

Workers' Compensation Board of B.C.

Guide to the Bill 63 amendments to
the *Workers Compensation Act*

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Introduction

The Workers' Compensation Board (WCB) sets and enforces occupational health and safety standards, provides compensation and rehabilitation benefits to injured workers or their dependants, and collects funds from registered employers to operate the workers' compensation system.

The *Workers Compensation Act* states that WCB decisions can be appealed by workers and employers. The existing appeal system provides three levels of appeal: the Workers' Compensation Review Board, the Appeal Division of the WCB, and the Medical Review Panel.

On October 10, 2002, the provincial government introduced Bill 63, *Workers Compensation Amendment Act (No. 2), 2002*, which will change the WCB appeal structure. Bill 63 received royal assent on October 31, 2002 and creates a new review process that will be conducted by the Review Division of the WCB, and an external appeal body called the Workers' Compensation Appeal Tribunal (WCAT).

The Medical Review Panel will no longer accept new applications for decisions made on or after

November 30, 2002. The Review Board and Appeal Division will cease operation on March 3, 2003 and on this date the Review Division and the Workers' Compensation Appeal Tribunal (WCAT) will come into existence.

New appeal structure

Review Division

On application by an affected party, the Review Division will review decisions and orders made by WCB officers to ensure they are consistent with appropriate law and policy and the evidence was appropriately weighed. The amended Act outlines which matters may be reviewed and imposes statutory time limits for application and decision-making. With some exceptions, Review Division decisions may be appealed to the Workers' Compensation Appeal Tribunal.

The Review Division will be located at the WCB but will be independent of the WCB's operating divisions.

Workers' Compensation Appeal Tribunal (WCAT)

The Workers' Compensation Appeal Tribunal will serve as the final level of appeal for WCB matters it is authorized to hear and decide on. The legislation outlines which matters may be appealed to the WCAT and imposes statutory time limits for application and decision-making.

The WCAT will be an external agency that reports to the Ministry of Skills Development and Labour. It will be independent of the WCB's administration and governing structure.

Transition

There are rules that will guide the transition between the existing and new review and appeal structures. Parties that disagree with or wish to challenge a WCB decision may want to contact a worker or employer advisory office to ensure they understand their appeal rights during the transition period as well as the timelines in which they may exercise these rights. Workers and employers should be aware of the following:

- Workers or employers may register intent to apply to the Review Division instead of appealing to the Review Board.
- On March 3, 2003, except for cases already under active consideration by panels of the Review Board or Appeal Division, all appeals will be transferred to WCAT.
- If the worker or employer appeals a WCB decision to the Review Board before March 3, 2003, the appeal will become part of the WCAT inventory. These appeals will not be subject to a timeline.
- For WCB claim decisions issued prior to March 3, 2003, a worker or employer may request a review by the Review Division (within 90 days of the decision), and the appeal will be heard and decided within 150 days. With some exceptions, there will be an opportunity to appeal the Review Division decision to WCAT.

Detailed transition information is available at the WCB web site at www.worksafebc.com and at Worker and Employer Adviser offices throughout British Columbia.

Overview of WCB appeal transition

As of March 3, 2003

Workers' Compensation Review Board (WCRB)

- Your appeal has been previously filed with but is not yet under consideration by a panel.
- WCRB panel is already considering your appeal.
- You have not filed your appeal to WCRB but your 90-day appeal period has not expired by March 3, 2003.

Appeal Division (AD) (includes claims, prevention penalties, and assessments)

- The appeal or other matter has been previously filed with the AD but is not yet under consideration by an AD panel.
- AD panel is already considering the appeal.
- You have not filed your appeal to the AD but your 30-day appeal period has not yet expired as of March 3, 2003.

Prevention Division reviews (for non-penalty reviews)

- Your request for review of an order has previously been filed with the Prevention Division.
- The 60-day time period in which you have a right to request a Prevention Division review has not expired, but you have not filed the request by March 3, 2003.

<p style="text-align: center;">Transition information</p>	<p style="text-align: center;">Decision information</p>
<ul style="list-style-type: none"> • Your appeal will be transferred to the Workers' Compensation Appeal Tribunal (WCAT). • Matter will remain with the WCRB. • You will have a right to request a review by the WCB Review Division within 90 days of the WCB decision. 	<ul style="list-style-type: none"> • WCAT will give a final, non-appealable decision. • WCAT time frame does not apply. • WCRB will render a decision that is appealable within 30 days to WCAT. • WCAT time frame does not apply. • If a request is filed, a review officer will make the decision within the 150 days. The decision may be appealable to WCAT. • WCAT time frame will apply.
<ul style="list-style-type: none"> • The appeal or other matter will be transferred to WCAT. • Matter will remain with the AD. • You retain your right to appeal to WCAT within the 30 days. 	<ul style="list-style-type: none"> • WCAT will give a final decision that cannot be appealed. • WCAT time frame does not apply. • AD will give a final, non-appealable decision. • AD time frame applies. • WCAT will give a final, non-appealable decision. • WCAT time frame does not apply.
<ul style="list-style-type: none"> • Matter will remain with the Prevention Division. • You may request a review by the WCB Review Division. 	<ul style="list-style-type: none"> • If the Prevention review officer's decision would have been appealable under the old system (pre-March 3, 2003), it may be appealed to WCAT. • The WCB Review Division will provide a decision that will generally be final.

Frequently asked questions

If I disagree with a WCB decision, what options will I have in the new review and appeal system?

After Bill 63 comes into effect on March 3, 2003, and depending on the nature of the issue you may either request a review of the decision by the Review Division or, in limited cases, you may appeal the decision directly to the Workers' Compensation Appeal Tribunal (WCAT).

Review Division

How long will I have to request a review of a WCB decision?

A request for review must be submitted to the Review Division within 90 days after the WCB decision or order is made (unless the chief review officer extends this time where there are special circumstances and an injustice would otherwise result).

What recourse will I have if I disagree with a decision made by the Review Division?

With some exceptions, Review decisions may be appealed to the Workers' Compensation Appeal Tribunal. If a Review decision cannot be appealed to the WCAT, the chief review officer may, in limited circumstances, direct a review officer to reconsider the decision.

Who may request a review by the Review Division?

Claim decision reviews

The following persons who are directly affected by a WCB decision concerning a compensation or rehabilitation matter may request a review of that decision:

- a) a worker
- b) a deceased worker's dependant
- c) an employer

Prevention reviews

(orders/penalties/certificates)

The following persons who are directly affected by a WCB prevention decision or order may request a review of that decision or order:

- a) a worker
- b) an employer
- c) an owner
- d) a supplier
- e) a union
- f) a member of a deceased worker's family

Assessments/Finance reviews

An employer or independent operator who is directly affected by a WCB decision may request a review of that decision.

How do I request a review of a WCB decision?

When the amendments take effect on March 3, 2003, review application information will be available on the WCB web site at www.worksafebc.com and at WCB office locations.

Workers' Compensation Appeal Tribunal (WCAT)

Will all decisions of the Review Division be appealable to the WCAT?

No. Some Review decisions will not be appealable to the WCAT.

Will a WCAT decision be final?

Yes, the decision will be final. However, each party may apply to the chair of the WCAT for reconsideration of an appeal decision on one occasion only and on limited grounds.

Who will be able to appeal a decision to the WCAT?

Claim decisions

The following persons who are directly affected by a decision by the Review Division concerning a compensation matter may appeal that decision:

- a) a worker
- b) a deceased worker's dependant
- c) an employer

Prevention decisions

The following persons who are directly affected by a WCB prevention decision or order may appeal that decision:

For penalties/certificates:

- a) a worker
- b) an employer
- c) an owner
- d) a supplier
- e) a union
- f) a member of the deceased worker's family

For discrimination decisions:

- a) a worker
- b) an employer
- c) a union

Assessments/Finance decisions

An employer or independent operator who is directly affected by a decision by the Review Division may appeal that decision.

Will there be time limits for appeal to the WCAT?

Yes. A decision of a Review Division review officer must be appealed within 30 days of the decision. An appeal of a discrimination issue or of a decision to reopen or not to reopen a claim must be submitted within 90 days of the decision.

How long will it take to have an appeal heard under the new appeal system?

The WCAT must render an appeal decision within 180 days with some very limited time extensions.

How do I file an appeal to the WCAT?

When the amendments take effect on March 3, 2003, application forms will be available on the WCAT web site and at WCB office locations.

WCAT will be located at:

150 – 4600 Jacombs Road
Richmond BC V6V 3B1

When will the new appeal structure and the WCAT be in place?

The new appeal structure will be in place on March 3, 2003, however changes to the Medical Review Panel took effect November 30, 2002.

Medical Review Panel

I filed an appeal with the Medical Review Panel (MRP) before November 30, 2002. What will happen to my appeal?

Your appeal will be completed by the MRP.

Can I still file an appeal to the MRP if the 90-day period to appeal has not expired as of November 30, 2002?

Your appeal may be filed within 90 days of a medical decision and will be completed by the MRP.

Medical decisions made on or after November 30, 2002 are not appealable to a MRP.

For past decisions, no request for an inquiry into the cause of death of a worker may be filed to MRP after November 29, 2002.

For more information

For more detailed information, please visit the WCB web site at www.worksafebc.com and the Ministry of Skills Development and Labour web site at www.labour.gov.bc.ca.

Or contact:

- **Workers' Advisers** at www.labour.gov.bc.ca/wab

Or call toll-free

Lower Mainland:	
Richmond	1 800 663-4261
Interior:	
Kelowna	1 866 881-1188
Vancouver Island:	
Victoria	1 800 661-4066

- **Employers' Advisers** at www.labour.gov.bc.ca/eao

Or call toll-free

Richmond	1 800 925-2233
Kelowna	1 866 855-7575
Prince George	1 888 608-8882
Victoria	1 800 663-8783

About the WCB

The Workers' Compensation Board of British Columbia is dedicated to the prevention of workplace injuries and disease, providing fair compensation and vocational rehabilitation to injured workers, and facilitating injured workers' successful return to work. The WCB is also committed to sound financial management and the protection of the public interest to ensure a viable workers' compensation system. The WCB serves nearly two million workers and 170,000 employers.

**WORKERS'
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BOARD**
OF BRITISH COLUMBIA

