

**Alberta WCB
Policies &
Information**

Chapter:
**INSURANCE COVERAGE FOR WORKERS &
EMPLOYERS**

Subject:
EMPLOYERS & WORKERS

Authorization:
BoD Resolution 2002/10/49

Date:
September 24, 2002

APPLICATION 5: COVERAGE OUTSIDE OF ALBERTA

1. *Does Alberta workers' compensation coverage apply to workers injured outside of Alberta?*

Alberta workers' compensation coverage applies to workers who are injured while working outside of Alberta, provided they are employed by an employer operating in an industry to which the Act applies, and all of the requirements of s.28(1) are satisfied.

2. *What are the requirements of section 28(1)?*

Section 28(1) sets out three basic requirements for extensions of coverage outside Alberta (see Question 3):

 - a) the worker is either a resident of Alberta,

OR

the worker's usual place of employment is in Alberta and the work out of the province is a continuation of employment with the same or a related employer (see Question 6)
 - b) the nature of the employment is such that, in the normal course, performance of the worker's work or service is required both in and out of Alberta
 - c) the employment out of Alberta has lasted less than 12 continuous months (see Questions 4 and 5)

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3. *Must all three requirements of s.28(1) be met?* Normally, all three requirements must be met for coverage to be automatically extended for work outside Alberta. However, s.28(2) gives the WCB the discretion to waive any of the requirements of a) and b) on application by the employer, subject to any terms the WCB considers appropriate. The WCB will consider each application on its own merits.

The following are some examples of when coverage would not be extended automatically:

- The work performed out of the province is in a different industry than the work the employer performs in Alberta
- The employees working out of the province are transferred to a related company that either does not operate in Alberta or operates in a different industry in Alberta
- The employees are not Alberta residents and have not established continuity of employment before working outside Alberta (see Question 6)

If an application to waive the requirements of a) and b) is approved, coverage will be effective the date of application or the date the worker begins the work outside Alberta, whichever is later. To avoid gaps in coverage the application must be made before the worker begins the work outside Alberta.

Section 28(2) also gives the WCB the discretion to extend the 12-month period (see Questions 4 and 5).

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4. *How long does workers' compensation coverage apply outside of Alberta?*

A worker who meets the first two requirements under s.28(1) is automatically covered for the first twelve months working outside of Alberta. When, under s.28(2)(a), the WCB has waived any of the requirements, the details of coverage may vary depending on the terms the WCB has set.

Employers may apply for subsequent extensions. To avoid gaps in coverage, the application should be made before the initial period expires.

5. *What are the guidelines for granting an extension beyond the first period?*

Requests for extensions will be considered only when the worker continues to meet the requirements of s.28(1)(a) and (b) of the Act or the terms approved by the WCB under s.28(2)(a). An extension will not be granted when a worker:

- is engaged in employment that is related to military activities, or
- is employed in another Canadian jurisdiction, and comparable coverage is available from the workers' compensation authority in that jurisdiction.

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6. *How does the WCB define continuous service?*

The requirement for continuous employment applies only to workers who are not Alberta residents but whose usual place of employment is in Alberta.

For WCB purposes, continuous service means that the worker has worked for the employer or related employer* within Alberta for some period immediately before being sent to work out of the province.

When a worker is laid off for any period of time, the worker's service is considered to be broken. Workers who are rehired after temporary lay-offs must re-establish continuous service before the Alberta WCB will extend coverage out of the province for them. Vacation or sick leave is not considered a break in employment, and does not affect a worker's status.

Each case will be judged on its own merits; however, short-term orientation and similar training programs are not usually considered sufficient to establish continuity of employment.

*Related employers are those that meet the criteria in s.134 of the Act.

7. *What obligations do employers have when work is being performed both in and out of Alberta?*

Employers operating in more than one jurisdiction must contact the workers' compensation authority in each jurisdiction to determine the applicable laws. Employers are responsible for complying with the workers' compensation legislation of any other jurisdiction, even when WCB-Alberta has extended out-of-province coverage to Alberta-based workers in that other jurisdiction.

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8. *Do employers with workers in more than one jurisdiction have to pay workers' compensation premiums to each jurisdiction?*

When a non-Canadian jurisdiction requires that an employer establish an account, the employer may be required to pay premiums on the insurable earnings paid in that jurisdiction to both the Alberta WCB and the non-Canadian jurisdiction.

Employers operating in Canadian jurisdictions are subject to the *Interjurisdictional Agreement on Workers' Compensation* (the Interjurisdictional Agreement). The Interjurisdictional Agreement is intended to avoid duplicate payment of premiums and to aid injured workers in claiming and receiving compensation when two or more jurisdictions are involved.

In the Canadian jurisdictions that agree to these provisions, the employer only pays premiums to the WCB in the jurisdiction where the work is performed. If a worker's total earnings exceed the maximum insurable in a jurisdiction, the Interjurisdictional Agreement provides formulas for pro-rating the excess amount between jurisdictions (see Policy 06-03, Premiums).

When work is performed in jurisdictions where the WCB has not agreed to these provisions, the employer may be required to pay premiums to both the jurisdiction where the work is performed and to the Alberta WCB.

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9. *When an Alberta worker is injured outside the province, in which jurisdiction does the worker claim?*

If a worker under the Alberta Act is injured in another jurisdiction, the worker may be entitled to compensation or some other legal remedy in the jurisdiction where the accident occurred.

The injured worker has the right to choose between:

- claiming compensation under this Act, or
- claiming compensation or the other remedy under the law of the other jurisdiction.

10. *Does the Interjurisdictional Agreement include any special provisions for individual industries?*

Yes. An agreement has been reached between employers in the trucking industry and all Canadian jurisdictions except Saskatchewan. *The Interjurisdictional Trucking Agreement (ITA)* is optional, and allows participating employers to pay premiums to the workers' compensation authority in their home province only. Employers must be in the trucking industry in all jurisdictions, and must have coverage for all individuals operating the trucks, including the employer, partners, or directors of the corporation (whichever is applicable).

11. *When is this application effective?*

This policy application (Application 5, Coverage Outside of Alberta) is effective May 21, 2002, except when noted otherwise in specific policy section(s).