

INTERNAL * APPEAL BODY

| INTERNAL * APPEAL BODY - SUMMARY OF FORMAL APPEAL/REVIEW STRUCTURE AND COMPOSITION | | | | | | | | | | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|---------------------------|--------------------------|-------------------------------------|----------------|---------------------------------------------------------|--------------------------------|----|----------------|-----------------------------|--------------|--------------|-------------------------------|
| | AB | BC | MB | NB | NL | NT/NU | NS | ON | PE | QC | SK | | YT |
| Composition (Full-time unless noted) (A)Chairman, (B)Chair, (C)Chief Appeal(s) Officer/Commissioner, (D)Chairperson, (E)Other? | B, s. 45(1) | E ¹ , s. 96.2 | E ² , s. 60.1 | D | - ³ | B | E ⁴ | - | E ⁵ | E ⁶ | ⁷ | ⁸ | E Hearing Officer |
| Vice-Chair is one of committee members and can act for chair? | Yes ⁹ | - | N/A | No ¹⁰ , WSHSCC (s.20) | - | N/A | N/A | - | N/A | - | N/A | N/A | No |
| Number of committee members? | 3+ | 1+, s. 96.2 ¹¹ | N/A | 21 (At year end 2010) ¹² | - | 3 ¹³ | N/A | - | N/A | 1 | N/A | N/A | 1 |
| Number of members representing: | | N/A | | | | | | | | | | | |
| • workers? | N/A | - | N/A | 10 | - | N/A | N/A | - | N/A | - | N/A | N/A | No |
| • employers? | N/A | - | N/A | 11 | - | N/A | N/A | - | N/A | - | N/A | N/A | No |
| • general public? | N/A | - | N/A | N/A | - | N/A | N/A | - | N/A | - | N/A | N/A | No |
| Temporary members can be appointed? | Yes | N/A | N/A | N/A | - | Yes | N/A | - | N/A | - | N/A | N/A | No |
| Appointment Factors for Chairman | | | | | | | | | | | | | |
| Appointed by President and/or C.E.O.? | Yes ¹⁴ | s. 96.2 ¹¹ | N/A | No ¹⁵ | - | Yes | Yes | - | N/A | - | ⁷ | N/A | N/A |
| Permanent Position? | Yes | - | N/A | No | - | Yes | Yes | - | N/A | - | ⁷ | N/A | Yes |
| If not, term of appointment? | N/A | - | N/A | Up to 5yrs | - | N/A | N/A | - | N/A | - | N/A | N/A | N/A |
| Can be re-appointed for additional term? | N/A | N/A | N/A | Yes | - | N/D | N/A | - | N/A | - | N/A | N/A | N/A |
| Responsible/Reports to: (A) L.G. in Council, (B) Board of Directors, (C) Chairman or CEO, (D) Other? | D (VP of Disability and Information Management) | D ¹⁶ | N/A | B | - | D (VP of Corporate Communication and Planning Services) | D (VP Operations and Services) | - | N/A | D Vice President Operations | ⁷ | ⁸ | D Director Corporate Services |
| Appointment Factors for Members | | | | | | | | | | | | | |
| Appointed by Committee Chair? | Yes ¹⁴ | N/A | N/A | ¹⁷ | - | Competition Process | No ⁴ | - | N/A | - | ⁷ | ⁸ | N/A |
| Permanent position? | Yes | N/A | N/A | No | - | Yes | Yes | - | N/A | - | ⁷ | ⁸ | N/A |
| If not, term of appointment? | N/A | N/A | N/A | 1 to 3 years | - | N/A | N/A | - | N/A | - | N/A | N/A | N/A |
| Can be re-appointed for additional term? | N/A | N/A | N/A | Yes | - | N/A | N/A | - | N/A | - | N/A | N/A | N/A |

* = Internal Appeal Body - Level one of the appeal/review process, follows reconsideration of the initial decision by board or commission staff after an appeal has been received.

- = No reference found in Act.

N/A means not applicable or not available. Contact individual [WCBs/Commissions](#) if you require further information or clarification.

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| INTERNAL* APPEAL BODY - SUMMARY OF FORMAL APPEAL/REVIEW PROCESS | | | | | | | | | | | | | |
|-------------------------------------------------------------------|-------------------|----------------------------|-------------------------------|-----------------------|----|---------|-------------------|------------------|-----|---------------------|-------------------|-------------------|-----------------|
| | AB | BC | MB | NB | NL | NT/NU | NS | ON | PE | QC | SK | | YT |
| Level of appeal | 1 | 1 | 1 | 1 | - | 1 | 1 | 1 ¹⁸ | 1 | 1 | 1 | 2 | 1 ¹⁹ |
| Duties/Powers of appeal/review body | | | | | | | | | | | | | |
| Appeal body sets rules and regulations? | Yes | Yes, s. 96.4 | ²⁰ | No | - | N/A | No | ²¹ | Yes | -- | - | - | No |
| May confirm, vary, reverse? | Yes | Yes, s. 96.4 | Yes | Yes | - | Yes | Yes | Yes | Yes | Yes | Yes ²² | Yes ²² | Yes |
| New evidence can be presented during hearing? | Yes | - ²³ | Yes | Yes | - | Yes | Yes | Yes | No | - | ²⁴ | ²⁴ | No |
| Decision final and binding? | No | Yes, s. 96.4 ²⁵ | No ²⁶ , s. 60.1(5) | Yes WHSCC (s. 21(2)) | - | No | Yes ²⁷ | No ²⁸ | No | Yes ²⁷ | No | Yes ²⁹ | No |
| Process | | | | | | | | | | | | | |
| Appeal must be made in writing? | Yes | - | Yes, s. 60.1(2) | Yes | - | Yes | Yes | Yes | Yes | Yes | ³⁰ | ³⁰ | Yes |
| Finding must be in writing to appellant? | Yes | - | Yes, s. 60.1(4) ³¹ | Yes WHSCC (s. 21(10)) | - | Yes | Yes | Yes | Yes | Yes | Yes ³² | Yes ³² | Yes |
| Decision can be made following documentary review only? | Yes | Yes, s. 96.4 | Yes | Yes WHSCC (s.21(8)) | - | No | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Worker may be required to undergo med. exam? | Yes | Yes ³³ | Yes | No | - | Yes | - | Yes | - | No | Yes, s.104 | Yes, s.104 | Yes |
| Time Limits (# of days) | | | | | | | | | | | | | |
| Time limit for client to appeal previous decision? | 1 year | 90, s. 96.2 | N/A | 1 year | - | 3 yrs | 30 | ³⁴ | 90 | 10/30 ³⁵ | - | No | 24 mos |
| Time limit for panel to make decision? | N/A | 150, s. 96.4 | - | No | - | 50 days | 60 | - | - | No | No | No | 30 |
| Committee/Hearing Panels | | | | | | | | | | | | | |
| Panels formed by Chairman/Chief? | Yes ³⁶ | - ³⁷ | ³⁸ | Yes | - | Yes | - | - | N/A | No | N/A | N/A | Yes |
| Number of members per panel? | 1+ | N/A | - | 1 or 3 ³⁹ | - | 1 or 2 | - | - | N/A | 1 | N/A | N/A | 2-3 |
| Quorum - majority rules? | Yes | N/A | - | Yes | - | N/A | - | - | N/A | - | N/A | N/A | Yes |
| Quorum - Fixed # of members must be present? If so, how many? | N/A | N/A | - | 1 or 3 ³⁹ | - | N/A | - | - | N/A | - | N/A | N/A | No |
| Any conflict of interest provisions? | ⁴⁰ | - | Yes | Yes | - | Non | - | - | N/A | - ⁴¹ | No | No | Yes |
| Attendance at hearing. | | | | | | | | | | | | | |
| All appellants have the right to attend a hearing if they desire? | Yes | - | - | Yes | - | Yes | Yes | - | No | N/A | ⁴² | ⁴² | Yes |
| Employers attendance restricted? | No | - | - | No | - | No | No | - | No | N/A | N/A | N/A | No |
| WCB Employees attendance restricted? | No | - | - | No ⁴³ | - | Non | - | - | Yes | N/A | N/A | N/A | Yes |
| Other restrictions on attendance? | Yes ⁴⁴ | - | - | No ⁴⁴ | - | N/D | - | - | N/A | N/A | N/A | N/A | No |

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1 Chief Review Officer. In British Columbia, Bill 18, which became effective April 29, 2004, provides the authority to delegate the Chief Review Officer's powers and duties.

2 The reconsideration of primary decisions for compensation or other benefits and assessment-related matters is an internal process. Policy 22.00, Review Office, defines the role and authority of the Review Office. It also describes the protocols for review regarding the reconsideration of a decision on compensation or other benefits. The Assessment Committee considers reconsiderations of assessment-related matters. Its role, mandate and processes are set out in policy 21.05.10, Reconsideration of Assessment-Related Decisions.

3 In NL the Internal Review Division is staffed by Review Specialists who are employees of the Commission. The authority, time frames, process, etc, are contained in Board policy (Policy AP-01).

4 Internal appeals dept. consists of Hearing Officers who are employees of the Board and generally sit alone.

5 Internal Reconsideration Officer.

6 A director manages the Administrative Review Department.

7 Level 1 appeal: There is a Manager of the Appeals Division that reports to the Executive Assistant to the CEO. He has a number of Appeals Officers working under him, who perform the appeal reviews and write the decisions. There is no formal committee structure, and although there is discussion amongst the officers and with the manager, it is not formalized. The positions in Appeals are similar to other WCB positions: full-time, either term or indeterminate (most often the latter) and salaried.

8 Level 2 appeal: Appellants make the second level of appeal directly to the Board, and the Board Members perform the review and make the decision. Again, it is not a formal appeals committee, with Chair and members exclusive to that role.

9 Not documented in Act but occurs in practice.

10 The L.G. in Council will appoint such number of Vice-Chairpersons as deemed necessary by the Chairperson of the Tribunal in consultation with the Commission.

11 Section 96.2(9) - the Board must appoint a Chief Review Officer and one or more Review Officers to conduct reviews under this section.

12 The WHSCC Act in section 20 outlines that the Board of Directors may appoint panel members to the Appeal Tribunal being representative of workers and employers. There is no fixed number of panel members required to be appointed.

13 2 Co-Chairs, 1 Registrar.

14 Act states Decision Review Body appointed by the (corporate) Board. Appointment of Chairman and members not specifically mentioned.

15 Appointed by the L.G.

16 There is no statutory provision stating who the Chief Review Officer reports to, however, in practice the position has a dual reporting relationship. The Chief Review Officer reports to: (1) the Vice-President Policy, Investigations and Review Divisions on administrative and budgetary issues and (2) the President and CEO on review matters and legal issues.

17 Appointed by the Board of Directors. Chair and Vice Chairs are appointed by Lieutenant-Governor.

18 Original decision-maker also conducts a reconsideration before matter remitted for appeal.

19 Yukon has one level of internal appeal prior to appeal to the external Appeal Tribunal, which is a review by a hearing officer or panel of hearing officers. For appeals of assessments and occupational health & safety matters, there is a different internal appeal route, consisting of an Appeal Panel of the Board.

20 The principles, process and scope for reconsideration at the Review Office level are set out in policy 21.00, Review Office. The role, mandate and processes of the Assessment Committee are set out in policy 21.05.10, Reconsideration of Assessment-Related Decisions.

21 Only has power to establish practice and procedure with respect to its appeal proceedings.

22 Although not specified in the Act, in Saskatchewan, level 1 appeal (the Appeals Manager) is bound by policy; level 2 (board members) not bound by policy.

23 Section 96.4(2) states "subject to any Board practices and procedures for the conduct of review, a review officer may conduct a review as the officer considers appropriate to the nature and circumstances of the decision or order being reviewed".

24 Not specified in Act, but in practice.

25 Subject to appeal, in most cases, to WCAT, and reconsideration by Review Division.

26 A decision by the Review Office or Assessment Committee may be appealed to the Appeal Commission.

27 Unless appealed.

28 Except where Appeals Tribunal does possess jurisdiction to hear subject matter of appeal (see s.123(2)).

29 Unless referred to Medical Review Panel for opinion. The 2nd level of appeal (Board members) is final but is not binding. The decision is reviewable when there is evidence; or when there is subsequent opinion on relationship or entitlement by members of the Board (except in cases of benefit of doubt).

30 In policy, but not specified in the Act.

31 Upon written request of a person with a direct interest. Section 60.1(4)

32 In Saskatchewan, unfavourable decisions must be in writing (s. 49). In policy, all decisions are communicated in writing.

33 This is a general Board power, not confined to the internal appeal body. (Section 57)

34 Six months. 30 days when return to work or labour market re-entry issues.

35 A person who believes he or she is an injured party in a decision made by the CSST may apply for its review to the Administrative Review Department: (a) within 30 days of the notification of the decision where it is made under the *Act Respecting Industrial Accidents and Occupational Diseases* (LATMP/compensation, rehabilitation, financing...); (b) within ten days where the decision is made under the *Act Respecting Occupational Health and Safety* (OH&S/inspector's decision, temporary assignment, re-assignment of the pregnant or nursing worker...).

36 Not specifically mentioned in Act, but occurs in practice.

37 No panels or intent to form panels at present time.

38 The Review Office consists of senior WCB staff. The request for reconsideration is assigned to a Review Officer. In most circumstances, the Review Officer reaches a decision after he or she conducts a full review of the file documentation and any written evidence submitted by the parties with a direct interest. The Assessment Committee consists of senior WCB staff. The request for reconsideration is assigned to a Committee consisting of three staff members.. In most circumstances, the Committee reaches a decision after it conducts a full review of the file documentation and any written evidence submitted by the parties with a direct interest.

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- 39 With consent of parties and Chairperson of Tribunal, the Chairperson or Vice-Chairperson of the Tribunal may act alone. Without consent, the Chairperson or Vice-Chairperson, and two other members, equally representing workers and employers.
- 40 WCB's corp ethics policy applies.
- 41 CSST re conflict of interest: The person carrying out the administrative review is a Commission employee. He or she is subject to the Commission's 'Guide on Ethics and Discipline', which includes a section on conflicts of interest. As a public employee, he or she is also subject to the relevant provisions of the *Civil Service Act* and the *Regulation respecting ethics and discipline in the civil service*.
- 42 Requests are generally recognized, but not specified in Act.
- 43 Generally WorkSafeNB Staff is not in attendance, but they can apply if there is an interest in the case or the Appeals Tribunal can request WorkSafeNB staff to attend for information purposes.
- 44 At the discretion of the Panel.

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