



Stakeholder Feedback

Online consultation on the topic below was posted from May 14 to July 15, 2019. The verbatim comments received by WCB-Alberta during online consultation are reproduced below.

High-level review of employer accounts and premium policies

<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
AECOM Maintenance Contractors	Employer	<p>Years ago a worker had to be in the course of employment and a hazard of that employment to have an acceptable claim.</p> <p>Now they have worded the acceptance letter to say if you are on the employers property and something happens (bending down causing injury, no tools or working when this occurs) but because they are on our property they are covered. There is no hazard of the employment that caused the injury. This has been removed from the verbage. It is frustrating and it is now if you are a worker you are covered no matter what.</p> <p>They are definitely worker favoured, there is NO balance employer/worker. I know it is workers comp, but it is also employers money paying for this coverage when a worker is at work injured while working.</p> <p>Very frustrating.</p>
Organization not provided	Employer	<p>The systems for determining premium installments and payments is overly (and needlessly) complex. Every WCB AB account has a different number of possible installments and due dates and this changes every year.</p> <p>My personal opinion: I would like to see WCB AB go to a reporting and premium payment model similar to Ontario or BC. One that is based on actual payroll amounts processed rather than estimated amounts.</p> <p>Consistent payment schedules (e.g. Monthly or Quarterly) and corresponding due dates (e.g. end of the month following period end date) would make things easier to manage.</p>

Stakeholder	Category	Comments
		<p>Additional work is also required to ensure that estimates are not exceeded (otherwise fines are levied) and managing this can be particularly difficult for companies with multiple projects or large variations in payroll throughout the year.</p> <p>Thank you for the consideration of my comments.</p>
Canterbury Foundation	Employer	<p>Here are some questions to keep in mind when you're reviewing the policies and providing your feedback:</p> <p>Do you understand the policy? The policies are hard to find and understand which policy applies to what situation and injury and claim. The policies are hard to interpret and predict if the claim will proceed. It is up to the adjudicator and never a review by the employer, employee and wcb.</p> <p>Is there information you didn't understand? How the policies are applied and interpreted.</p>
Perma Pipe Canada	Employer	thanks
West Country Hearth	Employer	<p>I would like to start off by saying that our organization has worked hard over the last few years to improve our safety program. This is in part due to the support from CCSA, OH&S and WCB. I am happy to say that we are now COR certified and have embraced a safer work environment.</p> <p>In saying this there are still instances where we are frustrated with WCB. There are times when it doesn't seem fair. I will give 2 examples that I hope you will consider making policy changes for.</p> <p><i>[Specific examples have been removed as they could be used to identify the individual workers involved. The examples are on topics outside of this policy review.]</i></p> <p>I appreciate the opportunity to provide feedback.</p>
Calfrac Well Services	Employer	Overall we generally understand the policies that directly apply to our type of business.



<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
AMA	Employer	<p>We have a strong interest in Policy 06-01 as we hire contractors on a regular basis, the majority of which we expect to have their own account and coverage with the Workers' Compensation Board (WCB). We believe that these contractors would be proprietors as defined in WCB policies. As it pertains to the test WCB uses to determine who is a proprietor, ideally we would like it to be consistent with the Canada's Revenue Agency (CRA) definition of a contractor or business. This way the test would be easier for the public to understand and abide by (and WCB acknowledges the confusion in the Backgrounder). WCB, employers and workers will also then have access to the huge volume of court decisions deciding what parties qualifies as a contractor (and can obtain their own WCB account) or an employee (and WCB coverage should be under the employer or head contractor), which again provides the public clarity and gives WCB jurisprudence to rely on if they should have to make a determination as to how a party would obtain WCB coverage. Should WCB wish to not follow the CRA criteria, we would suggest the list of criteria to determine if a party is a contractor or proprietor, put more weight on the determining the contractor's commitment, independence and potential, as opposed to the factual circumstances at the time of application. This could be flushed in the following 6 criteria</p> <ol style="list-style-type: none"> 1. That they are an Incorporated entity, which shows commitment to running an independent business 2. Separate bank account and accounting for the incorporated entity, which again shows commitment to running an independent business 3. The offering of tools and/or talent. We don't agree that a significant investment in tools and equipment should be part of any criteria WCB uses. For example there are good business consultants available for hire, but all they own is a laptop, phone and a home office, all of which can be switched for personal use should the business no longer operate, thus making these purchases not a significant investment. But the reality is that there is no other equipment that is needed or to be invested in to have that type of business. It is the proprietor's experience, ability and talent that is the most valuable asset (but you can't put a price on it). To the matter of

Stakeholder	Category	Comments
		<p>potential, entrepreneurs just starting their business will not necessarily be able to afford a large dollar amount of tools and equipment. If their business grows, they will then be able to invest in more. But at the same time, the person just starting up their business is the most vulnerable and would benefit from the security of WCB coverage</p> <p>4. Number of concurrent clients. Many contractors (especially if they obtain a big job) may only have the capacity to do work for one client at a time. As such, how many active clients does the proprietor have at the time of applying for WCB coverage should not be a material criteria. Rather we believe the test should be does this proprietor have the potential to take on more than one client at once if the opportunity arises. A telltale sign would be to review for exclusivity clauses in any contract for services. If a contractor only has one client, and the contract states the contractor can only work exclusively for the client, then it would be fair to say the contractor should be under the client’s WCB account.</p> <p>5. Profit or loss: Would suggest that this be determined on a project or assignment basis. For example, a proprietor takes on a project and charges their fee based on the project being completed on 40 hours of work. If the proprietor finishes the work sooner, they gain extra profit. If the project takes much longer they bear the risk of actual loss. It appears WCB applies the profit or loss based on an entrepreneur possible losing a lot of money if their business fails due to the fact they invested in a lot of expensive tools and equipment. We do not agree with the criteria being applied this way. A good entrepreneur naturally leans towards minimizing risk, such as not investing in a lot of equipment unless they have to. But that does not mean they do not have a proper independent business.</p> <p>6. When an entity hires a contractor, it should be on an assignment or project basis. The purchaser only expects the completion of tasks or a project, the purchaser does not dictate at what pace it gets done, what times each day the project must be worked on or how the task is to be completed. This is a clear delineation between an employer and an independent contractor in the CRA criteria we feel should be adopted by WCB as well.</p>

<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
ITF Association	Employer Association	<p>As a general statement, as part of the evergreen process all benefit policies should be reviewed to ensure they are still serving their intended purpose and remain aligned with the philosophy of workers compensation. Policies should also be amended where required to be less ambiguous, which should result in more consistent application by WCB decision makers and other bodies such as the Appeals Commission. While this could be more indepth than initially planned, it provides for a different type of review than only responding to issues identified by stakeholders and would be of greater benefit overall..</p> <p>In all cases involving policy change, the projected costing should be signed off by the Board Chair and communicated to stakeholders as part of the policy consultation process. On all issues that will result in a direct cost impact for employers, either positive or negative (cost relief, combining experience, poor performance surcharge, etc.), the WCB should hold face-to-face meetings with affected employer groups where the WCB can present the issues and stakeholders can ask questions, understand the position of other groups, and all participants gain a better understanding of the reasons for and impact of any proposed changes.</p> <p>1. Employers & Workers</p> <p>The Employer account and premium policies should be designed for and effectively meet the needs of Alberta employers without unnecessary administrative burden. Revisiting the business test definition because the criteria do not match Canada Revenue Agency’s definition should not be a significant factor. Any of these differences can be managed by focusing on timely, effective and appropriate communication with employers to whom this applies. There would need to be legitimate issues identified by a significant number of Alberta employers in order for this to be a valid reason for a change.</p> <p>While the scenario provided sounds straightforward at first glance, it isn’t necessarily accurate. It states that because contractor B is supplying labour and expertise only, that ABC Trucking would include them in their coverage. This would be true if contractor B is being paid directly by ABC Trucking. What is not indicated is that under WCB rules, a Ltd. or Inc. company cannot cover another Ltd. or Inc. company. Avoiding situations where individuals “fall through the</p>

Stakeholder	Category	Comments
		<p>cracks” for reasons such as this and find themselves without WCB coverage should be the focus of any review of Policy 06-01. Simplifying the criteria, reducing the number of categories where it makes sense, and defining a default position for WCB coverage are suggestions for this review.</p> <p>2. Optional Coverage</p> <p>It is preferable if employers who choose optional coverage in an exempt industry can select which employees or classes of employees are covered. This allows for the optimal functioning of the WCB insurance system, i.e. those who need insurance can be covered; and those who do not, need not be “lumped in” under one broad coverage category.</p> <p>The WCB Act does not mandate coverage for Corporate Directors, but optional personal coverage is available to cover directors of a corporation for loss of wages in the event of an injury. It was never meant to protect them from lawsuit. Unfortunately, wording in the Alberta WCB Act exposes Directors to this liability. For construction, the Corporate Director is often the employer on site, and the Director could still be subject to litigation even though the corporation is covered by the WCB. In the absence of a legislative amendment to remove this loophole, WCB policy should be reviewed with a view to addressing or mitigating this unfortunate situation.</p> <p>3. Premiums</p> <p>1. Regarding the specific question on dividends and shareholder loans and minimum coverage, if the individual wants additional coverage, they could apply for additional coverage much like volunteers (see 06-01, Part II, Application 3, Q4). That way they are paying into the system for that amount of coverage. Individuals who are not interested in coverage for dividend payments would not automatically have additional premiums imposed. Overall, the WCB needs to better educate people applying for personal coverage, especially to educate them about 06-03, Part II, Application 4, Q8). There is also a connection with Policy 04-01 as well around establishing net earnings.</p>

Stakeholder	Category	Comments
		<p>2. 06-01, Part II, Application 1, Q4: add what happens if the employer in an exempt industry wants to cease optional coverage</p> <p>3. 06-01, Part II, Application 1, Q6: need to clarify what happens if they are exchanging labour in different industries, both of which are covered</p> <p>4. 06-01, Part II overall the policy includes terms that may cause confusion - shareholder, directors, principals, proprietor, operator, agent, employer, outworker. The definitions could be put up front for ease of reference, or the complexity around all this could easily be resolved if WCB covered everyone.</p> <p>5. 06-01 Part II Application 2, Q17: what about proprietors working for the Federal Government?</p> <p>6. 06-01, Part II, Application 3, Q3: family members aren't covered but volunteers are? The reasons for this distinction should be revisited given the changing business situations in the current economy.</p> <p>7. 06-01, Part II, Application 3, Q6: is a child (someone grades 1-12) a learner? This isn't clear. What about university-level athletes and gym class or related courses?</p> <p>8. 06-01, Part II, Application 3, Q7: the word "volunteer" should be added in front of the sub-section on emergency service workers, because as it is written right now, it appears that any injury to an emergency worker (paid or not) could fall under this section</p> <p>9. 06-01, Part II, Application 3, Q8: why cover teachers only when they are teaching and not performing all the other non-teaching duties of teachers?</p> <p>10. 06-01, Part II, Application 5: if they come back for a day or a week, does that mean that the 12 month period can begin again? Q6: "some period" needs to be further clarified - is a month enough? Q8 & 9: seems to me like a worker could pick the most profitable jurisdiction to claim under.</p>

Stakeholder	Category	Comments
		<p>11. 06-02, Part I: the Protection from Civil Action section may need to be amended.</p> <p>12. 06-03, Part 1, Interpretation 3 and 06-03, Part II, Application 4, Q1: add information that assessable earnings are the monies made with that employer only.</p> <p>13. 06-03, Part II, Application 2, Q3: Is there a potential for small employers to pay their premiums at the end of each month based on how much what they have paid for salaries that month? They would still need to do the adjustment at the end of the year, but there would be less variance. Paying averaged out monthly payments impacts the cash flow for small employers especially when profit margins are so tight due to the economy. For example, an electrical company might only have one worker in that month rather than another month having 10 employees. They should be able to pay premiums at the end of the month based on what they actually owe.</p> <p>4. Classification</p> <p>1. Critical in reviewing this set of policies is identifying the key factors WCB should use when classifying an employer's operations. Philosophically the key considerations for us are:</p> <ul style="list-style-type: none"> ○ Similar risk businesses are lumped together - WCB classification requires a balance where similar businesses are assigned to the same industry in which classification does not frequently change (e.g. road builders in other provinces see more year to year business re-classification based on their specific work projects whereas in Alberta the classification is more broad resulting in no industry classification movement ○ Classification creates an even playing field. Similar businesses need to experience similar industry classification so that no one is provided a competitive advantage by their WCB industry classification and reduced overhead costs ○ Ensuring coverage for workers - Creative classification and our changing work world (e.g. gig economy) may impact the coverage of workers. WCB classification processes need to

<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
		<p>consider the importance of providing coverage to these individuals. Individuals reducing coverage need to be made aware of the consequences of their decisions (e.g. personal coverage)</p> <p>The scenario of the operator /driver hired as a contractor rather than an employee, raises the potential for owners dumping all their employees and re-hiring them as contractors so they don't have to pay the WCB premiums. These supposed contractors will only get basic coverage which does not cover injury costs and leaving them without protection.</p> <p>With respect to the WCB example of the trucking company delivering furniture - we suggest that this is a trucking firm. Not classifying this company as trucking would jeopardize the first two of our key philosophical considerations.</p> <p>2. Franchises - These businesses should be included in the industry appropriate for their business operations (e.g. a restaurant franchise should be a restaurant). The franchisor is typically not in the hands-on restaurant business subsequently they do not have the same risks (food prep, cooking, serving) and therefore they should be classified elsewhere. It is important to be cognizant that there needs to be a level playing field when comparing a restaurant franchisor to an owner of multiple restaurants. If operating a business that is stand alone to the restaurants the owner of multiple restaurants should be treated similarly to the franchisor.</p> <p>3. Category 86913 v. Category 62300 for software companies needs clarification. Technology is developing rapidly. Software companies and SAAS providers are delving into new areas. Currently, Industry Code 86913 provides for an exemption for software design companies, independent of hardware sales. Is this category sufficiently defined to clarify the types of software companies that are exempt? The wording is broad, and software companies are finding it difficult to know whether their activities give rise to this exemption classification. Many software companies provide some sort of hardware as part of their packages</p>

Stakeholder	Category	Comments
		<p>4. Regarding the changing of the classifications, other provinces focus solely on activity so when an employer gets a new job or a large project with different phases the employer is required to change the classification (i.e. underground then to concrete etc.). This should be avoided as it creates an administrative burden that is unnecessary and couple potentially impact the experience rating system if classifications get too small to cover the costs.</p> <p>5. Experience Records</p> <p>Policy 07-02 in its entirety needs to be reviewed in light of the legislative changes, especially with the psychological injury acceptance change as it relates to those participating in ICP. There is no way an employer can pre-screen a candidate out because they have had a pre-existing mental health condition and this Policy was written prior to this change, making it more unreasonable for employers to be responsible for all the costs associated with that.</p> <p>In addition, circumstances surrounding third part recovery and transfer of claim costs should be reviewed within the context of parent/operating company arrangements and lessor/lessee agreements.</p> <p>6. Financial Administration of Safety Association Grants</p> <p>Safety Associations all have a governance structure that includes oversight by a Board of Directors elected by their membership. The Boards approve funding and are responsible and accountable to their membership for monitoring activities of the Association. The membership is comprised of employers and other stakeholders as appropriate. There is no value add for the WCB to have any involvement in oversight of these Associations.</p> <p>That said, the WCB should continue to periodically confirm employer/industry support to fund the safety association. The process for confirming ongoing industry support should be specified and include seeking written confirmation annually with the direction and strategic plan from key stakeholders for each Association.</p>

<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
Continuing Care Safety Association	Other	Regarding Policy 06-01 Part I, Employers and Workers and Part II, Application 3 - Workers; consideration should be given to defining unpaid workers and volunteers by type of services provided and the number of hours worked rather than by the type of employer. In continuing care industries, which traditionally more heavily utilize volunteers/unpaid workers than other industries, the services often provided by volunteers are the same regardless of the type of employers. Rather the difference is dependent on the types of services the volunteers can/are able to do based on the types of residents and services in the facility/community. - Consideration should also be given to the types of services and/or the number of volunteer hours rather than classifying all volunteers/unpaid workers the same. Meaning currently volunteers and/or unpaid workers are treated the same regardless of whether they volunteer one time, once a week or several times a week.
Individual	Worker	I would like to learn more on everything with WCB i think there should be some training out there for us to do with WCB, And if there is please let me know. Thank you.
Individual	Worker	<i>[Removed to protect the identity of the individual. This submission was entirely related to a worker's claim and unrelated to this policy review.]</i>

Online consultation posted from May 14, 2019, to July 15, 2019.