

Employers' Guide



*See inside cover
for information on
our new **PRIME** program*



Newfoundland and Labrador

PRIME

The Workplace Health, Safety and Compensation Commission is introducing a new incentive program to its new employer system. Known as PRIME, the program places increased emphasis on

- healthy, safe workplaces, and;
- early and safe return-to-work

What is PRIME?

Prevention + ***R***eturn to work + ***I***nurance ***M***anagement for ***E***mployers/***E***mployees

PRIME recognizes and rewards employers' good prevention and return-to-work practices, consistently favorable claims experience and addresses persistent, poor accident performance.

PRIME has two main components:

- the practice incentive, and;
- the experience incentive

Both provide a financial incentive to improve your practices in occupational health & safety and early and safe return-to-work.

To find out more about our new PRIME Program please call:

(709) 778-2922 or

Toll free 1-800-563-9000 (inside Newfoundland and Labrador)

or visit our web site at

www.whscc.nf.ca

Employers' Guide



*Newfoundland
and Labrador*



The information in this guide provides the reader with general information about the Workplace Health, Safety and Compensation Commission. It does not cover every issue or exception. If you want to interpret the law with respect to workplace compensation, return-to-work obligations and injury prevention, please refer to the relevant legislation and regulations which are printed by the Queen's Printer or visit our web site at www.whscc.nf.ca.

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1. Registration

1.1 Who must register

The *Workplace Health, Safety and Compensation Act (the Act)* requires all employers performing work in the province to register with the Workplace Health, Safety and Compensation Commission (the Commission). Employers pay assessments based on the annual earnings of their workers, except those excluded by regulation. Employers with one or more workers must register with the Commission. The worker may be full-time, part-time, or casual. The only workers currently excluded by regulation are professional sports competitors or persons employed in respect of a function in a private residence. Registration is also required where a company (the principal) subcontracts work in the province, even if the company itself has no direct workers in Newfoundland and Labrador.

Incorporated business/limited companies/incorporated associations

All incorporated companies must register with the Commission. Coverage is mandatory for all workers (including the owner, directors, or managers, even if the owner is the only worker).

Non-incorporated business

A non-incorporated business is not required to register if the only workers are the proprietor or partners.

However, as soon as a non-incorporated business hires a worker or subcontracts out work in this province, it is required by law to register with the Commission and pay assessments on the earnings of that worker and report subcontractors annually. The proprietor or partners of a non-incorporated business are not automatically covered under the *Workplace Health, Safety and Compensation Act* (i.e. they cannot receive benefits from the Commission in the event of a work-related injury).

However, if the owners of a non-incorporated business wish to be covered, they may apply for optional personal coverage.

1.2 How to register

An employer can register with the Commission by completing a registration application. To get more information regarding registration requirements, employers can call, write, or visit any of the Commission's offices listed on the back cover of this guide.

1.3 How to complete the registration application

Instructions accompany a registration application entitled, "How to complete the registration application." The application and instructions are available from the Assessment Services Department.

1.4 Assessable payroll

Assessments (i.e. the amount each employer is required to pay the Commission each year) are determined by two factors: the firm's industry and the amount of assessable earnings for the employer for the calendar year. The following are some types of earnings that must be included in reporting assessable earnings:

- gross salary, overtime, retroactive pay increases, directors' earnings, directors' fees, directors' bonuses and directors' dividends;
- vacation pay, work-related and discretionary bonuses, tips and gratuities that are reported on T4 statements or should be reported on T4 statements;
- commissions from employment;
- sick pay, up to 13 consecutive weeks; and
- gifts, education allowances, etc.

Generally, all taxable benefits are assessable. For a complete list of items to be included in assessable earnings, employers should contact any Commission office.

Employers who contract or subcontract work must report the total value of contracts to the Commission. If the contract is a contract of service, (*see section 4.2*) the employer will be assessed on the labour portion of the contract at the subcontractor's rate if the subcontractor or contractor is not registered and in good standing (*see section 5*) with the Commission.

1.5 Maximum assessable earnings

The maximum assessable earnings per employee is \$46,275 for the 2005 assessment year. Annual wages over the \$46,275 per individual can be deducted as excess when reporting the annual Employer's Payroll Statement.

IMPORTANT: Do not include wages earned for work performed in other provinces, where assessments were paid to the other provinces.

Details of your calculated excess wages must be provided with your annual employer's payroll statement in the following format:

Deductions of maximum assessable earnings (\$46,275.00)

Employee Name	Weeks Employed	Gross Wages (from T4)	Excess Earnings
J. Smith	52.0	\$ 90,000	\$ 43,725

1.6 HRDC funding

Human Resources Development Canada (HRDC) programs included in which employer's can report and receive a deduction on the annual Employer's Payroll Statement include:

- Job Creation Partnerships (JCP)
- Student Work and Servicing Program (SWASP)
- Labour Market Partnerships (LMP)
- Partners in Promoting Summer Employment (PPSE)
- Summer Career Placements
- Employment Assistance Services (EAS)
- Summer Career Placements
- Youth LMP
- Skills Link

Miscellaneous programs covered by the Commission

- Canada Job Funds
- Job Development
- Term Job Creation (component of fishery restructuring and adjustment measures)

If you were reimbursed for wages by HRDC under any of these projects, you can deduct these wages since HRDC has already reported these wages to the Commission. However, wages paid under any other HRDC program may not be deducted as your firm is responsible for the

assessment on these wages. If a deduction is made, you must provide details with your annual employer's payroll statement in the following format:

NOTE: *Incomplete reporting will result in no deductions being allowed.*

HRDC funded projects

Project Name	Project Contract Number	Employee Name	HRDC Wage Funding
Summer Career Placement	12345	(1) John Doe	\$ 8,675
SWASP	11111	(2) Jane Smith	\$ 9,225
TOTAL DEDUCTION:			\$ 17,900

1.7 Out-of-province wages reported to other workers' compensation boards/commissions

The Commission has entered into an agreement which helps employers avoid paying assessments on the same wages to more than one jurisdiction in Canada. Therefore, if you were required to report some of the wages reported in your gross earnings to another board/commission, you can deduct those wages. If a deduction is made, you must provide details with your annual employer's earnings statement in the following format:

Assessable payroll reported to other Canadian Boards or Commissions

Employee name	Jane Doe	J. Smith
Name province/territory worked in and wages reported to	Nova Scotia	PEI
Firm # in other province/territory	1111111	2222222
Weeks worked outside Newfoundland and Labrador	8	16
Total wages reported ⁽¹⁾	\$17,000	\$22,000
Wages reported to other provinces	\$5,000	\$12,000
Total wages reported to other provinces:	\$ 17,000	

(1) Total wages reported — Gross wages of individual which will include all wages, reported to this Commission and other provinces.

Out-of-province coverage (outside Newfoundland and Labrador jurisdiction)

Section 51 of the *Workplace Health, Safety and Compensation Act* provides for compensation for workers of Newfoundland and Labrador employers who are injured outside the province in the course of their employment. Generally, in order for coverage to be extended, the following conditions must be met.

1. The employer must be registered with the Commission, have a base of operations in the province, and continue to employ persons in the province while the worker is employed outside the province.
2. The worker will have worked for the employer in this province prior to being assigned outside and will continue to work for the employer upon their return to Newfoundland and Labrador.
3. The residence and usual place of employment of the worker is Newfoundland and Labrador.
4. The worker remains on the payroll of the employer in Newfoundland and Labrador while employed outside and assessments must be paid on those wages.
5. The worker and/or his/her dependents are not entitled to compensation under the law of the place where the injury occurs.
6. The work outside the province is of a temporary nature not exceeding 12 months.
7. The employer must not have a permanent place of business in the other jurisdiction.

Cases outside these guidelines will be considered on an individual basis.

Even though the Commission extends compensation coverage to workers of Newfoundland and Labrador employers working outside this jurisdiction, the “immunity from suit” protection provided by the *Workplace Health, Safety and Compensation Act* is only valid inside the boundaries of Newfoundland and Labrador.

It is important for employers to check with the workers’ compensation authorities (if applicable) in the jurisdic-

tion where the worker is sent to determine if registration is required in that jurisdiction. Requests for out of province coverage can be faxed to the manager of assessments at (709) 778-1110. The request should include the names and addresses of the workers being sent outside the province, the employer’s name and the Commission firm number, the duration of the stay and jurisdiction in which they will be working.

1.8 Optional personal coverage/ independent operator coverage

To obtain optional personal coverage:

- **Contact a Commission office and complete an independent operator questionnaire.**
- **If determined that you are an independent operator, the Commission can send you an optional personal coverage application form.**
- **Fully complete and return the application form with the appropriate premium to a Commission office.**

Note: Each application must be reviewed and approved by the Commission.

Optional personal coverage is non-compulsory coverage that can be applied for by proprietors, partners, and independent operators in accordance with the following terms:

1. Coverage is in effect from the date of receipt of the application and approval by the Commission or from the coverage date requested in the application, whichever is latest.
2. Premiums for the period of coverage must be paid in full at the time of application for the application to be accepted.
3. Coverage automatically expires on December 31st of each year, or on the date specified on the application, whichever is earliest.

4. In the event of a work-related injury, proof of earnings must be submitted with a claim for lost-time benefits. Benefits will be based on the actual amount of earnings loss, but in no case will exceed the amount of coverage requested or the maximum compensable earnings specified by *the Act*.
 - The maximum coverage is \$46,275.00 per year or \$126.78 per day.
 - The minimum coverage is \$12,001.20 per year or \$32.88 per day.
 - The maximum period of coverage is January 1 to December 31.
 - The minimum period of coverage is 28 days.
 - There is a non-refundable minimum assessment of \$50.

1.9 Penalties for failure to register

All employers are required by law to register with the Commission and pay assessments based on the earnings of their workers. Failure to register will result in financial penalties.

Late registration

An employer who fails to register within 30 days of becoming an employer shall receive a late registration penalty. In addition to the penalty, the employer will be responsible for assessments for the years that the business operated but was not registered. The late registration penalty can range from a minimum of \$50 to a maximum of \$2,000 depending on the assessment amount.

Cost of injury

In the event of a work-related injury, an employer who is not registered may, in addition to assessments payable, be held liable for the total cost of the injury. Depending on the severity of the injury, this could be extremely costly for the employer.

Commission estimate

An employer who doesn't register with the Commission may be assessed based upon estimated earnings determined by the Commission.

1.10 Student coverage

The *Workplace Health, Safety and Compensation Act* does have provisions for covering students; however, not all students are covered by the Workplace Health, Safety and Compensation Commission.

Covered by the Commission

1. If you are directly paying students to work in your business, then these students are considered to be your workers. You must pay the Commission assessments on their earnings and they are covered in the event of a work-related injury.
2. If your students are not being paid but are on a work-term from Memorial University or any of the regional government colleges (i.e. CONA) then these students are covered under *the Act* by the provincial Department of Education in the event of a work-related injury. The employer does not have to pay assessments and is protected from liability under *the Act*.
3. If your students are not being paid but are part of a high school work-term program authorized by the school, then these students are covered under *the Act* by the provincial Department of Education in the event of a work-related injury and you do not have to pay assessments and are protected from liability under *the Act*.
4. If you are hiring students and the funding is coming from the federal Summer Student Program then these students are covered under *the Act* in the event of a work-related injury; however, you will be allowed to deduct the amount of HRDC wage funding from your total payroll at year end for the amount that HRDC reimburses you for labour costs of these students. Human Resources Development Canada pays the assessments directly to the Commission.

Not covered by the Commission

5. If your students are on an unpaid-work term from a private educational institution, then they are not covered under *the Act*. Therefore, the employer is not protected from liability through *the Act* and a civil action through the courts may be possible in the event of a workplace injury.

Contact the Commission

6. If you allow individuals who are on a federal-government program or the Student Work and Servicing Program (SWASP) to complete unpaid on-the-job training at your business, then you should check with the Commission to determine if the HRDC program qualifies under the Commission's coverage for the participants.

If your student does not fall into one of the previous scenarios or you are not sure which scenario best describes your situation, contact the Commission at:

**Workplace Health, Safety and
Compensation Commission**
Assessment Services Department
Attn: Manager of Assessments
P.O. Box 9000
St. John's, NL
AIA 3B8
Telephone (709) 778-1209
or fax (709) 778-1110

2. What happens when a registration application is received?

Classification and assessment rates

Assessment premiums are collected from registered employers to fund the benefits and services provided by the Commission. Assessments are calculated by applying a base assessment rate to a firm's assessable payroll. In addition, for qualifying firms, an adjustment is made to reflect the firm's injury experience using a system called experience rating. This system is described later in the guide in the section entitled "Experience Rating."

Because different industries experience different levels of injury costs, they have different assessment rates. Industries with lower cost experience have lower assessment rates and industries with higher cost experience have higher assessment rates.

When an employer registers with the Commission, the firm is assigned a seven digit firm number and a Newfoundland Industrial Classification (NIC) code. The firm number identifies the employer and should be provided on all correspondence and payments sent to the Commission. The firm must pay an assessment that is calculated by multiplying the assessment rate for the NIC code by the assessable payroll of the employer and dividing by 100. The minimum assessment per year is \$50. If an employer operated in the year(s) prior to registration, an assessment(s) will be calculated and a

late registration penalty(ies) will be charged. Assessable payroll is replaced by alternate units of measurement for logging, fish purchases, volunteer firefighters and ambulance drivers.

The classification process and the calculation of base assessment rates are described in the following sections.

2.1 Classification

The Commission uses a classification system that is based on Statistics Canada's *Standard Industrial Classification (SIC)* system modified to better reflect the business environment in Newfoundland and Labrador. All registered employers are assigned to a Newfoundland Industrial Classification (NIC) code based on the employer's primary business activity.

There are over 550 NIC codes in use in the province. However, for many of these, the payroll and cost experience are not stable enough to allow a fair assessment rate to be calculated. Because of this, the Commission organizes the NIC codes into industry groups. In 2002, the Commission has 89 industry groups.

In creating its industry groups, the Commission considers two main factors:

- The degree of similarity of the business activity. Where activities are very similar, the Commission would normally assign the NIC codes to the same industry group.
- The cost experience of the NIC code. Where cost experience is very different, the Commission would consider assigning the NIC codes to different industry groups.

In some cases, large NIC codes are not combined with any other NIC code.

The claim cost experience for each NIC code is examined every year to ensure that the NIC code is still in the appropriate industry group. If the cost experience for a NIC code changes significantly, the NIC code may be moved to a more appropriate industry group.

Note: *The primary responsibility to advise the Commission of changes to an employer's industrial classification or other aspects of the business rests with the employer.*

2.2 Multiple classification

If an employer is operating in two distinct industries, the Commission may consider classifying the employer in two separate NIC codes. Employers who qualify for multiple classification would therefore have two employer accounts.

Separate NIC code classifications are allowed only on the basis of industrial undertaking, not on the basis of the occupation of the workers. To qualify for multiple classification, all of the following criteria must be satisfied.

- The operation must be one that is performed by specific personnel as their sole function.
- Separate payroll records must be kept for each operation.
- The operations must generate revenue independently of each other. The services of each operation must be offered to the general public or to non-affiliated companies. The operation must not be an incidental or a supportive part of the firm's main industry.

Requests for multiple classification should be sent to:

**Workplace Health, Safety and
Compensation Commission
Assessment Services Department
Attn: Financial Analyst
P.O. Box 9000
St. John's, NL
A1A 3B8**

Multiple classification decisions will be determined by the Commission depending on the specific details of each situation.

2.3 Base assessment rates

Base assessment rates for each industry group are established each year based on an analysis of cost experience for injuries that occurred in the five previous years. For example, for the 2002 rates, cost experience for injuries that occurred between 1996 and 2000 was used. Costs in 2001 were not used because the rates were calculated in 2001 and the year was not complete. However, adjustments made in 2001 prior to the rates being calculated and relating to payments made between 1996 and 2000 are included.

Because significant changes were made to the system for calculating the 2002 base assessment rates, certain transition rules will apply until 2005. These rules allow a NIC code facing a large increase an opportunity to improve its injury experience and reduce the potential impact of the increase. NIC codes with base rates under \$1.00 will have their increases limited to \$0.20 per \$100 of assessable payroll.

NIC codes with base rates of \$1.00 or over will have their increases limited to 20% of the base rate for the previous year. Decreases are limited to 20% of the previous year's base rate for all NIC codes. These transition rules would result in a significant loss in revenue if fully implemented in 2002. As a result, all decreases are being postponed until 2003, while increases will be implemented for 2002. For the 2006 rates, no transition rules will apply.

Although base assessment rates are calculated for an industry group, the transition rules cause some NIC codes in the industry group to have different base assessment rates. As a result, base assessment rates are presented in the Commission's Assessment Rate Book by NIC code.

Employers receive confirmation of their base assessment rate for the next year by September 30 of the current year. Assessment rates by NIC code are available in the Commission's Assessment Rate Book, which is published annually. The Rate Book can be obtained by contacting a Commission office in St. John's, Grand Falls-Windsor, or Corner Brook. A copy is also available at www.whscc.nf.ca.

The base rates are applied to all new employers registering with the Commission and to all other employers who do not qualify for the Commission's experience rating program (see section 2.4). The base rates are used to determine the experience rated rate for those employers who are included in the experience rating program.

2.4 Experience rating

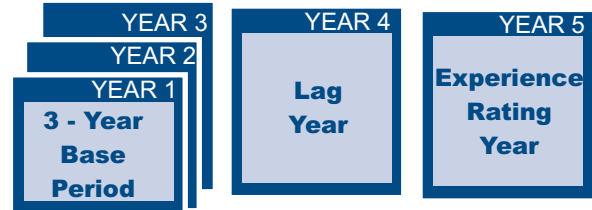
The experience rating plan more fairly distributes the cost of workers' compensation among employers in the province. The Commission has been experience rating the health care sector since 1989 and expanded the program to more industries in 1995.

An employer who is experience rated will pay an assessment based on how the cost of the employer's injuries compares to the average cost of injuries for the industry group. The Commission will apply discounts or surcharges to the base rate depending on the employer's injury experience. This means that employers with lower than average injury costs for their industry group will pay a lower assessment rate than those employers with higher than average injury costs.

Base period

When calculating an employer's rate under experience rating, the Commission considers three of the past four years' payroll and injury costs. For example, when calculating the rate for year 5, the Commission will consider the injury costs and payroll for years 1, 2, and 3.

The current year, year 4, becomes the lag year and will not be used to determine the rate for year 5. Similarly in year 6, data for year 1 will be dropped and data for year 4 will be added.

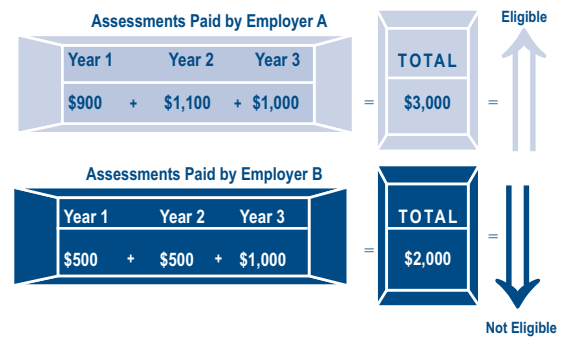


Who participates in experience rating?

Most employers who paid assessments totalling at least \$3,000 over the previous three-year-period will be experience rated.

In some cases, employers who meet the above criteria will not be experience rated. For example, if there is only one eligible employer in an industry group, that employer cannot be compared to other employers and therefore cannot be experience rated. As well, some workers are in unique operations; for example, independent fisherpersons, volunteer firefighters and ambulance drivers, government project workers, etc., and therefore are not experience rated.

Participation is compulsory for those employers who qualify.



How experience rating works

An employer who is experience rated will pay an assessment based on a comparison of the employer's injury costs to those of all employers in the same industry group. Employers with lower than average injury costs could pay as much as 20% less in assessments than the base rate. Employers with higher than average injury costs could pay as much as 40% more than the base rate.

The 40% maximum surcharge, implemented on January 1, 2002, allows the experience rating system to be more responsive to the actual injury costs of employers and to make employers more accountable for the injury experience in their workplaces.

Consideration will be given to further increasing this level once the impact of the Commission's new rate setting model on employers is better known. It is not

intended that the proposed change in the experience rating system be necessarily revenue neutral.

The discount or surcharge is based upon:

1. The injury costs, payroll and assessments for the individual employer for the three-year-period.
2. The injury costs, payroll and assessments for the industry group for the three-year-period.

The following process is used in determining your experience rated rate:

1. Your three-year base period injury costs are accumulated.

The injury costs which affect your rate are only the cash payments made during the three-year-period, relating to injuries that occurred during the three-year period. Details of costs that are included in and excluded from experience rating are outlined in this guide. If there is a fatality, the employer is charged the average cost for all fatalities occurring during the three-year-period, rather than the actual cost of the individual fatality.

2. Your injury costs are compared to those of your industry group.

Sample calculation of your experience ratio relative to your industry group's

To compare your injury costs with those of your industry group, your experience ratio is calculated by dividing your injury cost by your assessable payroll. Your ratio is then compared to the industry group's ratio, which is similarly calculated. When this result is converted to a percentage, it indicates how much better or worse your experience is, relative to your industry group.

Three Year Injury Costs		Three Year Payroll		Your Experience Ratio
\$10,436	÷	\$4,197,765	=	0.002486
0.002486		0.001368		81.73%
Your Experience Ratio	÷	Industry Group Experience Ratio	-1 X 100 =	Your Experience Ratio Relative to Your Industry Group's

If your injury costs are higher than those of your industry group, your base rate will be adjusted upward. If your injury costs are lower than those of your industry group, your rate will be adjusted downward.

3. Your rate is adjusted based on your experience ratio and participation rate.

Your firm's experience ratio is reduced by dividing by four to protect your rate from fluctuating significantly from year to year.

Sample calculation of discount or surcharge percentage

81.73%	÷	4	=	20.43%	=	20.00%
Your Experience Ratio Relative to Your Industry Group's		1 for 4 Ratio		1 for 4 Ratio		20% Maximum

Then a maximum of 20% is applied to this reduced percentage, either for a discount or surcharge. If the percentage is greater than the 20% maximum, the 20% will apply. This again reduces rate fluctuations from year to year.

Finally, a participation rate is applied. This rate determines the level of participation employers will have in experience rating and depends on the size of the employer's assessments. The minimum qualifying assessment of \$1,000 average over the base period will result in a 25% participation rate. This rate increases by 1% for each additional \$250 in average assessments over the base period, up to a maximum of 100%. In this way, smaller employers are shielded from excessive changes in their rates from year to year.

20% Maximum	X	Participation Rate	=	Surcharge Percentage
20% Maximum		84%		16.80%

- Your calculated surcharge dollar value is determined, only if the percentage in step 3 is positive, i.e. a surcharge.

The percentage surcharge in step 3 is multiplied by the base rate for the last of the three years in the base period, year 3, is then multiplied by your assessable payroll for this last year and is finally divided by 100.

Sample calculation of calculated surcharge dollar value

16.80%	X	\$1.11	X	\$1,546,355 / 100 =	\$2,884
Surcharge %		Base Rate Year 3		Payroll Year 3	Calculated Surcharge \$

- Your maximum surcharge dollar value is determined, only if the percentage in step 3 is positive, i.e. a surcharge.

The difference between your experience ratio and the industry group's experience ratio is multiplied by your assessable payroll for year 3. The reason for this calculation is to ensure that no excessive surcharge is imposed on any firm. In effect, it ensures that the dollar amount of surcharge does not exceed the dollar amount of costs that have put a firm above the industry group average.

Sample calculation of maximum surcharge dollar value

Your Experience Ratio	Industry Group Experience Ratio	X	Payroll Year 3	=	Maximum Surcharge \$
0.002486	- 0.001368		\$1,546,355		\$1,729

- Your calculated and maximum surcharge dollar values in steps 4 and 5 respectively are compared, only if the percentage in step 3 is positive, i.e. a surcharge.

Sample comparison of calculated and maximum surcharges

If your calculated surcharge is greater than your maximum surcharge, then your maximum surcharge is applied. If it is smaller than your maximum surcharge, then your calculated surcharge is applied. In this sample case, the maximum surcharge of \$1,729 will apply.

\$2,884	is greater than	\$1,729
Calculated Surcharge \$		Maximum Surcharge \$

- Your calculated discount dollar value is determined, only if the percentage in step 3 is negative, i.e. a discount.

The calculation process is the same as in step 4, except that the percentage used is a negative number (discount), instead of a positive number (surcharge).

- Your maximum surcharge is applied, if appropriate.

Your maximum surcharge in step 5 is applied, only when it is less than your calculated surcharge in step 4. This means that the 16.80% surcharge calculated in step 3 and associated with the calculated surcharge of \$2,884 in step 4 is too large for the actual difference in experience of your firm from the industry group.

Therefore, the 16.80% surcharge is reduced by dividing your maximum surcharge dollar value by the base rate for year 3, then dividing by your assessable payroll for year 3 and multiplying by 100.

Sample calculation of maximum surcharge percentage

Maximum Surcharge \$	÷	Base Rate Year 3	÷	Payroll Year 3	X 100 =	Maximum Surcharge %
\$1,729		\$1.11		\$1,546,355		10.07%

This step is in the reverse order of step 4 and is not applied if you are receiving a discount or if your calculated surcharge is less than your maximum surcharge.

- Your surcharge percentage in step 8 is doubled. The doubling of all surcharge percentages, calculated using the 20% maximum discount/surcharge assumption, is intended to be more representative of underlying injury costs and to provide employers with an incentive to become more proactive in their approach to workplace safety and disability management.

Sample calculation of doubled surcharge percentage

Surcharge %	X 2 =	Doubled Surcharge %
10.07%		20.14%

- Your experience rated rate is calculated with the base rate for your Newfoundland Industrial Classification (NIC) Code either increased with a surcharge or decreased with a discount, as determined above.

Sample calculation of experience rated rate

\$1.00	+	20.14%	=	\$1.20
Base Rate		Surcharge %		Experience Rated Rate

Although base assessment rates are calculated at the industry group level, they are quoted and applied at the NIC code level due to transition rules that cause some NIC codes in an industry group to have different base assessment rates, and that allow employers the opportunity to reduce the impact of future rate increases by improving their injury experience.

The experience rating calculation schedule

Once the Commission’s Board of Directors has approved the annual base rates, the experience rated rates will be calculated, and all eligible employers will receive a letter of notification and a schedule outlining the calculation of their rate.

This schedule is for your information only. It is not a bill. Early in the next year, when payroll estimates have been received from all employers, your experience rated rate will be multiplied by your assessable payroll for the year, indicating the total assessment amount you will pay.

Experience rating claims cost listings are no longer automatically provided to employers. It is the responsibility of employers to monitor their monthly advice notices and to maintain accurate and up-to-date records of their claims. However, the information contained in these listings will still be available and in the same format as in the past, so that any employer can request a copy.

Sample of detailed listing of injury costs requested on demand

Page 1

Workplace Health, Safety and Compensation Commission

Years 1-3 Injuries Paid up to December 31, Year 3
Firm Total by Claim # for Year 5

Industry Group: Other Processing
Newfoundland Industrial Classification (NIC) Code 1234
Firm: 123456 ABC COMPANY OF CANADA LIMITED

Claim Number	Claimant Name	Injury Date YY/MM/DD	Paid in Year 1	Paid in Year 2	Paid in Year 3	Total Paid to Year 3
234567	John Smith	yr. 1/11/5	\$100.00	\$3,000.64	\$2,150.11	\$5,250.75
345678	Joe Jones	yr. 1/09/05	2,000.00	600.00	400.00	3,000.00
456789	Mary Power	yr. 2/04/08	0.00	1,000.00	955.27	1,955.27
567890	Jane Murphy	yr. 3/10/22	0.00	0.00	230.00	230.00
TOTALS			\$2,100.00	\$4,600.64	\$3,735.38	\$10,436.02

*Claims marked with ** indicate that the claim was a fatality.*

Sample of experience rating calculation schedule

Workplace Health, Safety and Compensation Commission Experience Rating Calculation Schedule Year 5 Rates			
Industry Group: Other Processing			
Newfoundland Industrial Classification (NIC) Code 1234			
Firm: 123456 ABC COMPANY OF CANADA LIMITED			
Section A — Firm Data			
Years	Claims Cost	Assessable payroll	Assessments
Year 1	\$ 2,100.00	\$ 1,198,529	\$ 15,461
Year 2	4,600.64	1,452,881	17,289
Year 3	<u>3,735.38</u>	<u>1,546,355</u>	<u>14,536</u>
	\$ 10,436.02	\$ 4,197,765	\$ 47,286
Section B — Your Experience Ratio			
Claims Cost (from Section A)			\$ 10,436.02
Assessable payroll (from Section A)			\$ 4,197,765
Your Experience Ratio (claims cost / assessable payroll)			0.002486
Section C — Your Firm's Participation Rate			
Assessments (from Section A)			\$ 47,286
Average Assessments (Assessments / 3)			\$ 15,762
Participation Rate (25% rate at \$1,000 average assessments and 1% increase for each additional \$250 of assessments)			84%
Section D — Your Experience Ratio Relative to your Industry Group's			
Your Experience Ratio (from Section B)			0.002486
Your Industry Group's Experience Ratio			0.001368
Your Experience Ratio is 81.7251%			worse than your Industry Group's
Section E — Your Firm's Discount or Surcharge Percentage			
Your Experience Ratio relative to your Industry Group's (from Section D)			81.7251% higher
Rate adjustment of 1% for each 4% difference in experience			20.4313%
Comparison to 20% maximum discount or surcharge			20.0000%
Application of participation rate (from Section C)			16.8000% surcharge
Application of additional maximum surcharge, if applicable			10.0721% surcharge
Doubling of surcharge %, if applicable			20.1442% surcharge
Section F — Your Firm's Experience Rated Rate			
Applied Base Rate for Your NIC Code 1234			\$1.00
Your Firm's Discount or Surcharge Percentage (from Section E)			20.1442% surcharge
Your Firm's Experience Rated Rate			\$1.20

Questions & Answers

If I am 40% better than the industry group average, why do I only get a 1% reduction for every 4%, instead of a one-for-one reduction?

A system using 4% increments helps to prevent extreme fluctuation in your assessment costs from year to year. It limits the impact that a single, costly claim might otherwise have on your assessment rate. In effect, it helps to stabilize your assessment costs until you reach a significant difference in experience of 4% or more from the industry group average.

Why is the maximum discount or surcharge used for balancing purposes 20%, but the maximum surcharge applied is 40%?

The 20% maximum discount/surcharge for balancing purposes was set to allow a meaningful difference in an employer's assessment. The doubling of all surcharge percentages, calculated using the 20% maximum discount/surcharge assumption, is intended to be more representative of underlying injury costs and to provide employers with an incentive to become more proactive in their approach to workplace safety and disability management.

Why is the base period three years, instead of one or two?

The three-year period is long enough to smooth out extreme fluctuations in assessments that one bad injury year could cause. At the same time, it is short enough to prevent old injuries from affecting your experience rated rate.

Why are we using a plan that adjusts future rates, rather than a plan that adjusts a past assessment?

The plan we have adopted helps an employer budget because it calculates the assessment premiums for the coming year. It is preferable to a plan that makes the company pay prior year assessment adjustments out of current revenues.

Why use average fatality costs when the costs for some fatal injuries are very low?

Costs of fatalities can range from zero to several hundred thousand dollars. The costs are largely determined by chance, and averaging them ensures everyone is treated fairly. Also, having an average cost ensures that the

impact of a fatality is realized, even though a particular fatality may be of little or no cost to the compensation system.

Why can't I receive a discount for having better than average claims experience, simply because I had less than \$3,000 in assessments during the base period?

Employers paying less than the \$3,000 minimum assessment are not expected to and rarely have injury costs, because of their relatively low exposure to risk and injury. Therefore, they should not be rewarded for meeting this expectation. However, when an injury does occur, and the payroll is small, even a very small isolated injury can have very unfavourable effects on the employer's rate. Excluding these employers from experience rating shields them from excessive changes to their assessment rates.

If I have temporary workers on payroll, will I be experience rated?

There is no distinction between temporary and full-time employees for experience rating purposes. If all experience rating criteria are met, an employer will be experience rated, regardless of the makeup of his/her workforce.

If I am receiving a 15% discount this year, why is my experience rated rate for this year not 15% lower than my rate for last year?

Discounts and surcharges are applied to base rates only, not to experience rated rates; therefore, your 15% discount is from the base rate for your NIC code for this year. By comparing your experience rated rates for this year and last year, you will determine the total change in the rates you actually pay from year to year which includes both base rate changes and discounts or surcharges.

What is the cutoff for injury cost data for experience rating purposes?

The cutoff for injury cost data is December 31 of the last year of the three-year period. Any injury cost adjustments made in the current year after the rate setting process are not included in experience rating, except in an extraordinary case. However, if an employer has been incorrectly classified or an injury has incorrectly been charged to an employer, these changes

will be made before calculating the employer's rate, if the Commission is notified of the adjustment prior to the rate setting process. As well, after the rate setting process, the Commission, depending on the effective date of a classification change, may retroactively apply experience rated rates for the firm for the new classification.

What program costs are included in experience rating?

1. Short-term disability payments
2. Health care payments
3. Vocational rehabilitation payments
4. Long-term disability payments
5. Permanent functional impairment awards
6. Average fatality costs

What costs are excluded from experience rating but still remain costs to the Commission?

1. Administrative costs and funding for occupational health and safety.
2. Long-term future liabilities and reserves.
3. Industrial disease claims, if coded as such prior to rate setting, or if coded as such after rate setting and on specific request and review.
4. Claims indicating the initiation of a third party recovery action, if coded as such prior to rate setting,

or if coded as such after rate setting and on specific request and review.

5. Denied claims, if coded as such prior to rate setting, or if coded as such after rate setting and on specific request and review.
6. Overpayments on claims, if coded as such prior to rate setting, or if coded as such after rate setting and on specific request and review.
7. Interest paid to claimants where unnecessary and controllable delays have occurred in paying those claims.

What are the advantages of experience rating?

1. Distributes the cost of workers' compensation fairly by charging higher rates to those firms which have incurred higher claims costs.
2. Recognizes employers' efforts to reduce workers' compensation costs because reduced claim costs directly affect the rate paid by the employer.
3. Provides employers with an incentive to control or reduce claims costs by providing a discount for lower costs and a surcharge for higher costs.
4. Provides employers with an incentive to become more aware of their workplace injuries and to become more proactive in their approach to workplace safety and disability management.

3. Payment of assessments

3.1 When are assessments payable

Employers who are registered with the Commission before March 1st are required to pay their assessments by April 1st of each year. If the employer registers after March 1st, the assessment owing must be paid thirty (30) days after the date the assessment is processed by the Commission.

If assessments are not paid on or before the due dates, the employer will be charged an interest penalty monthly on the outstanding balance. The interest rate is set annually on January 1st.

Some employers may find it difficult to pay their entire annual assessment at once. In this situation, the employer may apply for a payment arrangement. If the

Commission approves the employer's request, the following payment arrangement will be put in place:

- one half of the total assessment for the year must be paid on April 1st;
- one quarter of the total assessment for the year must be paid on July 1st; and
- one quarter of the total assessment for the year must be paid on October 1st.

To apply for a payment arrangement write to:
Workplace Health, Safety & Compensation
Commission
Assessment Services Department
Attn: Collections Clerk
P.O. Box 9000, St. John's, NL, A1A 3B8

Payment arrangements require post-dated cheques to be submitted to the Commission or a pre-authorized payment form to be signed by the employer. Employers will be charged interest monthly on any outstanding balances at the end of the previous month.

The *Workplace Health, Safety and Compensation Act* gives the Commission the legal right to collect assessments from employers who are required to register in this province. If employers do not pay their assessments or make suitable payment arrangements, the Commission will contact the employer regarding the status of their account by a letter or phone call. If the employer does not respond or make suitable payment arrangements, the Commission's collection staff may visit the employer in an attempt to make a payment arrangement that is agreeable to both the employer and the Commission. However, if such an agreement cannot be reached, the Commission will proceed with appropriate action to collect the outstanding balance including taking legal action against the employer. The costs of such legal action are the responsibility of the employer.

3.2 Directors' liability

Since January, 1999, the *Workplace Health, Safety and Compensation Act* states that where a corporation fails to pay its assessment, the directors of the corporation at the time of default are jointly and individually liable together with the corporation, to pay the assessment.

3.3 Assessment lien

The Commission has first lien upon assets used in an employer's business, whether owned by the employer or another party.

3.4 Payment methods

In addition to making payments in person at one of our three offices or mailing payments to us, you can also use one of the following methods to pay your assessment:

- **Pay at most financial institutions** — by presenting a copy of your invoice or statement with your payment.
- **PC or telephone banking** — you can pay through the electronic services provided by your bank. However, when setting up this electronic payment method with your bank it is important that you select the Newfoundland Workplace Health, Safety and Compensation Commission; otherwise your payments may be made to another province and interest will be charged to your account until payment is received by us.
- **Pre-authorized debit** — call 778-1125 or 1254 to set up a pre-authorized debit arrangement where we withdraw the money from your account on the dates and in the amounts that you authorize.
- **Interac payment** — at our St. John's, Corner Brook or Grand Falls-Windsor offices.

Important: Payments made through financial institutions (in person, PC or telephone) must be made no later than 25 days from your original "assessment invoice" date or interest may still be applied to the amount paid. Please quote your "firm number" on all payments.

4. Assessment reporting requirements

4.1 Annual reporting requirements

In early January, a form A6 is sent out to each registered employer. The form is called "Employer's Payroll Statement." Employers report their actual assessable earnings for the prior year and estimated assessable earnings for the current year. If an employer is claiming a deduction for maximum assessable earnings, HRDC funding, or wages reported to other provinces, they must provide details as outlined in Sections 1.5, 1.6 and 1.7. This form must be received at the Commission on or before February 28th of each year. Failure to do so will

result in a penalty being charged. The amount of the penalty depends on the amount of the assessment:

Assessment Amount	Penalty
\$ 50.00 - \$ 999.99	\$ 50.00
\$ 1,000.00 - \$ 4,999.99	\$ 100.00
\$ 5,000.00 - \$ 49,999.99	\$ 500.00
\$ 50,000.00 - \$ 99,999.99	\$ 1,000.00
\$ 100,000.00 and over	\$ 2,000.00

If the actual earnings reported by the employer for the prior year is 25% more than the estimate, an *underestimating penalty* will be charged. The penalty is calculated by subtracting 125% of estimated earnings from the actual earnings and multiplying by the assessment rate for the year. The penalty will be 10% of that assessment; however, a penalty is not charged when it amounts to less than \$50.

FOR EXAMPLE (ASSUMING AN ASSESSMENT RATE OF \$3.18 PER \$100 OF EARNINGS):		
Employer's actual payroll (as reported on the A6 form)	\$ 230,000	@ \$3.18 per \$100 of payroll = \$ 7,314.00
Employer's estimated payroll	(\$ 100,000)	
\$100,000 x @ 125%	\$ 125,000	@ 3.18 per \$100 of payroll = \$ 3,975.00
Difference:		\$ 3,339.00
Underestimating penalty: \$3,339 x 10%		= \$ 333.90

Quarterly reporting requirements

The reporting requirements of employers in wood harvesting and fish purchases is different as these employers do not report based on payroll. The following schedule outlines the quarterly reporting requirements and the late reporting penalties:

- for the first quarter of the year, not later than April 15;
- for the second quarter of the year, not later than July 15;
- for the third quarter of the year, not later than October 15; and
- for the fourth quarter of the year, not later than January 15 of the following year.

An employer who fails to comply with this section shall be liable for an additional assessment in accordance with the following:

Quarterly Assessment Amount	Penalty
\$ 12.50 - \$ 249.99	\$ 12.50
\$ 250.00 - \$ 1,249.99	\$ 25.00
\$ 1,250.00 - \$ 12,499.99	\$ 125.00
\$ 12,500.00 - \$ 24,499.99	\$ 250.00
\$ 25,000.00 - and over	\$ 500.00

Commission staff review this list to determine which contractors/subcontractors will be charged to the principal's account.

Under the *Workplace Health, Safety and Compensation Act*, the principal can be held liable for the assessments owing by the contractor/subcontractor on the labour portion of contracts of service. Contracts of service are those which are part of the principal's primary industry. For example, a contract of service would occur where a lawn care company contracts out lawn mowing. Holding the principal liable will happen when the contractor/subcontractor is not registered with the Commission. It can also happen when the contractor/subcontractor is registered with the Commission but is not in good standing (i.e. reporting or payment requirements have not been met). To avoid being charged assessments for contractors/subcontractors, the principal should obtain a certificate of clearance from the Commission (*see section 5*) each time a contract is let and before final payment is made to the contractor/subcontractor.

If the contractor/subcontractor is not registered or is not in good standing with the Commission, the principal is permitted to withhold payment from the contractor/subcontractor for the assessment which will be charged on the labour portion of the contract at the contractor/subcontractor's rate.

Note: Independent operators (i.e. non-incorporated individuals with no workers who perform work for many principals) do not receive mandatory coverage under the *Workplace Health, Safety and Compensation Act* unless they purchase optional personal coverage. The Commission will not charge assessments to the principal

4.2 Reporting contractors and/or subcontractors

Principals who hire contractors and/or subcontractors to do work for them must provide the Commission with a list of all contractors/subcontractors on the form A6 — Employer's Contractors Listing.

for contracts involving non-registered independent operators; however, principals should note that these individuals may file a civil suit against the principal in the event of a work-related injury. The Commission has exclusive jurisdiction to determine which individuals are independent operators and which individuals are workers under *the Act*. If you hire an individual under contract, please call (709) 778-1140/1141 to obtain an “Independent Operator Questionnaire” which must be completed so that the Commission can advise you of the individual’s Commission status (i.e. worker or independent operator).

4.3 Fishing industry

A commercial fisher is automatically covered by the Commission if he/she is:

- (a) a master or member of a crew of a licensed commercial fishing vessel; or
- (b) a master or member of a crew of a vessel which is engaged in fish packing, fish collecting, or fish buying for commercial sale or use; or
- (c) any person who, in the opinion of the Commission, contributes to the catching or landing of fish for commercial sale or use in the province of Newfoundland and Labrador.

The people who buy the fish must pay assessments on the value of fish purchased by registering with the Commission and opening a “Fish Purchases Account.” These include: fish plants which purchase fish either directly or indirectly from commercial fishers; a commercial buyer who purchases fish directly from commercial fishers and who is not reselling the fish to a fish processing plant; a managing owner or a person employing crew members on a boat, vessel or ship engaged in the fishing industry in Newfoundland and Labrador, who lands part of the boat’s catch outside the province.

Since buyers cannot predict how much fish they will buy, they pay assessments quarterly, based on the amount of fish bought. The Commission will send out a form called “Fish Buyers’ Quarterly Statement of Purchases” every three months. This form must be completed and returned to the Commission by the 15th of the month following the quarter being reported. For example, for the first quarter, January-March, the statement must be

received by the Commission on or before April 15th. If not returned by the 15th, a penalty will be levied.

Employers who operate a fish processing plant must also register with the Commission for their plant operation and pay assessments based on the payroll of their plant workers. These employers will have two accounts with the Commission — one for their plant operation — and one for their fish purchases.

These are general guidelines regarding the fishing industry. If further clarification is needed, the employer should contact the senior auditor at (709) 778-1137.

4.4 Logging industry

Like fishers, loggers also have a special arrangement. Instead of paying assessments based on their payroll, they pay assessments based upon the amount of wood they cut. The person or firm who owns the cutting permit or cutting rights to the land on which wood is cut must pay the assessment.

The Commission sends out a form called “Employers’ Quarterly Production Statement: Pulpwood and Sawlog Harvesting” to each registered employer in the logging industry every three months. This form must be returned by the 15th of the month following the quarter being reported or a penalty will be levied. For example, for the first quarter, January-March, the statement must be received by the Commission on or before April 15th.

The assessment is based on the number of cubic meters of wood cut. Employers also engaged in other aspects of the forestry industry must register as a regular employer and pay assessments based on the payroll of their workers. These employers will have two accounts with the Commission.

These are general guidelines regarding the logging industry. If further clarification is needed, the employer should contact the senior auditor at (709) 778-1137.

4.5 Records to be kept

Employers are required to maintain accurate payroll records for all employees. If the employer hires contractors/subcontractors, a list of all the contracts and their values should also be kept. The Commission’s auditors

visit employers in the province on a regular basis. The purpose of the audits is to ensure that the employer is classified in the correct NIC code (*see section 2.1*), that all assessable payroll (*see section 1.4*) has been reported on the “Employers’ Payroll Statement,” to verify that all

subcontractors have been reported and to answer any questions the employer may have.

All accounting records must be made available to the Commission’s auditors upon request, including financial statements.

5. Certificates of clearance (letters of good standing)

A certificate of clearance states that an employer is registered with the Commission and has met the payment and reporting requirements. The account must be paid in full or have an approved deferred payment arrangement with post-dated cheques or a pre-authorized payment plan in place (*see section 3*) before a certificate is issued.

Before contracting out work, and before the final payment is made, the principal (the person letting the contract) should request a certificate of clearance from the Commission on the contractor. These certificates will protect the principal from any liability for assessments owing by a contractor (*see section 4.2*).

Certificates of clearance should also be requested by employers when purchasing a business (*see section 6.1*).

Certificates of clearance are valid for 45 days and can be obtained by calling the enquiry clerk in the Assessment Services Department at (709) 778-1198 or by faxing the request to (709) 778-1110. When requesting certificates, you must provide your firm number and name, who the certificate should be addressed to and the purpose of the certificate (i.e. tender, contract work, release of hold back, financing, sale of business, etc.) and whether you want the certificate mailed or faxed. If you want the Commission to fax the certificate, please ensure a fax number is provided.

6. Changes in operations

Registered employers who cease business operations should contact the Commission as soon as possible. The employer will have to report their actual payroll from January 1st of the current year to the date operations ceased. The Commission will then adjust the employer’s assessment. An auditor may be sent to audit the accounting records so that final adjustments can be made to the account. If the actual payroll is less than originally estimated, the employer may be entitled to a refund.

If the business is purchased by a new owner, the employer should also identify the new owner to the Commission.

6.1 Buying a business

Before an employer purchases an existing business it is important that he/she obtain a certificate of clearance

from the Commission or the previous owner. This will ensure that there are no outstanding assessments owing to the Commission by the previous owner. Failure to obtain a certificate of clearance may leave the purchaser liable for any assessments owing by the previous owner.

6.2 Change of ownership

The Commission can determine if a business continues under another employer. Assessment amounts not paid by the previous employer may be levied and collected from the successor employer. This applies where a business has been sold, transferred, disposed of, has changed ownership, been re-incorporated, restructured in another way, or has been dealt with in another manner which in the Commission’s opinion is intended to avoid obligations under *the Act*.

7. Transfer of injury costs

If an employer feels that an injury to his worker was due to the negligence of another employer and/or his worker, the injury employer may request in writing that the Commission conduct a negligence review. If the Commission's review shows that another employer and/or his worker(s) was partially or wholly negligent and that negligence resulted in the injury, the Commission may transfer all or part of the cost of the injury from the injury employer's account to the negligent employer's account. Requests for a transfer of injury cost must be in writing within six months of the

date of injury, and provide details of why the employer feels another employer was negligent.

**Direct requests to:
Workplace Health, Safety and
Compensation Commission
Assessment Services Department
Attn.: Manager of Assessments
P.O. Box 9000
St. John's, NL
AIA 3B8**

8. Prevention Services

The services provided by the Prevention Services Department are open to all firms in the province, regardless of what occupational health and safety legislation applies to their workplace. (i.e. provincial, federal, inter-provincial, international). For more detailed information on the services and programs offered, please contact the Prevention Services Department at (709) 778-1552 or visit the Commission's web site at www.whscc.nf.ca.

The Commission is committed to assisting employers to reduce injuries and illnesses in the workplace along with their associated claims costs. This is accomplished by providing employers with help in the areas outlined in this section.

Occupational Health and Safety Committees/Worker Health and Safety Representatives/Workplace Health and Safety Designates.

The appointment and training of occupational health and safety (OH&S) committees, worker health and safety (WH&S) representatives and workplace health and safety (WH&S) designates is a legislative requirement under sections 38, 41 and 42.1 of the *Occupational Health and Safety Act*. OH&S committees, representatives and designates provide a forum for communication between the employer and workers to address health and safety concerns in the workplace. In an effort to reduce workplace accidents and injuries, they can identify and evaluate health and safety issues, make recommendations for corrective action and evaluate health and safety in their workplace. In brief, the legislative requirements are as follows:

- Where less than 10 workers are employed at a workplace, a worker not connected with management should be appointed as the worker health and safety representative. In circumstances where a worker health and safety representative is impractical and less than six people are employed at the workplace, an employer may appoint a workplace health and safety designate. The WH&S designate can be the employer, owner, or supervisor. Where the employer is the WH&S designate, duties and responsibilities of the employer under the *OH&S Act* still apply.
- Where 10 or more workers are employed at a workplace, an OH&S committee is required.
- The OH&S committee may consist of two to 12 members. At least half the members shall be elected by workers with an employee co-chair. The other half shall be appointed by the employer with an employer co-chair.
- A workplace having 50 or more employees is required to have all the OH&S committee members trained. A workplace having between 10 and 49 employees is required to have OH&S committee co-chairs trained. A workplace with less than 10 employees is required to have a WH&S representative or a WH&S designate trained.
- A list of OH&S committee members shall be posted in a conspicuous place at the workplace.
- OH&S committee meetings shall be held a minimum of every three months and during work hours as part of the job.
- Minutes of meetings are to be posted in the workplace and a copy is to be forwarded to the Commission.

- The OH&S committee shall participate in workplace inspections.
- The OH&S committee, WH&S representative, or WH&S designate shall help develop an OH&S program/policy.

Note: Employees refers to both management and workers.

Employers are required to consult with the OH&S committee, WH&S representative, or WH&S designate regarding workplace inspections and other OH&S issues. They are to respond in writing within 30 days of receiving a recommendation from the OH&S committee/WH&S representative and the WH&S designate and provide written updates regarding implementation. The Prevention Services Department has set standards for OH&S committee/WH&S representative and WH&S designate training. For information on these training standards contact the Prevention Services Department or visit the web site at www.whscc.nf.ca. To find out how you can meet your legislative requirements contact the OH&S Branch of the Department of Government Services at 1-800-563-5471 or 729-3619.

The Prevention Services Department offers an orientation session to new employers regarding OH&S committees. The purpose of the session is to explain the positive impact of an OH&S committee in dealing with workplace health and safety issues and how they can work to reach their health and safety goals. Participants will use the principles learned to develop a terms of reference, guide the meeting process, plan workplace inspections, and promote health and safety throughout the workplace. Once training is provided, the Commission will continue to monitor activities by reviewing all minutes submitted. Each OH&S committee will be assessed and further intervention will be recommended where required. New employers registering with the Commission will receive information regarding the provision of an orientation session.

Occupational Health and Safety Program

The Prevention Services Department believes that all accidents are preventable and that root causes of every accident can be determined and controlled. The development and implementation of an effective health and safety program is the single most important step in controlling and eliminating accidents. They not only

prevent accidents and injuries but improve employee moral and productivity, maintain customer satisfaction and increase competitiveness, all of which have a positive impact on your bottom line.

As of January 1, 2002, workplaces with 10 or more employees are required to develop a written occupational health and safety program (section 36.1 of the *Occupational Health and Safety Act*). Workplaces with less than 10 employees are required to have an occupational health and safety policy (section 36.2 of the *Occupational Health and Safety Act*). Details are outlined in the Occupational Health and Safety Regulations. The success of the program or policy depends on the clear and visible commitment demonstrated by management. Staff of the Prevention Services Department are available to provide assistance in this regard. Health and safety advisors and ergonomists provide consultation and advice to employers regarding their legislative requirements. Additional health and safety information can be obtained from the Commission's web site and Resource Centre.

Ergonomics

Soft tissue injuries account for the majority of claims at the Commission and are very costly to employers, workers, the Commission and the province. Ergonomics is the practice of fitting workplace conditions and job demands to the capabilities of the working population and is the key to preventing soft tissue injuries. This is achieved through the inclusion of ergonomics in each component of your occupational health and safety program. The Prevention Services Department has ergonomists on staff to offer assistance to businesses that would like to strengthen the ergonomics components of their program. The implementation of an active health and safety program in your business, including ergonomics considerations, will help you achieve your prevention goals.

Awards

The Commission, in conjunction with the provincial Department of Labour, recognizes the efforts taken by employers and employees to prevent injuries and illnesses through the leadership recognition awards program. All provincially-regulated firms that have implemented prevention programs are eligible for several awards given annually.

9. Reporting injuries

The following section provides general information regarding worker and employer responsibility, early and safe return-to-work and labour market re-entry. It does not cover every issue or exception. For further information please contact the Commission at 1-800-563-9000.

9.1 Worker's responsibility

A worker is required to notify the employer immediately of an injury which happened in the course of employment. If the injury disables the worker for longer than the day on which the injury occurred, or if the worker does not miss work but needs medical, surgical or dental aid, the worker is required to complete and return a form 6 — Worker's Report of Injury. This form should include detailed and accurate information (e.g. full name(s), date of birth, SIN, MCP, etc.) and be completed as soon as possible to avoid any undue delays in processing and adjudicating the claim. Workers may mail their form to the Commission or fax (709) 778-1302 or 1-800-276-5257.

9.2 Employer's responsibility

The employer must notify the Commission within three days of every injury disabling a worker or requiring medical, surgical, or dental aid. The employer must complete and return form 7 — Employer's Report of Injury. Part I of the form is to be completed if the injured worker is only disabled for the day on which the injury occurred. Part I and II are to be completed if the worker is disabled for longer than the day on which the injury occurred. If the employer fails to notify the Commission of an injury, the Commission may also charge the cost of the claim to the employer.

These forms should be mailed to the Commission or faxed to (709) 778-1302 or 1-800-276-5257. Failure to report a medical aid only claim within three days will result in a \$100 penalty. Failure to report a lost-time claim within three days will result in a \$200 penalty. All penalties are directly charged to the employer's assessment account.

The employer is required to pay an injured worker's normal wages for the day on which the injury occurred. If the worker is disabled for longer than the day on which the injury occurred, the Commission will pay compensation beginning on the day following the

occurrence of the injury only if there is medical evidence to support the disability.

The employer is also responsible for the cost of transporting an injured worker who requires medical attention to a place where the worker may receive medical attention. Appropriate transportation costs will be paid by the Commission.

Duty to co-operate in return-to-work *

Effective January 1, 2002, all employers and workers are obligated under *the Act* to co-operate in the worker's early and safe return to suitable and available employment with the injury employer.

Employers are required to:

- contact the worker as soon as possible after the injury occurs and maintain communication throughout the period of the worker's recovery or impairment;
- provide suitable and available employment; and
- give the Commission any information requested concerning the worker's return-to-work.

The employer is required to pay the worker's salary earned while performing suitable work. The Commission will pay the worker the differential, if any, between the salary earned during the early and safe return-to-work process and 80% of net pre-injury earnings, to the maximum compensable earnings level.

The best way for an employer to meet the co-operation requirements of *the Act* is to establish an effective disability management program (*see Section 10*).

Obligation to re-employ *

Effective January 1, 2002, employers have a legislated responsibility to re-employ the worker back to the pre-injury or comparable employment if the employer regularly employs 20 or more workers AND the worker has been employed by that employer continuously for one year prior to the injury.

Where a worker has achieved maximum medical recovery for the injury, and is medically able to perform suitable work but is unable to perform the essential duties of the pre-injury job, the employer must offer the worker suitable employment that is or becomes available.

The employer is obligated to offer the worker suitable employment that is or becomes available throughout the period of the re-employment obligation.

Employers who are obligated to re-employ their workers are obligated until the earliest of:

- two years after the date of injury;
- one year after the worker is medically able to perform the essential duties of the pre-injury employment; or
- the date on which the worker reaches age 65.

While early and safe return-to-work is the responsibility of the workplace parties, the Commission is available to provide advice and support, communicate with the workplace parties, monitor activities and progress, address compliance issues, and offer dispute resolution.

Penalties

Employers who do not meet their co-operation and/or re-employment obligations will be subject to direct financial penalties.

The Commission may levy a penalty not exceeding the cost of providing benefits, return-to-work and labour market re-entry services to employers who fail to cooperate in return-to-work.

Employers' penalties for failing to re-employ a worker could include a year's salary associated with the worker injured. The worker who does not participate meaningfully in return-to-work efforts could see benefits reduced, suspended or terminated.

Workers who are unable to be re-employed with their injury employer will be offered labour market re-entry assessments and/or plans to allow the worker to re-enter the labour market in suitable employment. Although the Commission pays for labour market re-entry assessments and plans, the cost is reflected on the employer's experience, so early and safe return-to-work is the best option.

9.3 Recurrence

If an injured worker recovers from a workplace injury and returns to work, but later the injury causes further lost-time or requires reasonable medical treatment to remain at work, the worker may reapply for benefits. Workers are required to report the recurrence to their employer as soon as possible giving full details.

The employer is required to complete an "Employer's Questionnaire — Recurrence of Injury." The worker and the physician complete the "Worker's Questionnaire — Recurrences of Injury," and "Doctor's Form 8/10." All forms must be returned to the Commission for processing.

If a former worker applies for a recurrence but no longer works for you, the Commission may still seek information from you regarding the Employer's Questionnaire.

9.4 Subsequent reports

The employer is required to complete and return an Employer's Subsequent Statement to the Commission when the injured worker is able to return-to-work. Prompt notification of an injured worker's return-to-work will help minimize overpayment of benefits.

The Commission may also require the employer to submit further information about an injured worker in order to properly adjudicate the claim. To avoid any delays in processing and adjudicating a claim, the employer should report prompt and accurate information.

All forms to be completed by an injured worker or an employer can be obtained upon request from any of the Commission's offices or our web site at www.whscc.nf.ca.

10. Components of effective disability management

How can an employer implement an effective disability management program?

Employers who support and encourage their injured workers to return-to-work early reduce costs for themselves and the compensation system. It is generally recognized that the sooner an injured worker returns to the worksite, the more likely he or she is to remain active and to fully return-to-work. Early and safe return-to-work reduces the length of a claim, which reduces the cost to the Commission injury fund and as a result reduces the amount the Commission needs to collect in assessment revenue from employers.

Another benefit of promoting early and safe return-to-work is that it maintains productivity by keeping skilled and knowledgeable employees on the job and this gives the worker a greater sense of self worth.

Disability management is a system designed to assist employers report, control and account for workplace injuries and compensation claims with the primary objective to reduce the frequency, duration and subsequent costs of claims.

Disability management promotes: employer involvement in the overall claim process; early and safe return-to-work for injured workers; and modified work options for workers with temporary work-related disabilities. A properly managed disability management program and an effective injury prevention program should result in significant reduction in claims costs, which translates into lower industry assessment rates.

How can employers reduce their assessment rate (directly if they are experienced rated or indirectly if not), reduce the cost of their injuries, and provide a safe and healthy workplace for their workers?

Prevention

- Take steps to establish an effective health and safety management committee.
- Investigate accidents/incidents.
- Develop policies and procedures that demonstrate commitment and promote safe practices.
- Inspect the workplace periodically.
- Encourage safety meetings.
- Plan for emergencies.
- Provide training/education.
- Orientate new staff.
- Communicate with the workforce.
- Practice disability management.
- Introduce ergonomics solutions.

Disability management

- Monitor and manage the progress of injured workers.
- Submit injury reports promptly.
- Keep in touch with injured workers and the Commission.
- Develop return-to-work programs.
- Train workers to report injuries promptly to the employer and the Commission.

Why is early & safe return-to-work so important?

Early and safe return-to-work reduces potential problems that may arise from lengthy absences from the workplace. That's why the Commission encourages workers to return to their job as soon as possible after an injury. Even if the worker cannot immediately perform all duties, the employer still benefits from the worker's contribution which will not occur if the worker is not at work.

The Commission's case managers are available to assist employers and workers with their return-to-work efforts. Additional support is available through a number of programs which require cooperation from the worker, employer and health care providers. For example:

Modified work

If a worker is unable to perform all the duties of the job, the employer may change the job on a temporary basis to suit the worker's injury. This allows the injured worker to continue working while undergoing medical treatment. This is often combined with a reduction in hours of work.

Ease back to work

If a worker is unable to resume full duties after an injury, a worker can gradually increase the hours of work and duties. A worker can build up strength and tolerance during this temporary program; the end result being a return to full employment.

Trial work

A trial work period gives the worker, employer and health care provider an opportunity to see if an injured worker can safely perform all the duties of his/her job or some other job.

Accommodating the workplace

All employers are encouraged to accommodate the workplace. However, an employer with a re-employment obligation is required by *the Act* to provide modifications or assistive devices to accommodate the workplace for the worker, unless the employer demonstrates that the resulting expenses will cause undue hardship. The Commission may pay for modifications and devices that are necessary for the worker to re-enter the labour market in suitable employment.

Accommodations may involve any modification, assistive device, or combination of the two, with the goal of

making the essential duties of the pre-injury or alternative employment consistent with the worker's functional abilities.

Labour market re-entry (LMR)

In cases where the injury employer is unable to accommodate an injured worker or has been found to be non-cooperative in the early and safe return-to-work process, or where the nature of the injury limits the worker's return to suitable employment, the Commission will consider a labour market re-entry assessment and plan which may involve the following programs:

On-the-job training

The Commission may sponsor on-the-job training programs to allow workers to obtain new skills to become employable.

Employment readiness

The Commission may provide employment readiness (ER) services, including income support and other benefits to workers displaced from their job because of the injury, but who are capable of re-entering the workforce with their current skills. Services that may be available include resume preparation, job interview preparation, and learning to access information on securing job opportunities.

Academic upgrading/formal training

This training allows workers to upgrade so they can re-enter the workforce or qualify for a chosen training pro-

gram. The Commission consults with injured workers to choose the most appropriate training program.

Entrepreneur assistance

The Commission may provide financial assistance to injured workers for self-employment purposes if this is considered to be a reasonable and viable return-to-work option. A market impact analysis will be conducted before any self-employment venture is approved.

Second injury relief

When the total or partial cost of an individual claim is redirected from an employer's claims cost record to a general account, the account is known as the second injury relief account.

For example, if an employee is injured while working for employer A, but a previous work injury sustained while working for employer B is now prolonging or increasing the costs of a current work-related injury, employer A may be relieved of all or part of the claims cost through the second injury relief fund. Also, relief will be given when a new work injury or a recurrence of a previous work injury occurs while a worker is participating in a Commission-sponsored labour market re-entry program.

The Compensation Services Department will determine when, and to what degree, second injury relief may be provided. For more information on second injury relief contact the Commission at 1-800-563-9000.

11. Benefits and assistance available to injured workers

11.1 Wage-loss benefits

The Commission pays wage-loss benefits for a compensable injury based upon 80% of the pre-injury net earnings. The employer is responsible for the worker's full wages for the day of the injury. There is an annual limit of \$46,275 effective for 2005 (gross wages) on the amount of earnings insured. This limit is the maximum compensation ceiling under *the Act*. Reduction of wage loss may occur if garnishment of wages exist due to support enforcement or social assistance payments. The Commission may pay wage-loss benefits until a worker is 65. A worker who is 63 or older at the time of injury, however, may receive benefits for a maximum of two years.

Note: *The Commission considers Canada Pension Plan disability benefits and employer-sponsored pension benefits as earnings and deducts them from the Commission's benefits. Other benefits paid by the employer during the period of disability may also be deducted.*

11.2 Health care

The Commission pays reasonable health care expenses related to a workplace injury. These include medical doctors' fees, chiropractic fees, hospital costs, prescription drugs, physiotherapy, occupational therapy and aids such as crutches or prosthesis. The Commission also pays the reasonable cost of travel,

accommodations and meals when the worker has to leave his/her home community for health care treatment. If the worker decides to travel outside his/her community to receive health care treatment which is available in the community, the Commission will not cover the cost of travel. For more information about travel guidelines, contact the Commission toll free 1-800-563-9000.

The Commission will pay for homeopathic remedies and herbal medicines prescribed by a medical doctor.

11.3 Permanent Functional Impairment (PFI) Award

In addition to wage-loss benefits and health care benefits, a permanent functional impairment (PFI) award may be paid to cover any loss of bodily function, e.g. amputation of a limb. The Commission determines the percentage of impairment by matching the physical findings with the Commission's PFI rating schedule which is based on the American Medical Association (AMA) guidelines for permanent impairment. A PFI is calculated by multiplying the percentage of impairment by the \$46,275 annual compensable limit. If a worker is eligible for a PFI assessment, it is conducted after medical treatment and maximum recovery.

11.4 Dependency benefits

If a worker dies as a result of a work-related injury or illness, there are benefits for the surviving spouse and children. These benefits may include a lump-sum award and monthly benefits, based on the deceased worker's compensable income. The amount, type and length of time when benefits are paid varies. For more details on dependency benefits, contact the Commission at 1-800-563-9000.

12. Investigations

The Commission introduced an Investigation Policy in 1995. Investigative services ensure everyone who is part of the system uses it fairly. This includes employers, workers, staff and health care providers. If you have any concerns about abuse, you should contact the Commission's general counsel at (709) 778-1222.

13. Employer access to information

The Commission provides employers with relevant information to allow them to participate in planning the worker's return-to-work. Where an internal review takes place, however, an employer may receive additional relevant claim file information if they make a written request and the information they want is relevant to the issue under review.

When an employer requests medical information related to an injured worker and the Commission believes that providing the information is reasonably necessary for the determination of the worker's fitness to return-to-work, the Commission may provide the information to the employer. The worker will be notified that the information was provided.

An Authorized Representative Consent Form (form 13) must be signed by a worker or employer when either wishes to allow another individual or agency to act on their behalf and have access to their file information (worker's claim file or employer's assessment file). It is also used to indicate if an individual is no longer an authorized representative and should not be given access to the file.

The Information Protection and Access Policy requires employers to specifically identify the name of the person to whom the Commission may release information. As well, all information about a claim file released to an employer (or the employer's authorized representative) must be copied to the worker. Outside the internal review process, additional information can only be released to the employer with the worker's written consent.

14. Vendor numbers

Vendor numbers are unique identifiers assigned to employers and individuals who bill the Commission for the provision of products and services. Employers wishing to obtain a vendor number may do so by writing or faxing the Commission with their request. Before a

vendor number is issued, a non-registered company must contact the Assessment Department to determine if registration with the Commission is required. For information concerning the requirements to register with the Commission please call (709) 778-1307.

Faxed information should include full mailing address, contact person, phone and fax numbers, number of employees, and a general statement indicating the type of business operation.

For more information regarding a new vendor number contact the Commission at 1-800-563-9000 or by fax (709) 778-1514 and ask to speak to a medical aid clerk.

15. Appeals

If an employer is not satisfied with any decision of the Commission, the employer may request a review by writing the Commission's Internal Review Division. The request must be filed within 30 days from the date you are notified of the decision. You should outline in detail the issue being reviewed. Once the Commission receives a request, it is forwarded to an internal review specialist.

The internal review specialist thoroughly examines the file or issue(s) to make sure that all necessary information was considered, paying particular attention to the detailed concerns. If the internal review specialist finds that the decision of the Commission is in accordance with the *Workplace Health, Safety and Compensation Act*, regulations and policy, a letter confirming the original decision is sent to the employer.

Requests for Internal Review must be forwarded to:

Workplace Health, Safety and
Compensation Commission
Attn: Administrative Officer
Internal Review Division
P.O. Box 9000
St. John's, NL,
A1A 3B8

Reference: Internal Review

If the internal review specialist considers a decision to be questionable, then the original decision will be overturned. The Commission's final decision is always in writing and will be provided within 45 days from the date your request is received by the Commission.

If the employer is not satisfied with the results of the Internal Review, they may request it be reviewed by the Workplace Health, Safety and Compensation Review Division (WHSCRD). This is an external body, independent of the Commission. The request must be filed within 30 days from the date you are notified of the Commission's final decision. WHSCRD should provide you with a written decision within 60 days from the date of your application for review.

Requests for a WHSCRD review must be sent to:

Workplace Health, Safety and
Compensation Review Division
Dorset Building
6 Mount Carson Avenue
Mount Pearl, NL
A1N 3K4

16. Employers' advisor

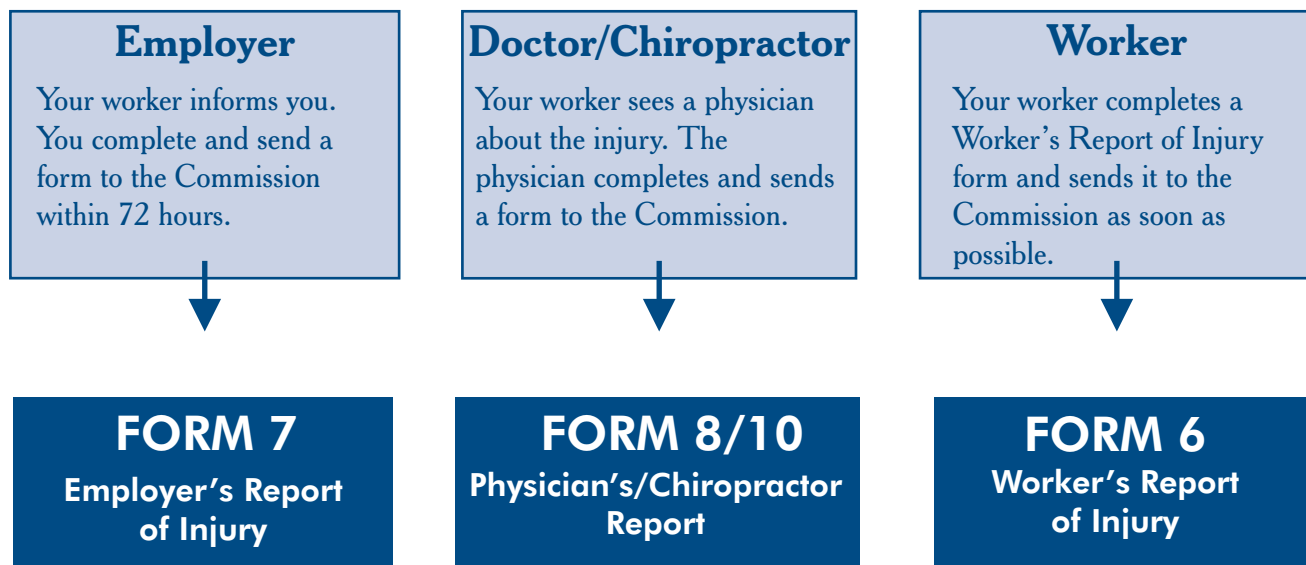
Two employers' advisors operating out of the office of the Newfoundland and Labrador Employers' Council are available to provide independent assistance and advice to employers on appropriate legislation, policies, prevention, and related matters.

For further information please contact:

Newfoundland & Labrador Employers' Council
Attn: Employers' Advisor
1062 Topsail Road
P.O. Box 31038
Mount Pearl, NL
A1N 4L5
Telephone: (709) 368-6532
Fax: (709) 368-6543

17. When a workplace injury occurs

3 forms should be sent to the Commission



The Commission registers your worker's claim and assigns a claim number. From there it goes to an intake adjudicator or a case manager if necessary, to determine entitlement. If more information is required to make a decision or if something is missing, the Commission will contact you, your worker or their doctor. ***This causes delays in payment.***



Case managers work closely with employers, injured workers and health care providers to assist workers return to safe employment as soon as possible.

For more information on effective disability management see Section 10.

FREQUENTLY CALLED WHSCC NUMBERS

Assessment Services Department

Account balances & payment arrangements	(709) 778-1125/1254
Audit appointments.....	(709) 778-1137
Clearance certificates (letters of good standing)	(709) 778-1198
Employer's payroll statements & invoices	(709) 778-1140/1141
Fish buyers & logging accounts	(709) 778-1137
Optional personal coverage	(709) 778-1141/1140
Rate classification, requests for statistics.....	(709) 778-1189
Experience rating	(709) 778-1211
Registration	(709) 778-1307
Manager of Assessments.....	(709) 778-1209
Negligence reviews	
Out-of-province coverage	
Student coverage	
Manager of Field Services	(709) 778-1142
Director of Assessment Services.....	(709) 778-1139

Other frequently used numbers

Claims information	(709) 778-1000
Employer's Advisor	(709) 368-6532
Newfoundland & Labrador Employers' Council	
Failure to report injury penalties	(709) 778-1177
Form 6 & 7 requests.....	(709) 778-1248
Prevention Services	(709) 778-1552
Investigations Division	(709) 778-1222
Provincial Department of Government Services	(709) 729-3619
Occupational Health and Safety Branch	
To arrange a presentation about WHSCC to your staff	(709) 778-1223
Resource Centre	(709) 778-1523

Fax numbers

Assessment Services Department	(709) 778-1110
Injury reports	(709) 778-1302 or 1-800-276-5257

Report a serious accident 709-729-4444
Toll free inquiry line 1-800-563-5471

**WORKPLACE HEALTH, SAFETY
AND COMPENSATION COMMISSION**

St. John's

146-148 Forest Road
P.O. Box 9000
St. John's, NL
A1A 3B8
Telephone (709) 778-1000
Fax (709) 778-1110 (Assessment Services)
Fax (709) 778-1302 (Compensation Services)
Toll Free 1-800-563-9000

Grand Falls-Windsor

26 High Street
P.O. Box 850
Grand Falls-Windsor, NL
A2A 2P7
Telephone (709) 489-1600
Fax (709) 489-1616
Toll Free 1-800-563-3448

Corner Brook

Suite 201, Fortis Towers
4 Herald Avenue, P.O. Box 474
Corner Brook, NL
A2H 6E6
Telephone (709) 637-2700
Fax (709) 639-1018
Toll Free 1-800-563-2772

Web Site

www.whscc.nf.ca