

CONSULTATION:

Extending Workers Compensation Coverage

WCB Launches Consultation on Phase II of Extension of Workers Compensation Coverage in Manitoba

The Manitoba Workers Compensation Board, as a part of the Manitoba government's phased-in extension of workers compensation coverage, is initiating a consultation with all employers and workers in all Manitoba industries, particularly those that are not currently covered by *The Workers Compensation Act*.

In 2005, the Manitoba Government made a public commitment to extend workers compensation coverage following consultation with the affected employers and workers. Workers compensation has existed in Manitoba for over 90 years. It provides workers with financial compensation (along with a range of additional supports) in the event of workplace illness or injury and protects employers from lawsuits from sick or injured workers. All Canadian provinces and territories have workers compensation systems that provide low-cost high quality protection to Canadian workers while ensuring that the cost of providing that protection is shared in a fair manner.

The Manitoba Government's commitment to extend workers compensation coverage was part of its response to *Working for Manitoba*, the 2005 report of the Legislative Review Committee on *The Workers Compensation Act*. The Review Committee, which included representatives of business, labour, and the public, held public hearings throughout Manitoba and received over 200 written submissions in 2004.

In its final report, the Review Committee recommended that WCB coverage "be extended over a three- to five-year period beginning with the inclusion of higher-risk workplaces that are not already covered." In making this recommendation, the Review Committee noted that:

- The level of workers compensation coverage in Manitoba was one of the lowest in Canada.
- The list of industries covered by *The Workers Compensation Act* had not been thoroughly reviewed and updated since 1959.

- Extension of coverage should take place following WCB consultation with the employers and workers who would be affected by extension.

As noted above, the Manitoba Government accepted the Review Committee's recommendations to extend WCB coverage.

As a first step towards implementation, in 2005, the Manitoba Government amended *The Workers Compensation Act*, to require that consultation with employers and workers precede any extension. This was followed by the Phase I extension of coverage.

Phase I

Over the winter of 2005/2006, the WCB consulted with employers and workers from industries that were not already covered by the Act but were similar in terms of risk or activity to covered industries. In January 2007, the Manitoba Government extended compulsory WCB coverage to approximately 850 firms that employed about 6,400 workers. In total, Phase I increased the number of workers covered by workers compensation by less than one per cent.

According to the Association of Workers' Compensation Boards of Canada, Manitoba still has the lowest level of coverage of any Canadian workers compensation system, at approximately 70 percent of the workforce. Five provinces have WCB coverage for at least 90 percent of the workforce.

Phase II

Under Phase II, the Manitoba Government intends to significantly increase workers compensation coverage. This extension is part of its ongoing effort to ensure that Manitoba workplace policies, including workplace safety and health, and workers compensation help improve Manitoba's ability to attract and retain workers in a very competitive Canadian labour market. Providing all workers with equal workers compensation protection and ensuring that the costs of providing that protection are shared equitably among employers helps improve a jurisdiction's success in attracting and retaining workers. For these reasons the WCB Board of Directors supports the government's intention to consult on extension of coverage.

The Form of the Phase II Consultation

The attached documents describe the Manitoba workers compensation system. The Workers Compensation Board is requesting that all interested Manitoba employers, workers, and their respective organizations submit written comments in relation to the ongoing extension of workers compensation coverage in Manitoba. All submissions will remain confidential.

The deadline for submissions is May 1, 2008.

The Workers Compensation Board will review the submissions and make a report to the Manitoba Government.

Submissions should be sent to:

**Extension of Coverage Consultation
Workers Compensation Board
333 Broadway
Winnipeg, Manitoba R3C 4W3
Fax: (204) 954-4999 or toll free 1-877-872-3804
E-mail: consultation@wcb.mb.ca**

Questions about this consultation may be directed to:

Phone: (204) 954-4812 or toll free 1-866-926-0709

Background to Phase II of Workers Compensation Extension

What is workers compensation?

The Manitoba Workers Compensation Board provides no-fault insurance for workplace injury and disease. Under *The Workers Compensation Act*, workers compensation is compulsory for some industries and voluntary for other industries. Covered employers and their workers receive protection from lawsuits for work-related injuries and illnesses.

The Manitoba Workers Compensation Board is a non-profit agency that operates at arm's-length from government. Its directors include employer, worker and public interest representatives.

Aside from providing compensation, the WCB works with workers, employers and healthcare professionals to promote safety and health in workplaces and to return workers to health and work in a safe and timely manner. Across Canada, workers compensation systems fund workplace safety and health agencies that provide training, consultation, and enforcement of workplace safety and health regulations.

Paying for workers compensation

Workers compensation in Manitoba is funded by two revenue sources:

- Premiums paid by employers who have workers compensation coverage.
- Investment revenues. Depending on the year, investments make up between 20 and 25 per cent of WCB revenue.

The Manitoba Workers Compensation Board has an enviable financial record.

- The Manitoba WCB has been fully funded since 1996.
- The Manitoba WCB's average rate is the third lowest in the country.
- For 2008, the WCB reduced its average assessment rate by 4.8 per cent, with one-third of firms receiving a reduction of at least 10 per cent.

How are rates set?

To fairly allocate costs, those industries and firms that are responsible for the highest WCB costs pay the highest premiums. This system takes into account the injury costs of both individual firms and their industries in setting rates. Under this rate setting system:

- Low-risk industries are assessed at a lower rate than high-risk industries. For example, high-risk industries such as construction and manufacturing pay more than low risk industries such as the retail and service sectors.
- A firm with lower injury costs is assessed at a lower rate than a firm in the same industry with high injury costs. For example, a construction firm with low injury costs pays as much as five times less in assessments than a construction firm with high injury costs.
- For 2008, the average WCB assessment rate is \$1.60 per \$100 of assessable payroll. Overall, rates range from \$0.14 to \$30.27 per \$100 of assessable payroll.

Who is covered?

- In Manitoba, workers compensation covers approximately 70 per cent of Manitoba workers and about 60 per cent of Manitoba employers.
- According to the Association of Workers' Compensation Boards of Canada, Manitoba has the lowest rate of workers compensation coverage in the country.
- Five provinces (British Columbia, New Brunswick, Newfoundland and Labrador, Prince Edward Island, and Quebec) provide coverage to over 90 per cent of provincial workers. When it comes to coverage, Manitoba is not a part of the Canadian mainstream.

The extent of WCB coverage in Manitoba has remained basically the same since the Act was first adopted in 1917. This is problematic for a number of reasons. For example:

- New industries, many with a range of potential health and safety problems, have developed since 1917.
- The scientific understanding of the links between work and health risks has expanded dramatically.
- Some occupational hazards, which can exist across a range of covered and uncovered industries, were unknown in 1917. Repetitive strain injury, for example, can occur in both lower risk workplaces like offices and higher risk workplaces like construction and manufacturing.

The result is a patchwork compensation system in which burdens are not shared equally and workers do not have equal protection. Since employers who use similar processes are treated differently, not all Manitoba firms are competing on a level playing field. Nor are all of the costs of provincial workplace safety and health initiatives fairly shared among employers. Workers who face similar hazards but work in different industries are treated differently. As their careers take them from one job to another, workers lose and gain access to WCB protection. This lack of continuity of coverage across all sectors affects workers' ability to move between jobs.

Which industries are not required to be covered by workers compensation in Manitoba?

The Workers Compensation Act lists those industries that are not required to have workers compensation coverage. While the listed industries are excluded from compulsory coverage, employers in excluded industries may apply for WCB coverage on a voluntary basis. Every industry that is not on the list is covered by workers compensation. A copy of the list of excluded industries is attached to this document.

Are self-employed persons required to be covered by workers compensation in Manitoba?

Self-employed persons who do not employ any workers are not required to have coverage for themselves. These individuals may apply for WCB coverage on a voluntary basis.

What sorts of benefits does workers compensation provide?

- Wage-loss benefits are paid at 90 per cent of the worker's net average earnings and begin the day after the injury or the onset of the illness. Full earnings are insured, with no maximum. There are no waiting periods or deductibles, and no yearly or lifetime maximums.
- Employers and workers receive assistance with facilitating return to work.
- Coverage includes prescription drugs, healthcare treatment, travel expenses, attendant care, and many other benefits.
- Workers with permanent impairments are entitled to lump-sum payments in addition to wage-loss benefits.
- Workers who are unable to return to their regular work may receive additional supports or retraining.
- Wage-loss benefits are payable until workers reach the age of 65. Medical benefits, such as prescription drugs and attendant care are payable for life.
- Benefits remain in place if the employment relationship between the worker and employer ends.
- Benefits are payable to domestic partners and children in the event of a workplace death.

Advantages of workers compensation

- *Protection from liability* –Workers compensation protects covered employers from being sued by a covered worker for a workplace injury or illness. A covered worker cannot be sued by another covered worker for a workplace injury.

- *Coverage is no-fault* – Because workers compensation provides compensation if the injured person is a covered worker and the injury is work-related, it avoids the costs, uncertainty, time and disruption of litigation.
- *Prevention* – The WCB’s rate setting system, which charges the highest rates to the firms that generate the greatest costs, encourages firms to invest in prevention. Workers compensation also funds provincial workplace safety and health education, promotion, and enforcement programs.
- *Access to expertise* – The WCB specializes in adjudicating and managing occupational injury and disease claims.
- *Consulting services* – The WCB provides advice to workplaces on preventing injuries and returning injured workers to health and work.
- *Complements other benefit plans* – Workers compensation coverage rounds out a firm’s overall benefits package, contributing to its ability to attract and retain workers.
- *Quality service* – The WCB is committed to providing service that is fast, easy, caring, right and clear.
- *Coverage is automatic and guaranteed* – Workers who qualify for compensation are guaranteed their benefits, even if an employer fails to make premium payments.

Overall benefits from extending coverage

Workers compensation is a key element in Manitoba’s package of workplace policies. Over the past decade, the Manitoba Government has been modernizing these policies to improve Manitoba’s ability to attract and retain workers in an increasingly tight labour market. Extending workers compensation is a key part of this effort. Extension of coverage will:

- *Move Manitoba into the mainstream* by ensuring that workers engaged in occupations that are compulsory elsewhere would be covered in Manitoba.
- *Level the playing field* by reducing competitive disadvantages between covered and non-covered employers who compete with each other.
- *Fairly share the cost of workplace injuries* by ensuring that more employers share the costs of preventing, treating and compensating workplace injuries by supporting the workers compensation system and the Workplace Safety and Health Division of Manitoba Labour and Immigration.
- *Guarantee continuity of coverage* by allowing workers to change jobs within Manitoba and Canada without losing WCB protection.

- *Reduce each employer's share of the costs of administering the workers compensation system by spreading the costs across a larger pool of employers.*
- *Ensure that workers who are exposed to similar hazards are provided with the same level of insurance.*

No industry or occupation is free from workplace hazards which may lead to injuries or disease. However a significant number of industries and occupations are excluded from compulsory WCB coverage in Manitoba. Those exclusions are listed in the attachment to this document.

ATTACHMENT

LIST OF INDUSTRIES, EMPLOYERS AND WORKERS EXCLUDED FROM COMPULSORY WORKERS COMPENSATION COVERAGE IN MANITOBA

Accounting

- Provision of accounting and tax preparation services, including accounting, auditing, bookkeeping or income tax services; provision of actuarial services or agricultural financial services; carrying on business as a tax consultant.

Advertising and marketing

- Provision of advertising or marketing services, including advertising display, advertising distribution, merchandising other than by a manufacturer or vendor (which already have compulsory coverage), sales promotion or sample distribution services; carrying on business as an advertising agency, advertising broker or media representative; operation of an exposition or trade show.

Animal services

- Operation of a kennel, boarding facility or stables; operation of a riding academy, carrying on the business of horse exercising, training or racing.
- Provision of the following services: pet breeding, pet sitting, pet training, pet washing and grooming, pet waste removal.

Associations

- Operation of a community or cultural association, fraternity or sorority.
- Operation of a professional or trade association, board or committee.

Athletes and entertainers

- Athletes and entertainers, including artists and music arrangers.

Auction and appraisal

- Provision of auction and appraisal services; carrying on business as an auctioneer or appraiser.

Audiovisual and multimedia production

- Provision of audiovisual production services; operation of a motion picture laboratory, film library or film exchange; operation of a recording studio; provision of multimedia services; carrying on business as a motion picture film or television producer or a motion picture film or television distributor.

Banking and financial services

- Provision of financial services, including those provided by a financial institution such as a bank, credit union, trust company, credit institution, credit card company or leasing company; carrying on business as a mortgage company, finance or loan company, inventory loan company, pension plan, cheque cashing service company;

operation of a currency or foreign exchange.

- Provision of investment and financial planning services, including savings plan services; carrying on business as a bond, investment, mutual fund or stock dealer; carrying on business as a securities broker.
- Provision of credit rating or reporting services; carrying on the business of a credit reporting bureau.

Beekeeping

- Beekeeping; operation of an apiary.

Brokers and sales agents

- Provision of brokerage services; carrying on business as a product or service broker.
- Carrying on business as a sales agent without a stock of goods, including a wholesale manufacturer's representative, manufacturer's agent or purchasing agency; carrying on business as a salesperson for an industry located outside Manitoba.

Business consulting

- Carrying on business as a business consultant, including a communication, motivational, personnel management, public relations or sales and marketing consultant; carrying on the business of selling franchise operations.

Business office

- Operation of a business office that is incidental to an excluded industry.

Business services

- Provision of business services, including the following: arbitration, mediation and dispute resolution services; data entry and data processing services; desktop publishing services; fax and bulk mailing services; information services; mailing list and database services; paging, calling and signalling services; pollsters and information survey companies; professional writing services; telephone answering services incidental to an excluded industry; translation and interpretation services; valuation services; web design and hosting services.
- Operation of a business centre, Better Business Bureau or tourist information and convention bureau.

Call centres

- Operation of a call centre or provision of telephone soliciting or telephone interviewing services except where incidental to a compulsory industry.

Camps

- Operation of a day camp, playground; operation of a campground, recreational vehicle or trailer park; provision of hunting or fishing guide services (excluding guide camps that provide overnight accommodation, which are already compulsory).

Car or truck rental

- Operation of a car or truck rental facility.

Cemeteries

- Operation of a cemetery.

Charities

- Operation of a charitable foundation, institution or organization.

Collection agency

- Provision of collection services; carrying on business as a collection agency.

Computer services

- Provision of computer programming and consulting services, including computer processing services, systems and equipment.

Consulates and embassies

- Operation of a consulate or foreign embassy.

Domestic employment

- Employers who employ a person for less than 24 hours a week in domestic service, as a sitter to attend to a child in the care of that employer or as a companion to attend primarily to the needs of an aged, infirm or ill member of that employer's family.

Driving schools

- Operation of a driving school; provision of driving instruction services.

Elected officials

- Elected provincial and municipal officials.

Employment agencies

- Operation of an employment agency, including an executive search agency or talent and modeling agency (other than labour supply firms which are already compulsory).

Farming

- Carrying on the business of farming, including market gardening.

Farming — incidental activities

- Cutting of timber or lumber ties, cordwood or pulpwood on lands owned or occupied by that farmer.

Farm-related services

- Provision of farm-related services, including aerial chemical applications, chemical spraying, custom harvesting, fertilizer spreading, farm contracting, haying and threshing, land clearing; provision of agricultural management services; provision of agrology and agronomy services.

Fitness or spa facility

- Operation of a health, exercise or fitness facility, health studio or spa; operation of a steam, Turkish or sauna bath establishment.

Flea markets

- Operation of a flea market.

Freight shipping

- Provision of freight shipping services; carrying on business as a customs broker or agent.

Gaming

- Operation of a casino; carrying on the business of lottery ticket sales.

Graphic design, interior design or decorating, drafting

- Provision of graphic design or layout services, including computer graphics and graphic arts; provision of interior design services; provision of interior decorating services; provision of drafting services.

Greenhouses

- Operation of a greenhouse or nursery.

Hatcheries

- Operation of a hatchery.

Health care services (other than those with compulsory coverage such as regional health authorities, home care services or services provided in conjunction with manufacturing or retail)

- Provision of health care services by a physician, nurse, dentist, chiropractor, occupational therapist, optometrist, physiotherapist, podiatrist or psychologist.
- Provision of optician or denturist services.

Industry or employer on reserve land

- Carrying on of any industry or business by a First Nations person or a band or bands on reserve land, including the management and operation of the band and band council. (Where the industry or business is carried on by a corporation or partnership, the majority ownership must be held by a First Nations person or band.)

Insurance

- Operation of an insurance company or a bonding company; carrying on business as an insurance agent, insurance adjuster or private adjuster.

Land Development

- Carrying on the business of land development.

Laboratories

- Operation of a medical diagnostic laboratory; provision of bacteriological analyses, environmental analyses, metallurgical analyses, noise and vibration analyses, pharmaceutical testing or other similar services when those services are provided in a laboratory.

Legal services

- Provision of legal services; operation of a law firm; carrying on business as a lawyer, patent or trademark agent; carrying on business as a trustee in bankruptcy; provision of liquidation or receivership services; carrying on business as a notary public; carrying on business as a court reporter.

Livestock market

- Carrying on the business of buying and selling livestock (excluding operation of a stockyard, which is already compulsory).

Mail order sales

- Operation of a mail order house; carrying on the business of mail order, catalogue sales or direct sales without a stock of goods; carrying on business as a booking agency or ticket agent.

Motor associations

- Carrying on business as a motor or automobile association.

Museums and galleries

- Operation of a museum or gallery not involving retail sales; provision of art restoration services.

Personal grooming and aesthetic services

- Operation of a beauty spa, hair or tanning salon; carrying on business as an aesthetician, barber or hairdresser; provision of personal grooming services, including body piercing, electrolysis, tanning or tattooing.

Personal services

- Provision of personal services, including party planning, hypnotism, tutoring, wake-up service, wedding planning; carrying on business as a personal chef; carrying on the business of a personal service bureau; provision of credit counseling or management services.

Photography

- Carrying on the business of photography; operation of a photography or portrait studio.

Political parties

- Operation of a constituency office; carrying on the business of a political party.

Private investigation

- Carrying on business as a private investigator; provision of bailiff services; carrying on business as a process server.

Real estate

- Operation of a real estate agency; carrying on business as a real estate agent or broker.

Recreation

- Operation of an amusement or video arcade, billiard parlour, pool hall or bowling alley.
- Operation of a carnival, circus, traveling amusement fair, stampede or rodeo.
- Operation of a private, semi-private or public club, including a community club, golf and country club, legion hall or social club.
- Operation of a recreational and sporting facility, including an amusement park, archery range, arena, cricket field, community recreation centre, curling rink, golf driving range, gun club or shooting range, ice or roller skating rink, lawn bowling greens, miniature golf course, race track, ski resort, squash, racquetball or badminton club, swimming pool, tennis club or water slide.
- Operation of a conservatory, nature centre or zoo.
- Operation of a sports associations or organization, including a baseball club, football club, hockey club or racing club.
- Operation of a skydiving establishment.

Religious organizations

- Operation of a church, synagogue, mosque or other building used for religious purposes; administration of a religious organization or order; members of the clergy.

Rental services

- Provision of rental services; operation of a rental business.
- Operation of a movie and game rental store.

Research

- Provision of research services; operation of a weather station.

Schools

- Operation of the business of a Board of School Trustees, whether public or private;
- Operation of a lunch program on school property;
- Operation of a technical or trade school, including bartending school, business and technology school or law enforcement training school.

Social services

- Operation of a social service organization, including a sheltered workshop; operation of a research or training centre for developmentally disabled persons; provision of child welfare and family counseling services; provision of assistance and food supply

for seniors, the disadvantaged and the handicapped; provision of mental health counseling.

Sports and entertainment promotion and instruction

- Carrying on the business of sports or entertainment promotion; carrying on the business of professional or amateur sports instruction.

Training

- Provision of private instruction or training in the arts, a technical skill or vocational career, including art instruction, language training, martial arts instruction; carrying on business as a music instructor; operation of a dance studio.

Transportation (employer's own goods)

- Employers transporting their own goods who have no place of business and no stock of goods in Manitoba.

Transportation (worker outside Canada)

- Workers who ordinarily reside outside Canada and are temporarily working in or traveling through Manitoba and are employed in the air transport or cartage trucking industry by an employer whose principal place of business is outside Canada.

Travel agency

- Carrying on business as a travel agency or ticket booking agent.

Unions and labour organizations

- Operation of a union or labour organization.

Universities and colleges

- Operation of a university or college not otherwise covered under the *Act*.

Vermin extermination

- Provision of vermin extermination services.

Veterinary services

- Provision of veterinary services; operation of veterinary hospitals; operation of a humane society; provision of artificial breeding services or services for the breeding of animals, birds, fish or reptiles.