

Workers' Compensation Board of B.C.

**Guide to the amended
*Workers Compensation Act, 2002***

JULY 2002

WorkSafe™

www.worksafebc.com

Introduction.....	1
Changes to the Act	2
Compensation benefits	2
Cost-of-living adjustment	3
Benefits for permanent disability	3
Mental stress claims	4
Governing structure	5
Further legislation	5
Frequently asked questions	6
For more information	8
About the WCB	8

Introduction

The *Workers Compensation Act* empowers the Workers' Compensation Board (WCB) to set and enforce occupational health and safety standards, provide compensation and rehabilitation benefits to injured workers or their dependants, and collect funds from businesses to operate the workers' compensation system.

On May 13, 2002, the provincial government introduced Bill 49, *Workers Compensation Amendment Act, 2002*. The changes outlined took effect on June 30, 2002 with the exception of governance, which will take effect at a later date. A separate bill (Bill 56) outlining changes to the workers' compensation appeal system was introduced by the provincial government on May 30, 2002. The proposed changes in Bill 56 are not in effect and are not outlined in this brochure.

Changes to the Act apply mainly to those workers who have a new injury on or after June 30, 2002. Workers already receiving benefits will only be affected by changes to the cost-of-living allowance provisions. However, if a worker has a recurrence of a disability or a worker's permanent disability first occurs on or after June 30, 2002, some of the new provisions will apply.

Changes to the Act

The changes to the *Workers Compensation Act* are in these areas:

- Compensation benefits
- Cost-of-living adjustment
- Benefits for permanent disability
 - Integration of Canada Pension Plan (CPP) disability benefits
 - Post-retirement permanent disability benefits
- Mental stress claims
- Governing structure

Note: All WCB decisions are subject to law and policy. The provincial government changed the law and the WCB Panel of Administrators has changed policies. Additional policies are under review.

Compensation benefits

Workers injured on or after June 30, 2002 will receive tax-free wage-loss benefits at the rate of 90 percent of their average net earnings. The previous system calculated benefits at 75 percent of the workers' gross average earnings.

Average net earnings are determined after federal and provincial income taxes, Canada Pension Plan contributions, and Employment Insurance premiums are deducted from the gross average earnings.

Benefits cannot exceed the maximum rate in the Act. The current maximum rate is based on gross earnings of \$59,600 per year.

Cost-of-living adjustment

Benefits will be adjusted for inflation annually, at a rate of 1 percent less than inflation, to a maximum of 4 percent in a year.

This change applies to all workers — including those already receiving benefits and those injured in the future.

Indexing of benefits for the surviving spouse of a deceased worker has not changed. Compensation benefits payable to the dependants will continue to be adjusted for inflation in January and July of each year.

Benefits for permanent disability

Workers who are left with a permanent disability as a result of a workplace injury are entitled to a permanent disability benefit. Calculation of permanent disability benefits will be based on a loss-of-function method of assessment. A loss-of-earnings benefit may be granted in exceptional cases. Permanent disability benefits are payable until the worker reaches age 65. At that time, workers will receive a lump-sum retirement benefit.

Integration of CPP disability benefits

Workers who suffer permanent disability on or after June 30, 2002, and receive Canada Pension Plan (CPP) disability benefits for the same injury will have their WCB permanent disability benefits reduced by half the amount (50 percent) of their CPP disability benefit.

Post-retirement permanent disability benefit

When the WCB awards a permanent disability benefit, in addition to the monthly benefit, the WCB will pay an amount of money equal to 5 percent of the worker's monthly benefit into a special fund. When the worker turns 65, monthly benefits will end and he or she will receive the money in this fund as a retirement benefit.

Workers can volunteer to contribute up to 5 percent of their monthly benefit into the fund.

If the worker dies before age 65, the retirement benefit will be paid to the worker's named beneficiary or to his or her estate.

In addition, every worker who has a permanent *total* disability will receive a special needs review at age 65. For these workers, the WCB will provide those services and personal supports that the Board considers necessary for the lifetime of the worker.

Injured workers in receipt of a WCB pension before June 30, 2002 will continue to receive pensions for life.

Mental stress claims

Compensation is only payable for mental stress in certain situations as outlined in the amended Act.

Governing structure

The *Workers Compensation Amendment Act, 2002*, replaces the Panel of Administrators with a board of directors. The board of directors will be appointed by the Lieutenant Governor in Council and will consist of seven voting directors, including:

- One director representative of workers
- One director representative of employers
- Two directors representative of the public interest
- One additional director representative of the public interest, who is chair
- One director who at the time of appointment is a professional providing health care or rehabilitation services to persons with disabilities
- One director who at the time of appointment is an actuary

The members of the board of directors will be appointed for a specified period, and will work on an as-required basis.

Further legislation

In June 2002, the Ministry of Skills Development and Labour provided a discussion paper on the following subjects:

- Compensation for chronic pain
- Occupational disease compensation
- Survivor benefits
- Rights of an estate
- Vocational rehabilitation
- Funding the system
- Regulation of occupational health and safety
- The appeal system

The government has indicated that legislation covering these topics may be introduced in the fall of 2002 or spring of 2003. For more information, please see the government web site at www.labour.gov.bc.ca.

Frequently asked questions

I am currently receiving a WCB pension. Will it change as a result of the new legislation?

No. Injured workers in receipt of a pension prior to June 30, 2002 will only be affected by the cost-of-living provision in the Act and will continue to receive the pension for life.

I currently receive CPP disability benefits in addition to my WCB pension. Will my WCB pension be reduced to comply with changes to the Act?

No. Workers in receipt of a pension benefit prior to June 30, 2002 will not be affected by the amendments. However, the adjustment for inflation will change. This adjustment will occur once a year in January.

I currently receive a widow's pension based on my spouse's benefits. Will my pension be affected by the new legislation?

No. Your benefits will not change. However, the government has indicated it is continuing to study this issue.

If I applied for workers' compensation benefits before June 30, 2002, will my claim be adjudicated under the old rules or the new rules?

If you were injured before June 30, 2002, any benefits payable will be calculated under the old rules, meaning the benefit level will be 75 percent of your gross average earnings.

If I am injured on or after June 30, 2002, will I be subject to the new rules?

Yes. Any benefits payable for injuries that occur on or after June 30, 2002, will be calculated under the new rules, meaning the benefit level will be 90 percent of your average net earnings.

If I am re-injured on or after June 30, 2002, do the new rules apply?

Some of the new rules will apply if you have a recurrence of a disability on or after June 30, 2002.

Will I continue to receive an indexed pension under the new rules?

Workers who have a permanent disability resulting from their injury will be entitled to a permanent disability benefit based on their loss of function. The monthly benefit will be paid until age 65 and will be indexed for inflation. The WCB will provide an annual inflation adjustment at a rate of 1 percent less than inflation to a maximum of 4 percent.

Are there more changes to come in the future?

Yes. On May 13, 2002, the government introduced Bill 56 dealing with the WCB appeals process. Another group of issues, including occupational disease compensation,

survivor benefits, compensation for chronic pain, and regulation of occupational health and safety, will require more work and/or consultation before legislative change. The government has indicated that legislation covering these topics is anticipated in the fall of 2002 or the spring of 2003.

For more information

If you are an injured worker currently in receipt of benefits or a pension, please contact the WCB officer responsible for your claim, or call 1 888 967-5377 or e-mail newlegis@wcb.bc.ca if you have questions about how the changes may affect you.

Information is also available on the WCB web site at www.worksafebc.com and the Ministry of Skills Development and Labour web site at www.labour.gov.bc.ca.

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 their 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'
COMPENSATION
BOARD**
OF BRITISH COLUMBIA

