



# Changes to Workers Compensation

What you need to know

If you're hurt at work,  
we're here to help.

**Bill 25** was  
adopted unanimously  
by the **Manitoba  
Legislature.**

## Introduction

On January 1, 2006, many changes to *The Workers Compensation Act* (the Act) will come into effect. The changes will "...modernize and update the Act and establish a workers compensation system that is affordable, balanced and practical," said the Honourable Nancy Allan, Minister of Labour and Immigration.

These changes are set out in Bill 25, *The Workers Compensation Amendment Act*, which was adopted unanimously by the Manitoba Legislature. It incorporates the vast majority of the recommendations of the February 2005 report of the Legislative Review Committee on The Workers Compensation Act. The review was the first extensive public consultation in almost 20 years.

Most changes apply to work-related injuries or diseases occurring on or after January 1, 2006. Other changes, largely related to coverage and return to work, are to be implemented following further consultation with affected industries, employers and workers.

The Act sets out the following fundamental principles of workers compensation, most of which have been in place in Canada since the early 1900s:

- collective liability of employers for workplace injuries and diseases
- compensation for injured workers or their dependants, regardless of fault
- income replacement benefits based on loss of earning capacity
- immunity of employers and workers from civil suits
- prevention of workplace injuries and diseases
- timely and safe return to health and work
- independent administration by the Workers Compensation Board of Manitoba, an arm's-length agency of government.

The following are highlights of changes that will affect workers, employers and the day-to-day operations of the WCB. It is intended as a guide only. For more information on workers compensation, please go to the WCB's website at

[www.wcb.mb.ca](http://www.wcb.mb.ca)

This document is also available in large print format.  
Please call **954-4760**, toll free **1-800-362-3340** or email  
**info@wcb.mb.ca** for a copy.

# Changes Affecting Injured Workers

For workers who suffer a workplace injury or disease on or after January 1, 2006, the following provisions will apply:

## Employer Pays for Day of Injury

Employers are required to pay injured workers their regular wages and benefits for the full day of the injury – not just up to the time the injury took place. For example, if a worker is scheduled to work from 8:00 am to 5:00 pm, but is injured at 11:00 am that day and can no longer complete the shift, the employer is required to pay the worker's regular pay and benefits as if he or she had worked until 5:00 pm.

## Return to Work Notification

Both injured workers and their employers must notify the WCB when workers return to work.

## No Reduction in Wage Loss Benefits after 24 Months

Injured workers who are on wage loss benefits for 24 months or more will no longer have their wage loss benefits reduced from 90% to 80% of net wages.

## No Maximum Insurable Earnings

In the past, injured workers were paid wage loss benefits based on 90% of their net earnings up to a maximum amount set each year. Effective January 1, 2006, there is no limit on insurable earnings. This means injured workers will be paid wage loss benefits based on 90% of their total net earnings. For example, in 2005, maximum earnings were capped at \$58,260. An injured worker earning \$80,000 would receive wage loss benefits based on 90% of net of \$58,260. A worker injured on or after January 1, 2006 who earns \$80,000 will be paid wage loss benefits based on 90% of net of the total earnings of \$80,000.

## Top Ups

Workers may top up their wage loss benefits to 100% of net regular take home pay through income from other sources, such as employer top up, CPP or private insurance.

## Wage Loss Benefits for Injured Workers Earning Minimum Wage or Less

Injured workers earning less than the minimum annual earnings will receive wage loss benefits based on 100% of net earnings.

## Wage Loss Benefits for Older Workers

Injured workers who are 61 years of age or older are eligible to receive wage loss benefits until they are fit to return to work or for 48 months, whichever comes first.

## Employer Pays First 14 Days after Injury

The WCB may ask employers to continue to pay their injured workers for the first 14 days after injury – a typical pay period – so that the workers' income is not interrupted after injury. The WCB would reimburse the employer. This process will not be introduced until after a WCB consultation process.

## Re-employment

Certain employers will have an obligation to re-employ injured workers. This obligation will not come into effect until after a WCB consultation process.

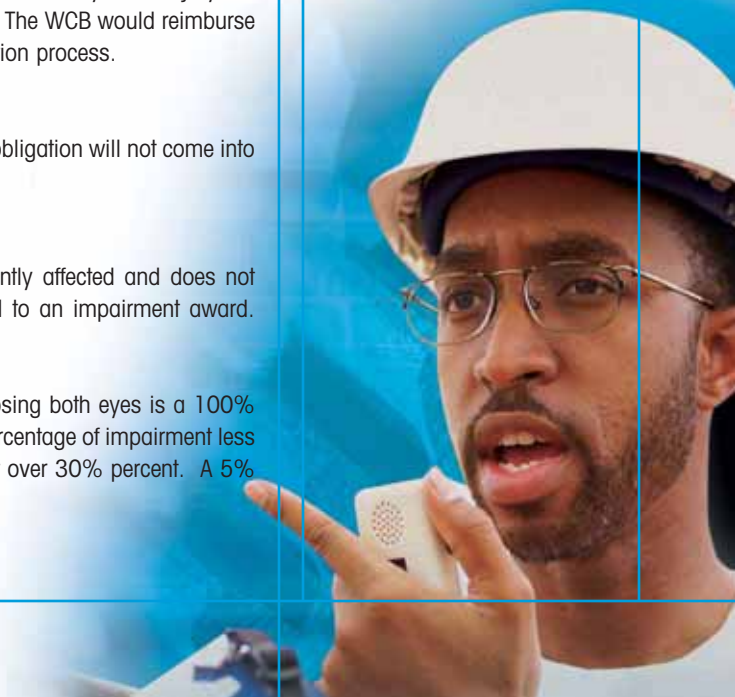
## Permanent Impairment Awards

If, as a result of a workplace injury, a part of a worker's body is permanently affected and does not function the same way it did prior to the injury, the worker may be entitled to an impairment award. Impairments are rated according to the loss of function.

For example, the loss of an index finger is a 5% impairment rating, while losing both eyes is a 100% impairment rating. Permanent impairment awards are \$1,030 for each full percentage of impairment less than 30% and \$30,900 plus \$1,240 for each full percentage of impairment over 30% percent. A 5% impairment award is \$5,150 and a 15% award is \$15,450.

## Employers

are now required to pay  
injured **workers**  
the full day of the injury.



**Bill 25**  
extends the  
**firefighter**  
presumption to part-time  
and volunteer firefighters.

### **Clinical Examinations**

When an injured worker is asked to participate in a clinical examination by a WCB healthcare professional, he or she has the right to bring along another person to be present during the exam.

### **Survivors' Benefits and Date of Death**

The date of death, not the date of the injury, will be used to determine benefit levels provided to the worker's dependants.

### **Compensation and Costs Payable on the Death of a Worker**

The amount granted to cover immediate expenses is increased to \$9,310.

### **Age-Related Reductions to Permanent Impairment Awards and Survivor Benefits**

Provisions in the previous Act that reduced impairment awards and survivor lump sum benefits on the basis of age have been removed.

### **Individuals in Work Experience or Job Training Programs**

Individuals who participate in work experience or job training programs can be considered to be workers and covered by workers compensation. Educational institutions can apply for coverage for themselves and for the work experience employers.

### **Responsibility to Meet Requirements**

Provisions for fines and penalties were consolidated and broadened to correspond to new provisions in the Act.

### **Claims Suppression**

The definition of claims suppression has been broadened to include actions taken to prevent the filing of a claim, to interfere with a claim once filed or to take retaliatory action in connection with the filing of a claim.

### **Fair Practices Office**

The Fair Practices Office was established in 1989, as a key component of the Workers Compensation Board's commitment to quality service and fair process for injured workers and employers. The Fair Practices Office is independent and impartial and will do everything possible to ensure that a fair, courteous and timely process occurs in the resolution of claims. The Fair Practices Office is not a level of appeal. While this service has been provided for many years, it has not been included in legislation. Effective January 1, 2006, the Fair Practices Office is included in the Act.

## **Firefighters**

The Act provides a rebuttable presumption of compensation for firefighters who have regular exposure to a fire scene (other than a forest fire scene) for a prescribed minimum period and who contract certain primary site cancers. A rebuttable firefighter presumption means that certain injuries or diseases are presumed to be caused by the occupation of firefighting, unless the contrary is proven.

In 2002, five primary site cancers were initially included: brain, bladder or kidney cancer, primary non-Hodgkin's lymphoma or primary leukemia. Bill 25 expands the cancer presumption to include primary site ureter and colorectal cancers and primary site lung cancer in non-smoking firefighters.

Heart injury within 24 hours of attendance at an emergency response is also presumed to be a work-related injury.

Bill 25 extends the firefighter presumption to part-time and volunteer firefighters. The firefighter provisions came into force on royal assent, June 9, 2005. For full-time firefighters, the changes go back to 1992. For part-time and volunteer firefighters, the presumption applies to heart injuries or cancers on or after June 9, 2005.



# Changes Affecting Employers

## Coverage Model

Bill 25 begins the process to change the coverage model for workers compensation. This change has no immediate impact because coverage will not be changed without prior consultation with industries, employers and workers. Industries with compulsory WCB coverage will continue to have compulsory coverage.

The change relates to how mandatory industries are identified. Since 1917, only industries listed in the Act's Schedule must have compulsory coverage. Under Bill 25, the Schedule of mandatory industries will be replaced by a list of non-compulsory or excluded industries. A government regulation will now list the industries, employers and workers that do not require compulsory workers compensation coverage. This initial list reflects the status quo.

As part of Bill 25, the government has committed to reviewing, in consultation with stakeholders, which industries should be included under the umbrella of mandatory coverage. No expansion of coverage will take place without prior consultation with affected industries. The government has asked the WCB to undertake these consultations.

## Employer Pays for Day of Injury

Employers are now required to pay injured workers their regular wages and benefits for the full day of the injury – not just up to the time the injury took place. For example, if a worker is scheduled to work from 8:00 am to 5:00 pm, but gets injured at 11:00 am that day and can no longer complete the shift, the employer is required to pay the worker's regular pay and benefits as if he or she had worked until 5:00 pm.

## Interim Cap to be Applied to Assessable Earnings

The new laws effective January 1, 2006 provide for the removal of the cap on assessable earnings, when determining what each employer will pay in WCB premiums.

However, for 2006 there will be an interim cap on assessable earnings of \$66,500 per worker. Premiums will be based on these capped earnings. When submitting payroll information to the WCB, employers will be required to provide both their workers' total gross earnings and their workers' total earnings within the interim cap. To illustrate, a worker has gross earnings of \$100,000 in 2006. The employer will report \$66,500 as assessable earnings for this worker and \$100,000 as total gross earnings. The cap on assessable earnings is a transitional measure and will be reviewed during the course of 2006.

For business owners or directors of corporations who choose to purchase special coverage for themselves, there is no cap on the amount of coverage that can be purchased.

While there is an interim cap on assessable earnings, there is no cap on insured earnings when it comes to paying wage loss benefits to injured workers. If a worker who earns \$100,000 has a compensable injury on or after January 1, 2006, the worker will be paid wage loss benefits based on the full salary. WCB wage loss benefits are typically calculated at 90% of net wages.

## Transporting Injured Workers to Healthcare Facilities

Employers are required to ensure an injured worker is transported to a healthcare facility for treatment when necessary. The WCB will pay the costs associated with transporting an injured worker to a healthcare facility, not the employer.

## Return to Work Notification

Both injured workers and their employers must notify the WCB when workers return to work.

## Directors of Corporate Employers

Employer liability protection is extended to directors of corporations that are employers.

## Reporting Actual Payroll

The WCB may waive the employers' requirement to provide a payroll estimate at the beginning of the year and permit employers to pay assessments based on actual payroll on a quarterly basis.

*Interim cap of  
**\$66,500**  
per worker will be applied to  
**assessable  
earnings**  
for 2006.*



**Family members**  
of the business owner  
who live with the business  
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**covered by WCB.**

### **Top Ups**

Employers can “top up” an injured worker’s wage loss benefits up to a maximum of 100% of the worker’s regular take home pay. WCB wage loss benefits are based on 90% of the injured worker’s regular take home pay.

### **Individuals in Work Experience or Job Training Programs**

Individuals who participate in work experience or job training programs can be considered to be workers and covered by workers compensation. Educational institutions can apply for coverage for themselves and for the work experience employers.

### **Optional Coverage for Volunteers**

Non-profit and charitable organizations are able to purchase optional coverage for their volunteers.

### **Resident Family Members**

Family members of the business owner who live with the owner and work for the business are considered to be workers and are covered by WCB. Resident family members include a spouse, partner or child.

### **Claims Suppression**

The definition of claims suppression has been broadened to include actions taken to prevent the filing of a claim, to interfere with a claim once filed or to take retaliatory action in connection with the filing of a claim.

### **Re-employment**

Certain employers will have an obligation to re-employ injured workers. This obligation will not come into effect until after a WCB consultation process.

### **Employer Pays First 14 Days after Injury**

The WCB may ask employers to continue to pay their injured workers for the first 14 days after injury – a typical pay period – so that workers’ income is not interrupted after injury. The WCB would reimburse the employer. This process will not be introduced until after a WCB consultation process.

### **Medical Review Panel**

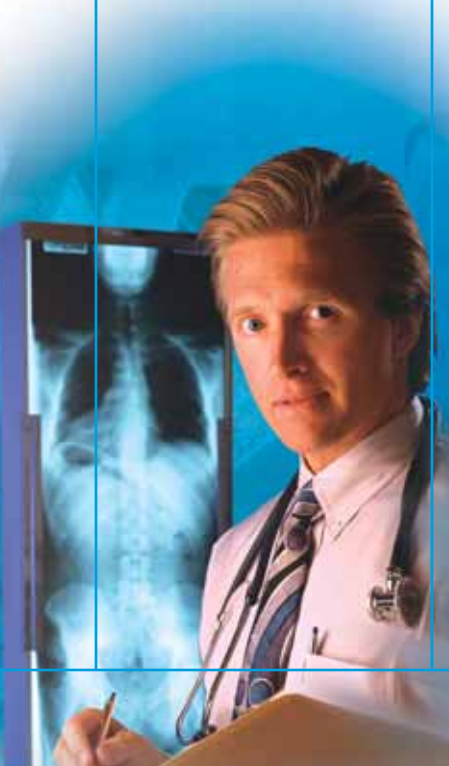
An employer may make a written request that the WCB refer an injured worker’s medical matter to a Medical Review Panel for a medical opinion. The medical matter must be real and substantial and affect entitlement to compensation, and the request must take place before an Appeal Commission decision.

### **Responsibility to Meet Requirements**

Provisions for fines and penalties were consolidated and broadened to correspond to new provisions in the Act.

### **Fair Practices Office**

The Fair Practices Office was established in 1989, as a key component of the Workers Compensation Board’s commitment to quality service and fair process for injured workers and employers. The Fair Practices Office is independent and impartial and will do everything possible to ensure that a fair, courteous and timely process occurs in the resolution of claims. The Fair Practices Office is not a level of appeal. While this service has been provided for many years, it has not been included in legislation. Effective January 1, 2006, the Fair Practices Office is included in the Act.



# Changes Affecting WCB

In the past the WCB has been seen as an injury and illness insurance program for employers and workers. However, recognizing that each incident of work-related injury and illness represents an opportunity for prevention, the WCB and the provincial Workplace Safety and Health Division have implemented an ambitious injury and illness prevention strategy that has achieved a 21% reduction in Manitoba's time-loss injury rate since 2000.

Effective January 1, 2006, a prevention mandate is enshrined in *The Workers Compensation Act* and defines a role for the WCB to:

- promote public awareness of workplace safety and health
- promote injury and disease prevention
- promote an understanding of and compliance with *The Workers Compensation Act* and *The Workplace Safety and Health Act*
- foster commitment to workplace safety and health and injury and disease prevention among employers, workers and others, and
- work with organizations engaged in workplace injury and disease prevention to promote workplace safety and health.

## WCB Board of Directors

Bill 25 makes a number of changes to modernize the WCB's governance framework. It contains:

- a legislated requirement for an Audit Committee, an Investment Committee and a Policy and Planning Committee
- a change in membership and accountability provisions for the Investment Committee
- a requirement that the chairperson of each committee be one of the directors representing workers, employers or the public interest, and
- a provision for the appointment of up to three outside members to the Audit and Investment committees.

## Independent Review

The Board of Directors must appoint an independent auditor every five years to review the cost, efficiency and effectiveness of at least one WCB program. The Minister chooses the program to be audited.

## Periodic Review of The Workers Compensation Act

The Government of Manitoba will conduct a public review of the WCB Act every 10 years.

# Additional Considerations

The Legislative Review Committee report considered a number of matters that do not require changes to the legislation. The government has referred these matters to the WCB for consideration. These include developing incentives for employers to implement or expand safety and health activities; reviewing dispute resolution mechanisms; encouraging low risk workplaces to opt into WCB coverage; reviewing and amending additional policies; continuing the pursuit of partnerships with healthcare providers to facilitate timely medical diagnosis, treatment and rehabilitation; and strengthening services to assist workers whose situations have changed significantly as a result of their injuries.

# Contact Information

If you have questions about the content of this publication please call **954-4321** or toll free **1-800-362-3340**.

Bill 25 defines a  
**prevention**  
role for the **WCB**.





**SAFE  
WORK**

**S  
A  
F  
E** SPOT THE HAZARD  
ASSESS THE RISK  
FIND A SAFER WAY  
EVERYDAY