

 Yukon Workers' Compensation Health and Safety Board	Part:	Earnings Loss	
	Board Approval:	Original Signed	Effective Date: July 1, 2017
	Number:	EL-02	Last Revised:
	Board Order:	2006/04	Review Date:

MINIMUM COMPENSATION

GENERAL INFORMATION

The Yukon Workers' Compensation Health and Safety Board (YWCHSB) compensates eligible injured workers who have a loss of earnings with benefits based on 75 per cent of their gross pre-injury earnings, up to 75 per cent of the maximum wage rate, in accordance with YWCHSB policy EL-01, "Loss of Earnings Benefits." The benefits are tax free. However, for lower-wage workers who pay little tax, receiving 75 per cent of gross wages can cause hardship.

Section 30 of the *Workers' Compensation Act*, S.Y. 2008, c.12 (the *Act*) gives YWCHSB's Board of Directors authority to set a minimum compensation amount for injured workers who suffer a total disability.

PURPOSE

This policy gives direction on how, and under what circumstances, YWCHSB provides minimum compensation to an injured worker who suffers a total disability.

It explains two ways in which a minimum compensation amount may be applied:

- a) For an injured worker who is temporarily totally disabled, as a threshold amount to compare against their gross pre-injury earnings.
- b) For an injured worker who is permanently totally disabled, as a minimum amount that they may be entitled to receive as their loss of earnings benefit under the *Act*.

DEFINITIONS

1. Maximum wage rate: under section 3 of the *Act*, maximum wage rate for a year means:

- a) \$74,100 as of January 1, 2008; and
- b) Commencing January 1, 2009, and in each year thereafter, the amount resulting from adjusting the previous year's maximum wage rate by:

- i. the per cent change in the Consumer Price Index for Whitehorse, calculated by using the per cent change between the average index for the twelve month period ending October 31st the previous year and the same time period one year earlier; however,
- ii. despite subparagraph (i), if the per cent change is greater than four per cent, the per cent change to be used will be four per cent; and, if the per cent change is less than zero per cent, the per cent change to be used will be zero per cent.

2. **Minimum Compensation Amount:** an amount set by Board Order, as amended from time to time.¹
3. **Permanent Total Disability:** occurs when it is determined the injured worker will never again be employable.
4. **Temporary Total Disability:** occurs when it is determined the injured worker is expected to be employable again.

PREVENTION

All workplace parties are responsible for preventing injuries in the workplace. YWCHSB encourages employers, workers, health care providers and other parties to work together to prevent work-related injuries. When an injury occurs, workers and employers must co-operate with YWCHSB to return the worker to safe, suitable and available work as soon as functionally possible. This is proven to benefit injured workers because it helps prevent disability, and can ultimately lead to lower assessment rates.

YWCHSB also administers the *Occupational Health and Safety Act and Regulations*. All workplace parties are legally obligated to know how this legislation applies to their work.

POLICY STATEMENT

For the purpose of this policy, total disability is classified into two categories: temporary and permanent.

YWCHSB will determine whether an injured worker is temporarily totally disabled or permanently totally disabled in accordance with the *Act* and policies.

1. Temporary Total Disability

If an injured worker with a temporary total disability has gross annual pre-injury earnings equal to or less than the minimum compensation amount, their weekly loss of earnings benefit will be calculated using 100 per cent of their gross pre-injury earnings in accordance with YWCHSB policy EL-01, "Loss of Earnings Benefits."

¹Refer to current Board Orders for details.

If their gross annual pre-injury earnings are greater than the minimum compensation amount, their weekly loss of earnings benefit will be calculated using the minimum compensation amount or 75 per cent of their gross pre-injury earnings, whichever is greater, as determined in accordance with YWCHSB policy EL-01, “Loss of Earnings Benefits.”

2. Permanent Total Disability

If an injured worker with a permanent total disability has gross annual pre-injury earnings equal to or less than the minimum compensation amount, their weekly loss of earnings benefit will be calculated using the minimum compensation amount.

If their gross annual pre-injury earnings are greater than the minimum compensation amount, their weekly loss of earnings benefit will be calculated using the minimum compensation amount or 75 per cent of their gross pre-injury earnings, whichever is greater, as determined in accordance with YWCHSB policy EL-01, “Loss of Earnings Benefits.”

3. Annuities

Subsection 32(4) of the *Act* states that YWCHSB may increase annuity payments so that the worker’s retirement income, including the annuity payments, is equal to the minimum compensation amount. YWCHSB, after reviewing all relevant income, may provide an annuity adjustment up to the minimum compensation amount for those who have a permanent total disability.

APPLICATION

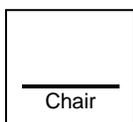
This policy applies to workers and employers covered by the *Act*, YWCHSB staff, and the Workers’ Compensation Appeal Tribunal.

EXCEPTIONAL CIRCUMSTANCES

When the circumstances of a case are such that this policy cannot be applied or doing so would bring an unfair or unintended result, YWCHSB will decide the case based on YWCHSB policy, EN-02, “Merits and Justice of the Case”. Such a decision will be for that case only and will not be precedent setting.

APPEALS

Workers or employers may request a hearing officer to review a YWCHSB decision made under this policy, as provided by subsection 53(1) of the *Act*. They may appeal hearing officer decisions to the Workers’ Compensation Appeal Tribunal, under section 54(1) of the *Act*. Requests for review and notices of appeal must be filed within 24 months of the date of the decision being reviewed or appealed, in accordance with section 52 of the *Act*.



ACT REFERENCES

Sections 3, 30, 32, 52, 53, and 54

POLICY REFERENCES

EL-01, "Loss of Earnings Benefits"
EL-02, "Merits and Justice of the Case"

HISTORY

EL-02, "Minimum Compensation", effective July 1, 2008, revoked July 1, 2017
CL-56, "Minimum Compensation", effective July 1, 2006, revoked July 1, 2008