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British Columbia News

Workers' compensation changes to better support workers

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Tuesday, July 14, 2020 12:58 PM

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Victoria - Changes to the Workers Compensation Act will provide better support to injured workers and their families and enhance WorkSafeBC's ability to investigate workplace incidents, while keeping premiums low.

"For too many years, we have heard from injured workers in B.C. that the system lacks fairness and doesn't work for them or support them through their injuries," said Harry Bains, Minister of Labour. "Today's changes are an important step in modernizing the Workers Compensation Act, ensuring workers and their families get the support they need, while also increasing everyone's confidence in the system."

The proposed changes focus on improving supports for injured workers, while also advancing worker safety. The changes include:

- raising the maximum annual salary amount on which workers' compensation benefits are based;
- authorizing WorkSafeBC to provide preventative medical treatment before a claim is accepted;
- giving powers to the court to issue WorkSafeBC search and seizure warrants that are appropriate for investigating workplace safety infractions; and
- giving people a voice in serious workplace prosecutions and trials by using victim impact statements.

This legislation will fast-track the effective date of presumptions if established by WorkSafeBC's board of directors for occupational diseases caused by viral pathogens. The presumption would simplify the process for workers who make a workers' compensation claim if they contract viruses on the job. This would ensure that people who are at higher risk of contracting COVID-19 at work are able to access benefits more quickly.

During the COVID-19 pandemic, WorkSafeBC is allowing businesses to defer paying their premiums for six months without penalty or interest. As well, WorkSafeBC is waiving premiums on wages paid to workers of employers receiving the Canadian Emergency Wage Subsidy for the duration of the program.

The amendments are informed by three expert reviews completed during 2018 and 2019 by Lisa Jean Helps, Paul Petrie and Terry Bogyo. Jeff Parr, an industry expert, then consulted with employers, as well as labour and Indigenous organizations, on potential amendments identified in these three reviews and made recommendations. Parr's recommendations, and subsequently these legislative changes, also considered workers' compensation systems in other Canadian jurisdictions and possible effects on future employer premium rates.

Improving fairness in British Columbia's workplaces is a shared priority between government, the BC Green Party caucus and independent MLA Andrew Weaver, and supports the commitment in the Confidence and Supply Agreement.

Quick Facts:

- Of the more than 44,000 injured workers currently receiving permanent disability benefits because of a work-related injury, about 35% are in the greater Vancouver area and the rest are spread throughout all regions of B.C.
- Each year, there are over 100,000 new claims due to workplace injury or fatality.
- Last year in B.C., there were 140 workplace fatalities. Of these, 84 were due to occupational disease, 40 were due to traumatic injury and 16 were the result of a motor vehicle incident. In the last five years, WorkSafeBC has conducted an average of 131 investigations per year. In 2019, WorkSafeBC conducted 141 investigations.

- The purpose of a WorkSafeBC investigation is to determine the cause of a serious incident and any contributing factors, so that similar incidents can be prevented from happening in the future.

Learn More:

To read the reports by Helps, Petrie, Bogyo and Parr, visit:

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/labour/ministry-reports>

A backgrounder follows.

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Backgrounders

Workers Compensation Act amendments

Summary of proposed legislative changes

These amendments address needed improvements to the workers' compensation system to better support injured workers and their families, while keeping the system affordable and stable over the long term for employers.

The following are the significant proposed legislative changes.

Improvements to support workers

- Increasing the amount injured workers will receive through their benefits:
 - Increasing the maximum insurable earnings to \$100,000 from \$87,100. The goal is that at least 90% of B.C.'s workers will have 100% of their earnings covered if they are unable to work due to a workplace injury.
 - Allowing WorkSafeBC to determine a worker's retirement date, therefore the date loss-of-earnings benefits would end, when that worker is nearing age 65, rather than at the time of injury. This allows WorkSafeBC to better determine whether someone may work past the age of 65 and continue receiving benefits.
 - Eliminating the existing test for determining when the loss of earnings or the loss of function method should be used in calculating benefits and ensuring workers will always receive the disability payment that is the higher of the two.
- Expediting health care for a worker before a claim is accepted, when treatment will likely prevent a significant deterioration in health, such as counselling for a mental health issue or preventative treatment for a possible HIV infection.
- Removing a barrier to mental health claims that requires workers to submit a claim within one year from the date of exposure to a workplace traumatic event or stressor. This time limit is not realistic for most workers, given the delay or gradual onset of some mental disorders, so the changes allow WorkSafeBC to develop a policy that recognizes the unique nature of these claims and adjust the one-year limit.

Supporting worker safety

- Giving WorkSafeBC the powers of search and seizure for workplace investigations (through judge-granted warrants) through the Workers Compensation Act, rather than the Offence Act. This could include: the ability to collect samples, search hard drives, seize or compel documents and obtain

tele-warrants. This will provide WorkSafeBC with appropriate power to investigate workplace safety infractions when prosecution is being considered.

- Removing the requirement that WorkSafeBC's president must approve an offence referral to Crown counsel, streamlining the process.
- Allowing courts to hear victim impact statements as part of a prosecution relating to occupational health and safety violations. Victim impact statements are a way for victims to have their say and have a deep meaning to those who provide them.
- Giving courts the power to direct a convicted employer to publish, at their expense, facts about their offences, such as how they contravened the act and the penalties they face. For example, an employer may be ordered to publish these facts in a newspaper or company-wide newsletter. This can act as a deterrent for other employers and provide education on workplace safety issues.

Improving the workers' compensation system

- Allowing the Workers' Compensation Appeal Tribunal to hear cases relating to the Charter of Rights and Freedoms or the Human Rights Code. For example, a worker may bring concerns about being discriminated against by an employer with respect to a workplace injury before the tribunal.
- Establishing liability on corporate directors for unpaid premiums or other amounts owed to WorkSafeBC, making it harder for employers to avoid paying premiums and levelling the playing field for employers that follow the rules.
- Allowing WorkSafeBC to correct or acknowledge obvious errors of a decision past the 75-day time limit for reconsideration, which will be fairer for workers and employers when an erroneous decision is made. For example, previously if WorkSafeBC made a mistake in determining worker benefits, that decision could not be corrected and the worker compensated unless the mistake was discovered within 75 days of a decision.

WorkSafeBC's Accident Fund

The workers' compensation system has been in place since 1917 to provide no-fault compensation benefits to injured workers and surviving dependants for work-related injuries, diseases, mental health disorders and fatalities, along with health care and vocational rehabilitation services for injured workers.

Funding for the workers' compensation system is generally collected through payroll assessments (premiums) that WorkSafeBC levies on employers and investment returns. The funds are deposited into WorkSafeBC's Accident Fund, out of which workers' compensation benefits and other services, including health care and vocational rehabilitation, are provided to injured workers and to surviving dependants when there is a workplace fatality.

Informing the amendments

These changes were informed by recommendations from expert consultant Jeff Parr. His report, Consultation Report on Potential Amendments to British Columbia's Workers Compensation Act, was released in conjunction with the Workers Compensation Amendment Act 2020.

Parr's recommendations were based on and informed by three reports. Each looked at a different aspect of the workers' compensation system: WorkSafeBC's approach to investigations and prosecutions (Helps Report), WorkSafeBC policies (Petrie Report) and the WorkSafeBC Accident Fund (Bogyo Report). Parr also consulted with industry, organizations, Indigenous organizations and interest groups to further enhance his understanding of the topics for his report. Parr's report was received by the Minister of Labour in February 2020 and is a foundational piece informing the provisions in this legislation.

Translations

- [7-14-20 WCA French.pdf](#)
- [7-14-20 WCA Punjabi.pdf](#)
- [7-14-20 WCA Spanish.pdf](#)
- [7-14-20 WCA Tagalog.pdf](#)