

WorkSafeNB Recommendations for Addressing Recommendations in the Report of the Task Force of July 2018

#	Task Force Recommendation	Legislation	Update	Status
Rate Setting				
1.	WorkSafeNB restate its policies permitting a variance of the Accident Fund not to exceed 120 per cent.	Board Policy	Long Term fiscal Policy has been amended to provide for a funding range between 115% and 125%, whereby a surcharge will be added to the rate if the funding ratio falls below 115% and a credit will be issued if the funding ratio exceeds 125%.	Implemented
2.	Surplus funds above the 120 per cent be managed by WorkSafeNB in a fair and transparent manner, accountable to all stakeholders.	Board Policy		Implemented
3.	WorkSafeNB recently embarked upon providing timely information to stakeholders in information sessions. The Task Force recommends such practices continue and WorkSafeNB provide reports to employers and other stakeholders, indicating the components of the rate, its impact, and how each component is managed.	Board Policy	Stakeholder groups regularly present before the WorkSafeNB Board of Directors. However, we are currently working to adapt this process to ensure compliance with pandemic control measures.	Implemented 90%
Workers' Compensation Appeals Tribunal (WCAT)				
4.	Repeal of sections of the Act: 21(8.1), 21(8.2), 21(9), 21(12.2).	<i>WHSCC & WCAT Act</i>	Bill 2, December 2018	Implemented
5.	<p>a. That legislation be enacted wherein the Appeals Tribunal shall decide the appeal based on the provisions of that Act, the regulations, the policies of WorkSafeNB and the facts as established from the evidence in the proceedings. In addition, WorkSafeNB shall certify to the Appeals Tribunal the record of proceedings.</p> <p>b. No new evidence shall be introduced before the Appeals Tribunal until that evidence has been first considered by an officer of WorkSafeNB and becomes a part of the record.</p> <p>c. If an Appellant attempts to present new evidence on appeal, the Appeals Tribunal shall adjourn the hearing until that new evidence can be first considered by an officer of WorkSafeNB and becomes a part of the record. Following that procedure, the Appellant's case will then be prioritized.</p> <p>d. The Appeals Tribunal shall not make any order or decision of a general nature affecting the policies of WorkSafeNB. Each appeal shall be decided on its own merits. The Appeals Tribunal decision shall pertain to the Appellant's case only.</p>	<i>WHSCC & WCAT Act</i>	Bill 2, December 2018	Implemented

WorkSafeNB Recommendations for Addressing Recommendations in the Report of the Task Force of July 2018

#	Task Force Recommendation	Legislation	Update	Status
	<p>e. The Appeals Tribunal will not have jurisdiction to alter, vary, reverse or amend any policy established by WorkSafeNB. However, the Appeals Tribunal can bring to the attention of WorkSafeNB policies that in the opinion of the Appeals Tribunal require variance.</p> <p>f. The Appeals Tribunal should have the ability to postpone an appeal and refer a policy or legislative issue to WorkSafeNB. When appeals are postponed, WCAT shall have the authority to issue an interim award to the appellant, if the circumstances warrant.</p> <p>g. Subject to the foregoing, enact legislation enabling the Appeals Tribunal to confirm, vary or reverse the decision of a hearing officer of WorkSafeNB.</p> <p>h. Legislation to clarify WorkSafeNB’s jurisdiction to refer matters to the Court of Appeal.</p>			
Occupational Health and Safety (OHS)				
6.	<p>Section 44 of the <i>Occupational Health and Safety Act</i> be amended:</p> <p>a. Requiring WorkSafeNB to send to employers’ copies of the <i>Occupational Health and Safety Act</i> and Regulations.</p> <p>b. Publicizing penalties for violations of the Act.</p>	OHS Act & Regs	<p>a. Legislation enacted - section 44.1 of the OHS Act.</p> <p>When a person notifies the Commission under subsection 53.1(1) of the <i>Workers’ Compensation Act</i> of commencing or recommencing a business or undertaking, the Commission shall provide the employer with the web address for the bilingual version of this Act published online by the Queen’s Printer.</p> <p>b. Legislation enacted section 47.3 of the OHSC-Act</p> <p>Publishing on our website the name of the person convicted, a description of the offence, and penalty imposed.</p>	Implemented, Bill 27, June 2019
7.	WorkSafeNB ensure that the Joint Health and Safety Committees (JHSC) are effective, representative of the employer and employee groups, and are sufficiently trained to carry out their duties.	OHS Act & Regs	<p>Legislation enacted under section 3(c) of the Regulation 2007-33 which allows for an organization approved by the Commission to deliver the educational program.</p> <p>Project on-going to re-align resources to more effectively support committees.</p>	Implemented, Bill 27, June 2019

WorkSafeNB Recommendations for Addressing Recommendations in the Report of the Task Force of July 2018

#	Task Force Recommendation	Legislation	Update	Status
8.	WorkSafeNB assign resources to ensure review and follow-up concerning the matters recorded in the filed minutes of the JHSC committees.		Filing system for minutes of JHSCs developed and operationalized.	Partially Implemented
9.	Mandatory <i>Occupational Health and Safety Act</i> and Regulations be devised: <ol style="list-style-type: none"> a. Requiring the public sector employers (self-insured) adopt toolbox style meetings at the commencement of each shift devising a safety plan for that day's work. b. Requiring the public sector to place greater accountability on department heads and managers to ensure OHS compliance and practices. 		<p>Since 2018, 613 GNB supervisors have completed sessions delivered by WorkSafeNB on supervisor roles and responsibilities. Transfer of curriculum and responsibility for supervisor training on roles and responsibilities on-going.</p> <p>Working in collaboration with the Department of Early Education and Childhood Development in providing support in the building of their H&S program which includes roles and responsibilities of management at districts and school levels.</p> <p>Legislation enacted to better define duties of employer and supervisors under section 9 of the OHSC-Act (see Bill 26, December 2019)</p>	Implemented
10.	WorkSafeNB conduct a review of the cost of enforcing the <i>Occupational Health and Safety Act</i> in the workplaces of the self-insured employers, and the self-insured employers be required to pay their fair share of those costs to WorkSafeNB annually.		WSNB has completed a review of the costs of enforcing OHS for self-insured employers and will provide those results to the Government in February.	Implemented 50%
Return to Work				
11.	WorkSafeNB adopt a proactive role in promoting back-to-work plans and accommodation of injured workers.	Board Policy and amendments to the WC Act	The Return to work planning process is collaborative with the worker, employer and service providers. The process was improved in 2019 to require standard information to be documented, communicated, monitored and followed up on including anticipated return to work date, mechanism of injury (MOI), current treatment, return to work options, barriers, action/completion dates, and contingency plans.	The duty to accommodate has been incorporated into the WC Act, together with penalties for non-compliance in Bill 27, December 2019. 70%
12.	Functional ability forms for reporting and sharing information be practical and relevant, and similar to those used in Ontario.		The medical Form 8-10 was updated in 2019 in consultation with the Medical Society to require physicians to provide information on a worker's functional ability. This includes initial medical reports and subsequent progress reports.	Implemented
13.	Physicians complete a functional abilities evaluation which will assist in the creation of a back to work plan. As in Ontario, the requirement for		The medical Form 8-10 was updated in 2019 in consultation with the Medical Society to require physicians to provide information on a worker's functional ability. This includes	Implemented 90%

WorkSafeNB Recommendations for Addressing Recommendations in the Report of the Task Force of July 2018

#	Task Force Recommendation	Legislation	Update	Status
	physicians to complete such WorkSafeNB forms be non-discretionary and privacy compliant.		initial medical reports and subsequent progress reports. Working on compliance with physicians.	
14.	WorkSafeNB adopt practices pertaining to opioid addictions in collaboration with the NB Medical Society to assist injured workers.		The policy and process were updated January 1, 2020. Resources are available on WorkSafeNB's website.	Implemented
15.	WorkSafeNB continue its efforts pertaining to injured workers suffering from work-related mental health issues, focussing on functional abilities while respecting the privacy of the individual.		A project team, including our Chief Psychology consultant, have refined adjudication processes and continue to evaluate and implement treatment and return to work protocols based on current medical evidence.	Implemented
Rehabilitation				
16.	WorkSafeNB review annually the Grand Bay Rehabilitation Centre, comparing service delivery options and results to those in other jurisdictions, and publicizing these comparisons.		WorkSafeNB has contracted with an external resource to examine the rehabilitation centre's programs and service delivery model. Recommendations are expected in the first quarter 2021.	Ongoing
Benefits				
17.	Legislation to enhance WorkSafeNB's exclusive jurisdiction to establish and enforce policies.	WC Act	Bill 2, December 2018	Implemented
18.	Legislation to ensure injured workers receive fair and reasonable income replacement, apportionment of other revenue sources, but also establish incentives for injured workers to seamlessly apply for available benefits, a standard practice in other jurisdictions.	WC Act	Bill 27, June 2019 regarding the apportionment of other revenue sources.	Ongoing
19.	Legislation clarify the authority of WorkSafeNB to determine additional benefits other than prescribed income replacement.	WC Act Board Policy	The WC Act was amended to clarify the Commission's authority to set Policy and its discretion over medical aid. Bill 2, December 2018 and Bill 27, December 2019	Implemented
20.	Legislation clarify definitions of pre-existing conditions and intervening conditions, and applicable benefits.	WC Act	Bill 2, December 2018	Implemented
21.	That WorkSafeNB be the final authority on benefit entitlement.	WC Act	Bill 2, December 2018	Implemented
Governance				
22.	The Task Force notes that revisions to legislation have often been ad hoc and require consolidation. The Task Force recommends a redrafting of WorkSafeNB's enabling legislation, and that this be completed no later than 2019. Subsequently, legislative reviews be mandated every five years.	WHSCC & WCAT Act	All legislation is required to be reviewed every 5 years Bill 27, June 2019	Implemented
23.	WorkSafeNB is vulnerable to special interest lobbying and political interference regarding benefits. However, amendments to benefits should be a decision of WorkSafeNB following open and transparent	WC Act	Amendments to the WC Act returned policy deference to the WorkSafeNB Board of Directors	Implemented

WorkSafeNB Recommendations for Addressing Recommendations in the Report of the Task Force of July 2018

#	Task Force Recommendation	Legislation	Update	Status
	consultations with all stakeholders and injured workers and based upon the best available evidence.		Bill 2, December 2018	
24.	Legislation require worker representatives and employer representatives be nominated by stakeholders. Chair and Vice-Chair appointments be made in consultation with WorkSafeNB. Appointments to be timely.	<i>WHSCC & WCAT Act</i>	Bill 27, June 2019	Implemented
25.	The relationship between WorkSafeNB and the government be transparent and respectful, recognizing WorkSafeNB's unique jurisdiction.		WorkSafeNB and PETL will begin negotiations on a new MOU.	Ongoing
26.	Mandate letters from the ministry reflect the unique nature of WorkSafeNB as a stakeholder-driven crown corporation. Mandate letters be publicized. Directives in any mandate letter acknowledge WorkSafeNB's independence.		Mandate Letters are published upon receipt.	Implemented
27.	Regular value-for-money audits be prescribed in legislation, to be completed by the Auditor General every five years.	WHSCC & WCAT Act	Bill 27, June 2019	Implemented
The 3-Day Waiting Period				
28.	The legislation requiring a 3-day waiting period be repealed.	<i>WC Act</i>	Bill 2, December 2018	Implemented