

# CHANGES TO ALBERTA'S WORKERS' COMPENSATION ACT TAKE EFFECT

Posted on April 8, 2021

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A number of amendments to Alberta's *Workers' Compensation Act*<sup>[1]</sup> (the "**WCA**") took effect on April 1, 2021. These amendments to the WCA, along with changes to the *Occupational Health and Safety Act*<sup>[2]</sup> were announced on November 5, 2020 when the Alberta Government introduced Bill 47, the *Ensuring Safety and Cutting Red Tape Act, 2020*. The amendments introduced in Bill 47 have been deemed by some as employer-friendly and reverse many of the changes introduced by the previous NDP government in 2018.

After receiving royal assent on December 9, 2020, some amendments to the WCA took effect on January 1, 2021. Notably, among the changes to take effect on January 1, 2021 was the reinstatement of the cap on injured workers' compensable earnings. A non-exhaustive list of other key amendments, which took effect on April 1, 2021, is outlined below.

## Key Changes Effective April 1, 2021

### *Duty to Cooperate*

Prior to April 1, 2021, employers were required to reinstate injured workers who worked for the employer for at least one year prior to the accident. However, as of April 1, 2021, employers are no longer required to reinstate injured workers. Instead, both employers and workers have a duty to cooperate in all aspects of a worker's safe return to work. Specifically, the amendments require injured workers to take all reasonable action to mitigate the worker's loss of earnings and to cooperate with the Workers' Compensation Board (the "**WCB**") in the development of a vocational or other rehabilitation plan that is intended to return the worker to employment. If a worker fails to do so, the WCB may reduce or suspend compensation payable to the worker.

### *Contributions to Group Health Benefits Plan*

As of April 1, 2021, employers are no longer required to contribute to group health benefits plans for injured workers who are not working, although they may voluntarily do so. Injured workers may still receive medical and rehabilitation benefits related to their injuries from the WCB.

### *WCB Appeals Time Limit*

The time limit to appeal a WCB decision to the Appeals Commission is shortened from two years to one year.

### ***Fairness Reviews***

As of April 1, 2021, fairness review services are now provided by the Fairness Review Officer (the “**FRO**”) through the Fair Process Review Centre (the “**FPRC**”). The FRO and the FPRC replaced the Fair Practices Office. The FPRC provides neutral, impartial and independent appeal advisory services, at no cost, to both workers and employers who feel they were treated unfairly. The FRO is an employee of the WCB’s Board of Directors (the “**Board**”) who makes recommendations to the Board with respect to matters under the WCA with respect to administrative fairness complaints.

### ***Medical Panels***

The Medical Panels Office (the “**MPO**”) closed effective April 1, 2021. Medical panels are still to be used to resolve differences in medical opinions related to an injured worker’s claim. However, now a Medical Panels Commissioner is responsible for the operation of the medical panel process.

### ***Independent Medical Exams***

With the closure of the MPO, the management of independent medical exams (“**IME**”) is now the responsibility of the WCB. Injured workers are still allowed to select their IME physician if the WCB requests an exam. However, the roster of independent medical examiners is now established and maintained by the WCB.

[1] *Workers’ Compensation Act*, RSA 2000, c W-15.

[2] *Occupational Health and Safety Act*, RSA 2020, c O-2.2.

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### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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