assistant in a publicly funded organization or setting;

"nurse" means a worker who is authorized under the *Health Professions and Occupations Act* to practise the designated health profession of licensed practical nursing, nursing or psychiatric nursing;

"parole officer" means a worker who holds the position of parole supervisor within the meaning of section 99(1) of the *Corrections and Conditional Release Act* (Canada);

"probation officer" means a worker who is appointed under one of the following:

(a) section 2(1)(a) of the *Correction Act*;

(b) section 2(1)(b) of the *Correction Act*, for the purpose of exercising powers and performing duties as a probation officer;

(c) section 24(1)(a) of the *Youth Justice Act*;

(d) section 24(1)(b) of the *Youth Justice Act*, for the purpose of exercising powers and performing duties as a youth probation officer;

"respiratory therapist" means a worker whose duties include assisting health professionals in evaluating, diagnosing, treating and caring for patients with respiratory or cardiopulmonary disorders;

"shelter worker" means a worker

(a) who works at a shelter for persons experiencing homelessness, and

(b) whose duties include the provision of one or more of the following:

(i) intake services;

(ii) supporting and monitoring residents with respect to well-being and safety;

"social worker" means a worker who is authorized, under the *Social Workers Act*, to use the title "social worker";

"transition house worker" means a worker

(a) who is employed in a facility that provides housing to persons who have recently left abusive relationships, and to their children, if any, and

(b) whose duties include providing support, security and crisis intervention to one or both of the following:

(i) residents of the facility;

(ii) crisis line callers;

"victim service worker" means a worker who assists victims through a victim service within the meaning of the *Victims of Crime Act*;

"withdrawal management worker" means a worker whose duties include assessing, supervising, monitoring and stabilizing chemically-dependent persons during acute detoxification from substance use.

POLICY

Section 135(2) of the *Act* provides a mental disorder presumption. The presumption applies where a worker is:

- exposed to one or more traumatic events arising out of and in the course of the worker's employment in an eligible occupation; and
- diagnosed by a psychiatrist or psychologist with a mental disorder that is recognized in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association ("DSM") as a mental or physical condition that may arise from exposure to a traumatic event.

Where the mental disorder presumption does not apply, a worker's claim for compensation for a mental disorder will be adjudicated under section 135 of the *Act.*

A. What is an eligible occupation?

The mental disorder presumption applies to a worker who is or has been employed in an eligible occupation as defined in the *Act* or prescribed by regulation of the Lieutenant Governor in Council.

B. Was the worker exposed to a "traumatic" event?

The *Act* requires the worker is exposed to one or more traumatic events. In all cases, the one or more events must be identifiable.

A "traumatic" event is an emotionally shocking event. In most cases, the worker must have experienced or witnessed the traumatic event.

The Board recognizes that workers employed in eligible occupations, due to the nature of their work, may be exposed to traumatic events as part of their employment.

In determining whether the event is traumatic the worker's subjective statements and response to the event are considered. However, this question is not determined solely by the worker's subjective belief about the event. It involves both a subjective and objective analysis. The Board considers whether a reasonable person, in the worker's situation and with the general characteristics of the worker, would expect to find the event traumatic.

C. DSM diagnosis

The *Act* requires the worker's mental disorder be diagnosed by a psychiatrist or a psychologist. At the time of diagnosis, the worker's mental disorder must be described in the most recent DSM, and that DSM must also recognize the mental disorder as a mental or physical condition that may arise from exposure to a traumatic event.

In reviewing the diagnosis, the Board recognizes a broad range of mental disorders may arise following exposure to a traumatic event. Some mental disorders recognized in the DSM explicitly list exposure to a traumatic event as a diagnostic criterion. This means exposure to a traumatic event is required for the diagnosis, for example post-traumatic stress disorder and acute stress disorder.

The Board also recognizes there are mental disorders set out in the DSM that do not require exposure to a traumatic event but may still arise from trauma. These include, but are not limited to, depressive disorders, anxiety disorders and substance use disorders.

D. Causation

The *Act* requires that the mental disorder be presumed to be a reaction to the one or more traumatic events arising out of and in the course of the worker's employment in that eligible occupation, unless the contrary is proved.

The Board is not required to establish that any specific traumatic event is causative of the worker's mental disorder.

E. Rebutting the presumption

Inclusion of the words "unless the contrary is proved" in section 135(2) means that the presumption is rebuttable. Where evidence which rebuts or refutes the presumption is available, it must be considered.

The standard of proof to be applied in determining whether the presumption has been rebutted is proof on a balance of probabilities. Balance of probabilities means "more likely than not." If the evidence is more heavily weighted in favour of a conclusion that something other than the employment caused the mental disorder, then the contrary will be considered to be proved and the presumption is rebutted. The presumption is not rebutted because there is a lack of evidence to support work causation.

The gathering and weighing of evidence generally is covered by policy in Items C12-97.00 through C12-97.50.

F. Pre-existing mental disorders

Where a worker who is or has been employed in an eligible occupation has a pre-existing mental disorder and claims that a traumatic event aggravated the pre-existing mental disorder, the claim is adjudicated with regard to section 135(2) of the *Act* and the direction in this policy.

For the presumption to apply, the pre-existing mental disorder must also be recognized in the most recent DSM as a mental or physical condition that may arise from exposure to a traumatic event.

EFFECTIVE DATE:	March 2, 2026
AUTHORITY:	Sections 1 and 135 of the *Act.*
CROSS REFERENCES:	*Rehabilitation Services & Claims Manual*, Volume II: Item C3-24.00, *Section 135 – Mental Disorders*; Item C3-22.30, *Compensable Consequences – Psychological Impairment*; Item C12-97.00, *Evidence – General*; Item C12-97.10, *Evidence Evenly Weighted*;

Item C12-97.20, *Presumptions*;
Item C12-97.30, *Medical Evidence*;
Item C12-97.40, *Evidence – Other Matters*;
Item C12-97.50, *Surveillance.*

HISTORY:

April 1, 2026 – Housekeeping changes to the Background section resulting from the replacement of the *Health Professions Act* with the *Health Professions and Occupations Act*.
March 2, 2026 − Policy amended to provide guidance on the meaning of a subjective and objective analysis when determining whether an event is traumatic.
December 1, 2025 − Housekeeping change to update internal cross-references, consequential to reformatting and renumbering Chapter 12, *Claims Procedures.*
June 10, 2024 − Housekeeping changes consequential to the approval of Order in Council No. 299, which added additional eligible occupations to the *Mental Disorder Presumption Regulation* (B.C. Reg. 122/2024, deposited June 10, 2024).
October 21, 2020 − Housekeeping amendments to the *Act* portion of the Background section to reflect amendments to the *Act* by the *Workers 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.
February 1, 2020 − Policy amended to provide guidance on the legal issues of standard of proof, evidence, and causation.
May 16, 2019 – the *Workers Compensation Amendment Act, 2019* (Bill 18 of 2019) amended the definition of firefighter in sections 1 and 5.1 of the then *Workers Compensation Act*, R.S.B.C. 1996, c. 492. Bill 18 of 2019 was brought into force on May 16, 2019, the transitional provisions in sections 4 and 5 of the Bill set out how the legislative amendments apply to claims made before May 16, 2019.
April 16, 2019 – This policy was amended when Order in Council No. 204 was approved, adding emergency response dispatchers, health care assistants, and nurses to the list of eligible occupations (B.C. Reg. 92/2019, deposited April 16, 2019).
March 1, 2019 − Consequential amendments were made arising from addition of then policy item #97.70, *Surveillance*.
July 23, 2018 – New Item C3-13.10, *Section 5.1(1.1) – Mental Disorder Presumption,* was added to reflect changes to the *Act* resulting from the *Workers Compensation Amendment Act, 2018* (Bill 9 of 2018). Bill 9 of 2018 added a mental disorder presumption to the then *Workers Compensation Act*, R.S.B.C. 1996, c. 492, for workers who are or have been employed in an eligible occupation, and revised the definition of firefighter in then section 5.1 of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492, to include firefighters employed by the government of Canada. Bill 9 of 2018 was brought into force on May 17, 2018, the transitional provisions in sections 3 and 4 of the Bill set out how the legislative amendments apply to claims made before May 17, 2018.

APPLICATION:

Applies to all decisions, including appellate decisions, made on or after March 2, 2026.