

WORKERS' COMPENSATION ACT
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WORKERS' COMPENSATION GENERAL REGULATIONS

The Commissioner, on the recommendation of the Minister, under section 169 of the *Workers' Compensation Act* and every enabling power, makes the annexed *Workers' Compensation General Regulations*.

1. An offender as defined in the *Fine Option Regulations* who is participating in a fine option program established under the *Fine Option Act* or a person on whom a community service order has been imposed by a court is deemed to be a worker.

1.1. The maximum remuneration referred to in the definition "Year's Maximum Insurable Remuneration" in subsection 1(1) of the Act is

- (a) in respect of a worker, \$70,600 for each year;
- (b) in respect of a harvester of wildlife deemed to be a worker, \$34,890 for each year; and
- (c) in respect of the determination of the assessable payroll of employers for the year, \$70,600 for each year.

2. The report required under section 17 of the Act must give the full name and address of the worker and is sufficient if it states in ordinary language

- (a) the cause of the personal injury or disease;
- (b) the date and place of the occurrence giving rise to the personal injury or disease; and
- (c) an explanation of the occurrence giving rise to the personal injury or disease.

3. (1) Where a worker is required to undergo medical examination or treatment at the direction or with the approval of the Commission at a place other than that in which he or she resides, he or she shall take the most direct route and shall use the most economical means of transportation available.

(2) The Commission shall provide a voucher or reimburse the worker for the actual cost of regularly scheduled public transportation, including the cost of necessary transportation by taxi-cab.

(3) Where regularly scheduled public transportation is unavailable or inconvenient, the worker may make use of a private motor vehicle and shall be reimbursed for its use at the rate of \$0.565 per kilometre.

(4) Where a worker is required to be away from the place in which he or she resides for the purpose of examination, treatment or participation in a Commission sponsored rehabilitation program, the Commission shall pay the worker a daily subsistence allowance at the following rates:

- (a) for meals:
 - (i) breakfast.....\$19.65,
 - (ii) lunch.....\$26.60,
 - (iii) dinner.....\$56.40;
- (b) for incidental expenses.....\$17.30;
- (c) for overnight commercial accommodation, the amount charged by the provider of the accommodation if the Commission has pre-approved the commercial accommodation and a receipt is provided to the Commission;
- (d) for overnight non-commercial accommodation.....\$50.00.

(4.1) The Commission shall pay, to a person escorting a worker referred to in subsection (4), a subsistence allowance equal to that payable to the worker under subsection (4) if the Commission is satisfied that

- (a) the worker should, for medical or other reasons, be escorted by another person; and
- (b) the person who escorts the worker is a suitable escort.

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(5) No subsistence allowance is payable to a worker for a period during which the worker is being provided by the Commission with board and lodging in a hospital or other place of treatment.

4. (1) Medical aid accounts in respect of injured workers must be rendered as soon as practicable after the date of the conclusion of the treatment of the worker for whom the service has been provided or the date it first became known to the health care provider that they were services for which the Commission was liable to pay.

(2) The Commission shall not pay medical aid accounts in respect of injured workers unless they are rendered to it within one year after the provision of the services in respect of which they are rendered, but the Commission may authorize payment of an account if it is satisfied that the late rendering of the account was excusable under the circumstances, and where an account is not submitted in a current and regular manner the Commission may discount the account in an amount equal to 25% of the sum that it would ordinarily have paid.

4.1. The limit for funeral expenses referred to in paragraph 48(3)(a) of the Act is 13% of the Year's Maximum Insurable Remuneration for the year in which the death occurs.

4.2. (1) A worker's annual deductions under section 59 of the Act are the Commission's estimates, based on the worker's gross annual remuneration as determined in accordance with section 58 of the Act, of the following:

- (a) the income tax payable by the worker for the year under the *Income Tax Act* and the *Income Tax Act* (Canada);
- (b) the contribution payable by the worker for the year under the *Canada Pension Plan*;
- (c) the employee's premium payable by the worker for the year under the *Employment Insurance Act* (Canada).

(2) In estimating the income tax payable by a worker for the purposes of paragraph (1)(a), the Commission shall apply the following rules:

- (a) the worker's gross annual remuneration, determined in accordance with section 58 of the Act, shall be the only income considered;
- (b) an amount shall be deducted from the income referred to in paragraph (a), calculated according to the formula
$$1.5 \times (A + B)$$
where
 - (i) A is the basic personal amount calculated in accordance with section 2.16 of the *Income Tax Act*, and
 - (ii) B is the basic personal amount under paragraph 118(1)(c) of the *Income Tax Act* (Canada);
- (c) no amount other than that specified in paragraph (b) shall be deducted from the income referred to in paragraph (a), before estimating the income tax payable by the worker;
- (d) the income tax payable by the worker shall be calculated in accordance with the *Income Tax Act* and the *Income Tax Act* (Canada), regardless of where the worker may be considered to reside for income tax purposes;
- (e) if the Commission considers it likely that section 4.1 of the *Income Tax Act* will apply to the worker, the Commission shall estimate the amount the worker may deduct under that section, and shall subtract that amount from the amount calculated in accordance with paragraph (d).

4.3. The limit for an allowance referred to in paragraph 47(1)(c) of the Act for the replacement or repair of clothing damaged by reason of

- (a) the wearing of an upper or lower limb prosthesis or appliance supplied by the Commission, is \$500 a year; or
- (b) being confined to a wheel chair supplied by the Commission, is \$1,000 in a year.

4.4. A workers' allowance under paragraph 47(1)(b) of the Act is to be determined on a case by case basis in accordance with the Governance Council's policies in respect of such allowances.

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5. (1) Where the whole or any portion of an assessment or special assessment levied on an employer is in default after the day on which it is due, the employer shall, in respect of each month or portion of a month that the default continues, pay a penalty calculated each month according to the following formula:

$$A \times 2\%$$

where A is the amount in default as adjusted, where applicable, under subsection (2).

(2) For the purposes of subsection (1), the "amount in default" shall be adjusted, on the first day of every month that the default continues, to include the amount of the penalty payable under that subsection in respect of the previous month, if any.

6. (1) The amount of expenditure in excess of which a municipal corporation must give written notice under section 160 of the Act is \$25,000.

(2) The penalty to which a municipal corporation is subject for contravening section 160 of the Act is \$250.

7. (1) The penalty payable under paragraph 141(1)(a) of the Act for failing to send a report, return or other information required under the Act is

- (a) \$250 for the first or second failure in a 12-month period;
- (b) \$500 for the third or fourth failure in a 12-month period; or
- (c) \$1,000 for the fifth or any subsequent failure in a 12-month period.

(2) The penalty payable under paragraph 141(1)(a) of the Act for failing to send a payroll statement as required under the Act is

- (a) in the case of an employer that was not required to pay an assessment for the previous year, 15% of the employer's assessment for the current year; or
- (b) in the case of any other employer, 15% of the employer's assessment for the previous year.

(3) Despite subsection (2):

- (a) if the penalty calculated according to subsection (2) is less than \$25, the penalty is \$25; and
- (b) if the penalty calculated according to subsection (2) is more than \$10,000, the penalty is \$10,000.

7.1. The penalty payable under paragraph 141(1)(c) of the Act is

- (a) \$250 for the first or second failure in a 12-month period;
- (b) \$500 for the third or fourth failure in a 12-month period; or
- (c) \$1,000 for the fifth or any subsequent failure in a 12-month period.

7.2. The penalty payable under subsection 141(2) of the Act is \$250.

7.3. The penalty payable under subsection 141(4) of the Act is

- (a) \$1,000 for the first disclosure in a 12-month period;
- (b) \$2,500 for the second disclosure in a 12-month period; or
- (c) \$5,000 for the third or any subsequent disclosure in a 12-month period.

7.4. The penalty payable under paragraph 141(1)(b) of the Act is an amount equal to 15% of the employer's payroll assessment for the year in which the payroll statement was to be provided.

7.5. (1) The penalty payable under paragraph 141(1)(d) of the Act is an amount equal to the product of the following formula

$$(A - B) \times C \times 10\%$$

where

- (a) A is the employer's actual payroll;
- (b) B is 125% of the stated or estimated payroll; and

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- (c) C is the assessment rate applicable to the period for which the payroll statement or estimate is made.

(2) Despite subsection (1), no penalty is payable where the actual payroll amount is less than 125% of the stated or estimated payroll.

(3) Despite subsection (1), no penalty is payable if the penalty calculated under that subsection is less than \$50.

8. (1) A director of the Governance Council, other than the chairperson and the President, shall be paid the following remuneration:

- (a) \$500 every three months;
- (b) while travelling to or attending a meeting or function of the Governance Council, while on training authorized by the Governance Council or while attending to official business of the Governance Council assigned to the director by the Governance Council,
 - (i) for each half-day up to 3.5 hours, \$175,
 - (ii) for each full day up to 7.5 hours, \$350, and
 - (iii) for time spent in addition to a full day, \$175.

(1.1) Despite paragraph (1)(b), a director who receives pay from his or her employer while acting under paragraph (1)(b) shall be paid the difference between the amount he or she would have received under paragraph (1)(b) and the pay received from his or her employer.

(2) A director of the Governance Council shall not be paid remuneration under subsection (1) or (1.1) for any day that he or she spends travelling to or attending a meeting or function of the Governance Council or training authorized by the Governance Council if the director is absent for 50% or more of the meeting, function or training, unless the Governance Council is satisfied that the director has a reasonable excuse for the absence.

(3) The chairperson of the Governance Council shall be paid \$60,000 for each 12 month period that he or she serves as chairperson.

8.1. The Minister shall appoint directors to the Governance Council under section 84 of the Act so as to ensure that the Governance Council collectively hold the following qualifications:

- (a) knowledge of corporate governance;
- (b) experience in financial and strategic management;
- (c) knowledge of administrative law;
- (d) understanding of the role of policy;
- (e) understanding of the issues facing employers and workers in Nunavut;
- (f) knowledge of occupational medicine;
- (g) knowledge of workers' compensation;
- (h) understanding of collegiality and cooperative interpersonal relations;
- (i) high ethical standards;
- (j) understanding of gender issues;
- (k) understanding of regional issues in Nunavut.

9. (1) A member of the Appeals Tribunal, other than the chairperson, shall be paid at a rate of \$113.33 each hour to a maximum of 7.5 hours in a day, for

- (a) travelling to or attending a meeting or function of the appeals tribunal or training authorized by the Appeals Tribunal; or
- (b) attending to official business of the Appeals Tribunal assigned to the member by the Appeals Tribunal.

(2) A member of the Appeals Tribunal shall not be paid remuneration under subsection (1) for any day that he or she spends travelling to or attending a meeting or function of the appeals tribunal or training authorized by the Appeals Tribunal if the member is absent for 50% or more of the meeting, function or training, unless the Appeals Tribunal is satisfied that the member has a reasonable excuse for the absence.

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(3) The chairperson of the Appeals Tribunal shall be paid under the terms of a contract for service, which will provide for compensation not to exceed \$140,000 each year.

10. The annual report of the Commission required under subsection 106(1) of the Act must include financial statements of the Commission prepared in accordance with generally accepted accounting principles, which shall include

- (a) a balance sheet presenting fairly the financial position of the Commission; and
- (b) a statement of the revenues and expenditures of the Commission.

11. The annual report of the Office of the Workers' Advisor required under section 111 of the Act must include information about

- (a) the number of files in the Office's caseload;
- (b) the length of time each file has been opened;
- (c) the issues involved in each file;
- (d) demographic information on the client base; and
- (e) any other information the Workers' Advisor considers necessary and advisable.

12. The annual report of the Appeals Tribunal required under subsection 125(1) of the Act must include information about

- (a) the number of appeals filed in the reporting year;
- (b) the length of time each file has been open;
- (c) the issue involved in each appeal;
- (d) the average number of days from the filing of an appeal to the rendering of a decision;
- (e) the decisions of the Appeals Tribunal in respect of which judicial review is being sought;
- (f) an accounting of the number of Review Committee decisions confirmed, reversed and varied by the Appeals Tribunal;
- (g) the number of files closed in the reporting year; and
- (h) any other information the Appeals Tribunal considers necessary and advisable.

13. The *Workers' Compensation General Regulations*, R.R.N.W.T. 1990, c. W-21, as duplicated for Nunavut by section 29 of the *Nunavut Act*, are repealed.