



**STAKEHOLDER
CONSULTATION
BENEFITS AND
ENTITLEMENTS**



Letter from the Chairperson



As stewards of New Brunswick's workers' compensation system, WorkSafeNB's board of directors is accountable to you, our stakeholders, to ensure the right balance between the best

compensation possible for injured workers, the financial interests of employers, and long-term system sustainability.

Last year, our organization completed a comprehensive review of workers' compensation legislation. The review identified key issues to consider for legislative change under the **Workers' Compensation (WC) Act** in the areas of benefits and entitlements and modernization and plain language. At this time the board is especially interested in consulting on benefit improvements that would reduce the financial burden for injured workers and allow them to focus on their recovery:

- Increasing the maximum annual earnings threshold.
- Increasing the percentage paid for loss of earnings benefits from 85% to 90%.

As a stakeholder-driven organization, we must ensure that we fully explore these topics together with you for their impacts on injured workers, employers, and the system's long-term fiscal sustainability.

We are committed to transparent dialogue with you and using your feedback to inform our decisions. Once this analysis is complete, the board will be able to make specific recommendations to Government for legislative change.

We appreciate your input as we explore ways to improve workers' compensation legislation and will continue to consult you. With your continued collaboration, we can reach our vision of making New Brunswick the safest place to work.

Sincerely,

A stylized, handwritten signature in white ink, consisting of a series of connected loops and a final downward stroke.

Mel Norton,
WorkSafeNB Chairperson

Why Consult?

As a stakeholder-driven organization, WorkSafeNB's board of directors is responsible for building relationships with stakeholder groups and integrating your views and opinions into our decision-making process.

Stakeholder engagement helps us understand what stakeholders expect of WorkSafeNB. It contributes to our planning, evaluation, and risk management process and helps us achieve our strategic direction. It also helps to identify emerging issues and opportunities for improving service delivery and performance.

Stakeholder engagement is also necessary for understanding a wide range of interests, differing opinions and provides WorkSafeNB with the opportunity to learn from the experience and expertise of our stakeholders.

THE TIME IS RIGHT

This opportunity to consult stakeholders on benefit improvements comes as part of our legal obligation to review workers' compensation legislation every five years.

The percentage paid as part of loss of earning benefits was reduced in 1993 as a matter of financial restraint when WorkSafeNB was underfunded – premiums increased significantly, and benefits were decreased. While we achieved the goal of returning the system to a healthy financial position, and certain measures introduced in 1993, including the three-day waiting period, have since been eliminated, loss of earning benefits were never returned to the pre-1993 level.

Today, WorkSafeNB is on solid financial footing, with a funded ratio of 124%* at Dec. 31, 2020. Continuing through 2021, this funding improvement is a result of key legislative changes, policy and process enhancements, better return to work outcomes and better than expected investment returns. This improved funding position has been reflected in the average assessment rate, which has declined in recent years; a trend we anticipate will continue for 2023 rates.

While employers bear the costs of any benefit improvements, we expect that continued decreases in claims costs will support the benefit improvements proposed in this consultation. Our actuarial assessments suggest the legislative changes proposed would be financially sustainable.

When comparing workers' compensation benefits across the country, it is important to consider each province's own unique economic, historical, and cultural situation that created its current system.

Moving forward, WorkSafeNB will continue to focus on operational excellence so we can achieve a workers' compensation cost structure that will allow for enhanced benefits for injured workers and competitive assessment rates for employers.

**2021 data not available at the time of publication.*



Introduction

BENEFITS AND ENTITLEMENTS

Section 38 of the WC Act covers wage loss benefits, permanent physical impairment awards, and accident benefits payable to the families of injured workers who have died. In the 1970s and early 1980s, there was a shift from an injury-based system to a wage-loss system. Benefits were changed again in 1993 to focus on fiscal restraint and, in 1998, to improve benefits and rebalance the system.

The issues under consideration focus on enhancing the overall benefits and entitlements package for injured workers, while considering the responsibilities and fiscal competitiveness of employers, and the current social and economic environment.

It should also be noted that various legislative components affect each other to determine the overall benefit rate, and while each is discussed separately in the consultation, they should be considered holistically when making decisions.

1982

The wage-loss system is introduced.

Loss of earnings benefits were calculated at 90%.

1993

WorkSafeNB is underfunded.

Percentage of loss of earnings is reduced to 80% for the first 39 weeks and 85% thereafter.

Three-day waiting period is introduced.

1998

Loss of earning benefits are changed to today's 85%.

Several legislative changes were introduced to restore balance to the system and to improve provisions related to the three-day wait.

2018

New legislation phases out the three-day waiting period; the initial elimination of one unpaid day in July 2019 and the complete elimination in July 2021.

2022

Stakeholder and public consultations to explore increasing MAE and restoring loss of earning benefits to 90%.

MAXIMUM ANNUAL EARNINGS

Maximum Assessable Earnings (MAE) are the maximum earnings included in the calculation of the benefit payable to workers and represents the maximum assessable earnings per worker which premiums, paid by employers, are calculated.

Example

Pat makes \$77,800 per year (gross). After deductions, Pat takes home \$55,500 (net earnings). If Pat is injured at work and receiving 85% loss of earnings in 2021:

	Current	Proposals	
	1.5X NBIAE	1.6X NBIAE	1.7X NBIAE
Earning maximum applied	\$67,100	\$71,600	\$76,100
Net	\$48,577	\$51,487	\$54,398
Benefit level	85%	85%	85%
Wage loss benefits	\$41,290	\$43,764	\$46,238
% of pre-accident net earnings	74%	79%	83%

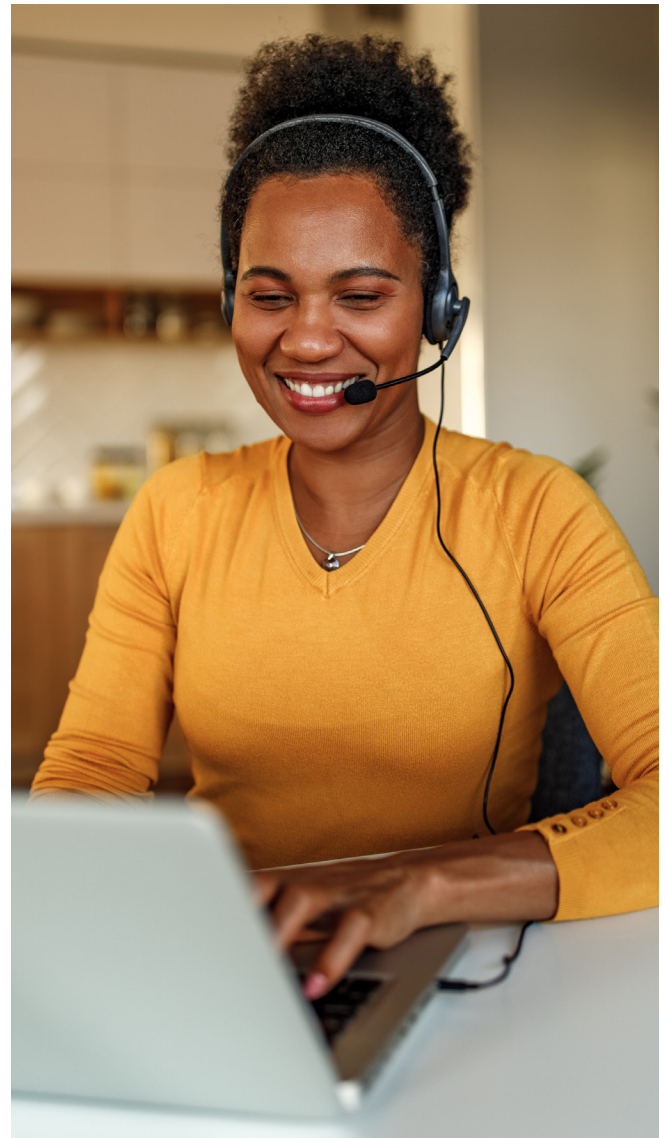
What changes are we considering?

Increasing the maximum annual earnings threshold so more workers have their full earnings included in the calculation of their benefits. This would mean changing the current 1.5 multiplier of the New Brunswick Industrial Aggregate Earnings (NBIAE).

BACKGROUND

An analysis from 2020 estimates 80.2% of workers have their full wages covered. The province currently has the highest maximum insurable earnings in the Maritimes. The number of New Brunswickers who have their full earnings covered is slightly below the national average.

This amount is adjusted on January 1 each year based on the average percentage change in the Consumer Price Index as calculated under the WC Act. The amount is equal to 1.5 times the NBIAE.



■ IMPACTS

Workers

- Increasing the MAE multiplier to 1.6 or 1.7 would:
 - » Improve benefits for 19.8% of workers not fully covered and increase the number of workers fully covered from 80.2% to 81.3% or 83.6%.
 - » Increase permanent physical impairment (PPI) awards for all workers.

Employers

- Increasing MAE included in determining future benefits for workers previously injured would increase benefit liabilities by an estimated \$13 million or \$22 million (1.6 or 1.7), relative to \$1,397 million total liabilities reported in the latest financial statements for Dec. 31, 2020. Given WorkSafeNB's strong financial position, the excess funds above target funding are sufficient to cover this increase.
- For accidents going forward, the benefit improvement would have an impact of \$1.5 million or \$2.7 million per year.
 - » Employers with workers earning more than the current maximum assessable earnings would pay higher premiums while employers with lower-earning workers would not be significantly impacted.
- For self-insured employers, liabilities would increase by an estimated \$3.8 or \$6.5 million and \$0.6 or \$1.0 (1.6 or 1.7) million per year for future accidents.

Maximum Annual Earnings

Below is the estimated percentage of workers in 2020 who had 100% of their earnings covered in each Canadian jurisdiction.

(LifeWorks, Impact of Increase to Maximum Assessable Earnings, July 2020)

JURISDICTION	FULL EARNINGS COVERED (2020)
NWT	73.3%
PEI	75.0%
NS	75.2%
NU	77.4%
NB	80.2%
SK	81.0%
YK	82.6%
NL	83.6%
QC	84.1%
AB	84.5%
BC	85.1%
ON	85.2%
MB	96.9%
Canada – Average	81.9%

PERCENTAGE OF LOSS OF EARNINGS PAID

Once the injured worker's loss of earnings has been established, the amount of the benefit is calculated by multiplying the loss of earnings by the legislated percentage. Section 38.11(2) of the WC Act provides that the compensation to the worker is an amount equal to 85% of the estimated loss of earnings.

What changes are we considering?

Increasing the percentage of loss of earnings benefits payable to injured workers from 85% to 90%.

BACKGROUND

The wage loss system is based on the principle that no person should have more income when they are not working than when they are working, nor should compensation reduce an injured worker and the worker's family to poverty.

When the wage loss system was implemented in 1982, loss of earnings benefits were calculated at 90%. The percentage has changed twice since that time – it was reduced in 1993 to 80% for the first 39 weeks and 85% thereafter; and in 1998 it was changed to today's 85%.

The percentage of loss of earnings used to determine benefits varies across Canada, with most eastern jurisdictions at 85% and most western jurisdictions at 90%.

Jurisdiction	Wage Loss Benefit
AB, BC, NT/NU, QC, SK, MB*	90% net
NB, NL, PE, ON	85% net
NS	85% net; 75% of net first 26 weeks
YK	75% gross

*Where the worker's average earnings are \$24,752 or less, wage loss benefits are based on 100% of net.

IMPACTS

Workers

- Increasing the loss of earnings benefit from 85% to 90% would:
 - » Increase benefit payments for all injured workers.
 - » Make New Brunswick the seventh jurisdiction in the country (and the only in Atlantic Canada) to offer 90% loss of earnings.

Employers

- Increasing future benefits for workers previously injured would increase benefit liabilities by an estimated \$33.1 million, relative to \$1,397 million total liabilities reported in the latest financial statements for Dec. 31, 2020. Given WorkSafeNB's strong financial position, the excess funds above target funding are sufficient to cover this increase.
- For accidents going forward, the benefit improvement would have an impact of \$4.2 million per year (or \$0.04 per \$100 of payroll).
- For self-insured employers, liabilities would increase by an estimated \$11.2 million and \$1.8 million per year for future accidents.



Concluding Remarks

At the heart of workers' compensation in New Brunswick is the need for workers and employers to share a joint commitment to maintain a fair and equitable system. The system's sustainability depends on this balance, consistent with the Meredith Principles and the historic compromise, which is the foundation of all workers' compensation law in Canada.

To ensure the ongoing success and effectiveness of the workers' compensation system in New Brunswick, it is crucial that stakeholders weigh in on the issues outlined in this report. It is your system to design.

WorkSafeNB will bring forward feedback received during this consultation and develop firm recommendations for government that reflect stakeholder voices and strike the balance required to maintain fair compensation for injured workers and the fiscal sustainability of the system.

Later this year the Board will again seek to engage with stakeholders on other topics identified in the 2021 comprehensive review, including modernization and plain language.

On behalf of WorkSafeNB, we look forward to hearing from you as we shape recommendations to workers' compensation legislation for the benefit of all New Brunswickers.

**SHARE YOUR
THOUGHTS!**

**BENEFITS AND
ENTITLEMENT SURVEY**

